Seventh Item on the Agenda:

Discrimination in the Field of Employment and Occupation
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>CHAPTER I: Replies from Governments</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>CHAPTER II: Comments and Proposed Conclusions</strong></td>
<td>97</td>
</tr>
<tr>
<td>Comments</td>
<td>97</td>
</tr>
<tr>
<td>Proposed Conclusions</td>
<td>116</td>
</tr>
<tr>
<td>A. Proposed Conclusions Directed Towards a Convention</td>
<td>116</td>
</tr>
<tr>
<td>B. Proposed Conclusions Directed Towards a Recommendation</td>
<td>116</td>
</tr>
</tbody>
</table>
INTRODUCTION

At its 130th Session (Geneva, November 1955) the Governing Body of the International Labour Office decided to place the subject of discrimination in the field of employment and occupation on the agenda of the 40th Session of the International Labour Conference to be held in June 1957. It also decided that the subject should be considered under the double-discussion procedure.

In conformity with article 39 of the Standing Orders of the Conference the Office prepared a preliminary report dealing with concepts of discrimination, analysing the grounds of distinction and forms of discrimination in employment and summarising national action and international standards directed towards the prevention of discrimination in employment. This report, together with a questionnaire, was communicated to the governments of Members, which were invited to send their replies so as to reach the Office in Geneva not later than 5 October 1956.

At the time of drafting the present report replies had been received from the governments of 46 Members: Afghanistan, Argentina, Austria, Belgium, Brazil, Bulgaria, Byelorussia, Canada, Ceylon, Chile, Cuba, Czechoslovakia, Denmark, the Dominican Republic, Ecuador, Finland, France, the Federal Republic of Germany, Greece, Guatemala, Haiti, India, Iran, Iraq, Ireland, Israel, Italy, Japan, Mexico, the Kingdom of the Netherlands, Norway, Pakistan, the Philippines, Poland, Spain, Sweden, Switzerland, Thailand, Turkey, the Union of South Africa, the U.S.S.R., the United Kingdom, the United States, Uruguay, Viet-Nam and Yugoslavia.

The present report has been prepared on the basis of the replies received from governments. It is divided into two chapters: the first reproduces the substance of the replies and the second analyses the significant points in these replies and presents various comments and the proposed Conclusions drawn up in the light of the governments' replies.

If the Conference considers that it is appropriate to adopt an international instrument, or international instruments, the Office will prepare, on the basis of the Conference's Conclusions, a draft text or draft texts which will be communicated to governments. It will be for the Conference to take a final decision on this question at a later session.

CHAPTER I

REPLIES FROM GOVERNMENTS

The present chapter reproduces the questions to which the governments were asked to reply and the substance of the replies received, grouped under the headings given in the questionnaire. Some governments prefaced their replies with remarks and information of a general character; others merely submitted such general remarks and information, without giving specific replies to the individual questions. These remarks and information are grouped below under the heading of "General Observations". The Kingdom of the Netherlands submitted three sets of replies: on behalf of the Netherlands Government, of the Government of the Netherlands Antilles, and of the Government of Surinam. The Government of the Dominican Republic, while replying to questions 1 and 2, abstained from replying to the other questions but expressly reserved the right to discuss the proposed Conclusions on these points submitted to the Conference. The Government of the Union of South Africa stated that it had no comments to offer. The French Government appended to its reply the comments of the French Confederation of Christian Workers.

General Observations

AFGHANISTAN

Discrimination of any kind in all phases of employment is detrimental to the promotion and welfare of the working people of the world.

BULGARIA

Existing forms of discriminatory measures restrict the exercise of basic human rights. Any measures aimed at the elimination of discrimination in the field of employment and occupation would therefore be of great interest to workers.

The international instrument should not be purely declaratory but should also provide for the adoption of immediate and concrete measures for the complete elimination of discrimination in employment and occupation. Such measures should preferably be legislative and Members of the I.L.O. should provide effective penalties for breaches of anti-discrimination standards. Also, to avoid divergence between law and practice, provision should be made for effective supervision, with the active participation of the workers' organisations concerned.

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When a government has dealt with more than one question in a single reply, the latter is reproduced under the first of them. Under the others it is simply stated that the government concerned has dealt with certain questions in one reply.
Byelorussia

The preparation and adoption of an instrument aimed at abolishing and prohibiting discrimination in the field of employment and occupation is an urgent and important task for the International Labour Organisation. At the moment, in a number of countries and non-self-governing territories discrimination is practised in various fields against individuals or groups of people on the grounds of race, colour, national or social origin, language, religion, sex, etc.; this is incompatible with the aims and principles of the Charter of the United Nations, which calls for "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion", and with the aims and tasks of the International Labour Organisation. Discrimination in the field of employment and occupation is also an infringement of the rights of man laid down in the Universal Declaration of Human Rights. It is therefore necessary to work out practical steps to prohibit and abolish discrimination and to ensure equal opportunities in employment and occupation.

The instrument should provide for the unconditional and immediate abolition and prevention of discrimination against any group of the population, including migrant workers, in independent countries and non-self-governing territories. To achieve this end the authorities of the Members of the International Labour Organisation should abolish legislation which permits discrimination in the field of employment and occupation and establish guarantees to prohibit and end discrimination in practice as a shameful survival of the past. Segregation must be prohibited.

Canada

During the last five years in Canada the question of the responsibility of governments to deal with the problem of discrimination in employment has been given active consideration, with the result that the federal Government and the governments of six provinces have introduced positive anti-discrimination legislation which has been adopted by each of the legislative bodies concerned. In their essential features these Acts are similar. They prohibit discrimination in matters of employment on the basis of race, national origin, colour or religion, forbidding an employer, an employment agency or a trade union from discriminating on these grounds in respect to any person's employment.

In these Acts a method of enforcement has been adopted which gives ample opportunity to secure compliance with the legislation through education and conciliation; at the same time it is recognised that discrimination in matters of employment on the basis of race, national origin, colour or religion is an overt act which can be identified, and provision is made in the legislation for remedying the acts of discrimination by compulsory means if necessary. It is in the light of this approach to the problem, which has already been adopted in seven of the 11 jurisdictions in Canada, that the specific questions below have been answered.

Czechoslovakia

Discrimination is an evil which constitutes a violation of fundamental human rights and freedoms under the Charter of the United Nations. The Czechoslovak Government, therefore, welcomes all measures that can be conducive to the eradication of discrimination in the field of employment and occupation and will support their adoption and implementation.

Economic and political conditions in Czechoslovakia are a guarantee that there is no discrimination in the field of employment and preclude the very possibility of any such discrimination. The principle of the equality of all citizens is the guiding principle of the Czechoslovak Constitution of 9 May 1948. In Czechoslovakia, where the people are the sole source of all power in the State, every citizen is guaranteed the right of access to education and of freely developing his talents and abilities. The Constitution guarantees to all citizens the right to work,
to a just remuneration for work done, the right to protection of health, to provision in old age, incapacity for work and loss of livelihood. All these rights are not merely proclaimed under the Constitution but ensured by the respective financial and other relevant measures and implemented in practice.

The interests of the working people the world over require that the international instrument to be adopted by the International Labour Conference should prohibit discriminatory treatment of any kind and all forms of discrimination in all fields of employment and occupation. To fulfil this purpose the instrument must not only take into account individual manifestations of discrimination but devote attention to the real causes of discriminatory practices and promote their elimination. In the interest of the workers it is essential that the instrument itself should offer a guarantee that its provisions will be implemented everywhere, i.e. in sovereign States as well as in non-self-governing (non-metropolitan) territories. The extensive participation and co-operation of the trade unions in the implementation of the provisions of the instrument envisaged is one of the fundamental prerequisites to its effectiveness.

INDIA

The Government of India are in favour of the adoption of international regulations concerning the prevention of discrimination and the promotion of equality of opportunity and treatment in employment and training. They, however, feel that the proposed regulations should not be incorporated in a single instrument. As pointed out on page 6 of Report VII (1) equality of access to public employment is of greater importance in principle than equality of access to private employment, and would also be easier to put into effect. The Constitution of India, for instance, guarantees equality of opportunity to all citizens in matters relating to employment to any office under the State irrespective of religion, race, caste, sex, descent, place of birth or residence, as a fundamental right (article 16). Similarly article 29 (2) lays down that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of state funds on grounds only of religion, race, caste, or language. There is, however, no constitutional prohibition of discrimination practised by other agencies. The Government of India would, therefore, suggest that the proposed regulations might be incorporated in three separate instruments as under—

(1) a Convention providing for the abolition of discrimination in respect of employment under the State and admission to vocational training in government institutions (question 6);

(2) a Recommendation providing for the abolition of discrimination, covering private employment, public contracts, provincial and local authorities, private employment agencies, independent public corporations, private vocational training institutions and employers’ organisations and trade unions (questions 8 to 12);

(3) a Recommendation containing the points covered by questions 13 to 18, and 20. While the Government of India appreciate the need for, and the importance of, having special machinery for promoting observance of the policy of non-discrimination, the urgency for setting up such machinery and the details of the set-up, etc., would depend upon the circumstances in the individual countries. It would, therefore, be better to have a Recommendation covering these matters.

IRAQ

There should be no discrimination whatsoever in the field of employment and occupation.

ISRAEL

The Government of Israel welcomes the initiative of the International Labour Organisation in taking further action aimed at the elimination of discrimination in the field of employment.
Although discrimination is mainly due to prejudices and false ideas having the nature of a disease which can best be cured by educational processes and influencing public opinion, legislative action at the national as well as the international level is instrumental in and sometimes even indispensable for achieving the object of securing to all human beings equality of rights. The Government of Israel, therefore supports the adoption of an international instrument by the I.L.O. to prevent discrimination.

ITALY

The Government considers it desirable to state, before answering the various questions, that, while it recognises the considerable results which may follow from a policy adopted by the public authorities in order to prevent discrimination and to promote equality of opportunity and treatment in employment, the problem is of such gravity that it can only be completely and effectively solved by the enactment of compulsory standards.

The international instrument should, therefore, aim at promoting the enactment of such regulations, if not immediately, at least in the very near future. The provisions contemplated in the questionnaire could be adopted, if necessary, for a transition period, with the object of securing the voluntary adherence of public opinion, of the organisations, bodies and associations concerned and of employers.

The various principles which may emerge from an international instrument adopted on the basis of the questionnaire under consideration are reflected in the provisions of the Constitution of the Italian Republic. In article 3, in fact, it is laid down that "all citizens are of equal social dignity and are equal before the law, without distinction as to sex, race, language, religion, political opinion or personal and social status. It is the duty of the Republic to remove any economic and social obstacles which, by actually restricting the liberty and equality of citizens, impede the full development of the human personality and the effective participation of all workers in the political, economic and social organisation of the country."

Article 4 of the Constitution provides, moreover, that citizens have the right to work and that the Republic should foster conditions under which this can be realised.

In respect of freedom of association, article 39 should be recalled, in which the principle of freedom is solemnly affirmed. This implies the possibility of setting up one or more trade unions for the same occupational category (the principle of trade union "plurality"); the right of individuals belonging to a particular category to choose between the various existing unions; and the right not to belong to any such organisation.

Trade unions are under no obligation except that of registering with local or national offices. Such registration is conditional only on the rules of the union providing for an internal organisation based on democratic principles. There is no limit or discrimination as regards participation by individual members in the executive organs of the unions.

PAKISTAN

The Constitution of Pakistan (vide Part II, article 17) lays down that—

"No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any appointment on the grounds of race, religion, caste, sex, residence or place of birth:

"Provided that for a period of 15 years from the Constitution day, posts may be reserved for persons belonging to any class or areas to secure their adequate representation in the service of Pakistan:

"Provided further that in the interest of the said service specified posts or services may be reserved for members of either sex."
It will thus be observed that according to the above-quoted provisions of the Constitution all citizens of Pakistan have equal opportunities of employment in public services and there is no possibility of any kind of discrimination in this respect. Nevertheless, service rules framed by the Government do contain certain safeguards which have been provided with a view to protecting the interest of people belonging to certain backward castes and residents of tribal areas who are educationally and culturally not much advanced. In addition to this, women have been precluded from appointment to certain specified posts and services under the Government, for which they are not suited by virtue of their sex. Likewise, foreign nationals have been debarred from holding offices under the Government of Pakistan on a permanent basis under article 179 of the Constitution. In the private sector, however, there are no such statutory restrictions but the principle of suitability of a person on the basis of sex is generally followed.

The replies to the questionnaire are, therefore, subject to the limitations mentioned in the foregoing paragraphs.

POLAND

The struggle against discrimination in employment and occupation has great importance for the millions of workers who are subject to discriminatory practices. Discrimination against workers is inseparably bound up with obscurantism and racial and other prejudices and effective action by the I.L.O. against such practices would give a strong impetus to the campaign for progress and social justice in all countries.

For this reason it is necessary to aim at the adoption of a broadly conceived international Convention not allowing any exceptions and providing for the legal prohibition of all forms of discrimination. This prohibition should apply to all discriminatory practices in all fields of employment and occupation, to vocational training and to access to occupations, to security of employment and to possibilities of advancement. This would be an important step forward towards the achievement of the aims set out in the Declaration of Philadelphia and the Universal Declaration of Human Rights. With this in mind the Polish Government declares its strong support for I.L.O. action against discrimination in employment.

THAILAND

In Thailand discrimination in the field of employment and occupation is precluded by the provisions of the following laws:

1. The Civil Service Act, 1954, ensures equality and justice to all persons who wish to enter government service by requiring them to take a competitive or a selective entrance examination to a particular department, in which priority is given to the most successful candidates. As a result of this practice discrimination on grounds of sex is eliminated. However, candidates for the said examination must first satisfy regulations regarding eligibility to sit for the examination: for instance, they must be Thai nationals and must not be disabled persons. In return for their services civil servants are recompensed with salaries which vary in accordance with their technical qualifications and the responsibilities of their individual posts.

2. The Labour Act, 1956, which has recently been passed by the National Assembly and comes into force on 1 January 1957, is drawn up to safeguard the interests of employees. Provisions are made to the effect that—(a) male and female employees doing the same type of work and working under similar conditions are to receive equal wages, and (b) the rights of employees to establish and to join a labour union are recognised. The Act expressly provides that it is the right and duty of labour unions to lay down procedures for negotiating with employers, for presenting protests to them and for demanding justice from them.

The Government fully concurs with the principles contained in the report.
U.S.S.R.

Discrimination between individuals or groups of the population on grounds of race, colour, national or social origin, property, language, religion, sex etc., in any field of political, public or economic life, including that of employment and occupation, is certainly, at the present stage in civilisation, a very shameful phenomenon indeed. It amounts to gross infringement of the rights of man and is incompatible with the principles of the United Nations Charter and the aims and objectives of the International Labour Organisation. International public opinion should be drawn to the dangerous expansion, in several countries and non-self-governing territories, of discriminatory measures and practices against workers, on the above grounds, as regards employment, access to occupations, vocational education, conditions of work, social security and trade union action.

It is urgently necessary also to work out definite measures which would help in prohibiting and eradicating discrimination and in establishing equality of opportunity and equal conditions in the field of employment and occupation. The adoption by the International Labour Organisation of an international instrument with such an object would therefore be welcomed by the Soviet Union. The instrument should provide, clearly and concisely, that discrimination shall be unconditionally prohibited and eradicated, without allowing any deferment or compromise. Special attention should be given to making the instrument equally applicable to independent countries and non-self-governing territories, as well as to all groups of the population, including migrant workers.

UNITED KINGDOM

The Government agree that equality of opportunity and treatment in employment and the avoidance of discrimination on irrelevant grounds are in principle desirable but they doubt whether an international instrument on the lines suggested in the report would be realistic and practical. Apart from the obvious difficulties of definition and the virtual impossibility of analysing the issues involved—points which are dealt with in more detail in reply to the relevant sections of the questionnaire—it is extremely doubtful whether the subject is susceptible of being treated satisfactorily in the scope of a single instrument of general character. The national circumstances, in relation to which governments must consider the measures that it might be necessary or practicable to take in preventing discrimination in regard to employment and occupation, differ very widely from country to country and so condition action as to make the issue not a single common problem but a series of problems that must be dealt with in a variety of ways. The issue in a rapidly developing multi-racial community, for example, particularly where various races are at widely different stages of development, cannot be treated in the same way as it is in more mature and homogeneous countries.

In so far as it may be at all possible to deal with the problem by means of international labour instruments, the Government's view is that this would best be done in relation to specific subjects such as in the case of references to non-discrimination in the Conventions and Recommendations cited in the Appendix to Report VII (1). In their view, however, it is by the education of public opinion towards the eradication of prejudice that discrimination in employment and occupation will be effectively eliminated.

In view of these considerations and others which are dealt with in more detail in the answers to the questionnaire, the Government believe that a resolution, emphasising the desirability of equality of opportunity and treatment in employment and the avoidance of discrimination on irrelevant grounds, would be the best way of dealing with the subject.
I. Form of the International Instrument

1. Do you consider that the International Labour Conference should adopt an international instrument concerning the prevention of discrimination and the promotion of equality of opportunity and treatment in employment?

Forty-five governments replied to this question. Twenty-two (those of Afghanistan, Austria, Brazil, Canada, Ceylon, Chile, Denmark, France, Haiti, Iran, Ireland, Israel, Italy, Japan, Netherlands Antilles, Norway, Pakistan, Spain, Surinam, Sweden, Turkey, Viet-Nam) simply reply in the affirmative. The replies of the other governments, including those of Byelorussia, Cuba, Poland, the U.S.S.R. and the United Kingdom, which deal with questions 1 and 2 in a single reply, are reproduced below.

ARGENTINA

1. No observation. In conformity with the provisions of its national legislation, Argentina would favour the adoption of an international instrument.

BELGIUM

1. Yes. Equality of opportunity and treatment in employment is a matter of strict equity and it seems essential that the I.L.O., which has already indicated its attitude on an important but more limited aspect of the subject—equal remuneration—should intensify its efforts in this connection.

BULGARIA

1. The adoption of an international instrument aimed at the abolition of discrimination in employment and occupation is indispensable.

BYELORUSSIA

1 and 2. An international Convention should be adopted for the abolition and prevention of discrimination in the field of employment and occupation and not merely for the “prevention of discrimination and the promotion of equality of opportunity and treatment” as the questionnaire suggests.

CUBA

1 and 2. The international instrument, which should take the form of a Convention, should contain a concrete declaration condemning discriminatory practices of all kinds and indicating the necessity in the distribution of employment opportunities of not taking into account any other factors than those of suitability.

1 In the enumeration of the governments which replied to each question the Governments of the Netherlands, the Netherlands Antilles and Surinam have been counted separately.
CZECHOSLOVAKIA

1. Yes; the international instrument should condemn all aspects and forms of discrimination as an evil constituting a violation of fundamental human rights and freedoms under the United Nations Charter.

DOMINICAN REPUBLIC

1. Although in the Dominican Republic there is no discrimination based on the grounds mentioned in question 3 (1) of the questionnaire and equality of opportunity and treatment in employment matters exists for all, this country cannot remain indifferent to the fate of peoples in other parts of the world where such discrimination exists, and therefore it considers it appropriate for the International Labour Conference to adopt such an instrument.

ECUADOR

1. It is appropriate for the International Labour Conference to adopt such an international instrument, so that all human beings, irrespective of race, creed or sex, may have the right to pursue both their material well being and their spiritual development in conditions of freedom and equality.

FINLAND

1. Although the instrument planned cannot, for the time being, have any noteworthy practical significance in regard to conditions in our country, the conditions in some other countries may be such that an international instrument appears to be necessary.

FEDERAL REPUBLIC OF GERMANY

1. Yes. With regard to the legal situation in the Federal Republic, the Government would like to make a general reference to article 3 of the Constitution of the Federal Republic of Germany. This provides that in the Federal Republic all men are equal before the law. Men and women enjoy equal rights. No person may be given preference or discriminated against for reasons of sex, descent, race, language, birthplace and origin, faith, or religious and political views. In addition, under section 51 of the Works Constitution Act of the Federal Republic the employer and the works council are responsible for all persons working in the establishment being treated in conformity with the principles of justice and equity; in particular this section prohibits any discrimination for reasons of descent, religion, nationality, origin, political or trade union activities or views, or on account of sex.

GREECE

1. The International Labour Conference should draft an international instrument aimed at preventing discrimination in the practice of different occupations and in the field of employment in general, with a view to promoting equality of opportunity and treatment for each individual.

GUATEMALA

1. Yes, this would be very desirable.

INDIA

1. Yes, but it would be better to have separate instruments as indicated in the General Observations above.
REPLIES FROM GOVERNMENTS

MEXICO

1. Yes, since such an instrument would answer a universal demand for the provision of equality of opportunity and treatment in employment for all human beings.

KINGDOM OF THE NETHERLANDS

Netherlands

1. Yes, if it appears possible to formulate the text in such a way that it does not give rise to duplications with provisions in already existing Conventions and Recommendations—particularly duplications formulated in other words. Otherwise it would be better to confine the new instrument to those aspects which have not yet, or not yet exhaustively, been dealt with.

PHILIPPINES

1. Yes, because discrimination in the field of employment and occupation is a virulent form of social injustice. It is imperative that fair, intelligent and thorough ways of attacking the evil be agreed upon and carried out.

POLAND

1 and 2. Yes, an instrument of this type should take the form of an international Convention of as broad scope as possible, supplemented if necessary by a Recommendation.

SWITZERLAND

1. Although the question does not have the same importance for Switzerland as for some other countries, the Government considers it desirable that the International Labour Conference should adopt an instrument concerning the prevention of discrimination and the promotion of equality of opportunity and treatment in employment.

U.S.S.R.

1 and 2. The International Labour Conference should adopt an international instrument in the form of a Convention concerning the eradication and prevention of discrimination in the field of employment and occupation. It would be quite inadequate to adopt an instrument which spoke, as the questionnaire does, only of preventing discrimination: for discrimination, as is well known, already exists in the law and practice of a number of countries and territories and must be effectively eradicated. It is equally inadequate to "promote" equality, for equality must be established in practice.

UNITED KINGDOM

1 and 2. For the reasons indicated in the General Observations above, it is considered that the matter would most appropriately be the subject of a resolution of the International Labour Conference.

UNITED STATES

1. An appropriate Recommendation might be useful to governments in their efforts to prevent discrimination, particularly in defining policies and stimulating educational and other programmes to promote equality of opportunity in employment. The discriminatory denial of opportunity to earn is a threat to free institutions as well as to the individuals affected. Of like import are the discriminatory devices
whereby arbitrary limitations unrelated to skill or ability are imposed on groups or classes of persons concerning their treatment in regard to upgrading, promotions, job tenure and similar matters.

The United States is dedicated to the expansion everywhere of fundamental human rights and the full realisation of individual initiative. The Government welcomes every opportunity to spread the principles of liberty which are basic to our way of life. All free societies such as the United States have long recognised the right to select one's own occupation as one of the fundamental freedoms of the individual.

**Uruguay**

1. The adoption of an international instrument is considered of great importance.

**Yugoslavia**

1 and 2. Yes. The only effective instrument for the prevention of discrimination and the promotion of equal opportunities and procedures in employment would be a Convention.

2. **What form do you consider the instrument should take?**

Forty-five governments replied to this question. Nine (those of Argentina, Bulgaria, Ecuador, France, Greece, Guatemala, Haiti, Ireland and Turkey) simply reply in favour of a Convention.

Six (those of Canada, Ceylon, Chile, Iran, Pakistan, Spain) simply reply that they are in favour of a Recommendation. The Governments of Byelorussia, Cuba, Poland, the U.S.S.R., the United Kingdom and Yugoslavia deal with questions 1 and 2 in a single reply. The replies of the other governments are reproduced below.

**Afghanistan**

2. At the present time we believe a Recommendation would be a suitable instrument.

**Austria**

2. It is desirable that the standards should be laid down in the form of a Convention. The Convention should contain those basic standards which are likely to be acceptable to the majority of the Members. A Recommendation supplementing the Convention should be envisaged, containing such provisions as are not capable of precise formulation owing to their character—e.g. those establishing a programme—and the difficulties encountered in their effective enforcement.

The bodies representing the employers argue that the standards should take the form of a Recommendation. They base this on the argument that practical experience has shown that Recommendations often exert a greater influence. A State which ratifies a Convention must undertake to incorporate the minimum standards in all their details into the national legal system and this, in many cases, prevents ratification. But an unratified Convention, they say, has less effect than a Recommendation, whose more flexible character enables Members to adapt themselves gradually to it and to give effect to its underlying principles.

**Belgium**

2. A Recommendation. The subject being dealt with is very broad and assuredly takes very different forms in the different States Members of the I.L.O.
BRAZIL
2. The instrument should take the form of a Convention for the following reasons:

(1) there are already a number of instruments which take the form of recommendations—to start with, the Universal Declaration of Human Rights of 1948; 
(2) as a result of the work of the International Labour Conference a large area of this field has already been regulated by Conventions (in 1936, 1947, 1948, 1949, 1951 and 1955).

CZECHOSLOVAKIA
2. The form of the instrument should be that of a Convention, in view of the obligations it imposes under international law. The Convention should apply directly also to the non-metropolitan territories of the ratifying States, since it is in these territories that discriminatory practices are the most frequent.

DENMARK
2. In view of the importance of the questions involved a Convention would be preferable. As, however, it seems necessary to draw up the instrument with a high degree of flexibility owing to the difficulty of determining the lines of division and to the dissimilarity of the conditions as between the different countries, a Recommendation is deemed to be more appropriate. If the Conference were to prefer a Convention the instrument might take the form of a Convention laying down the general principles, supplemented by a Recommendation pointing out some practical means for applying the principles of the Convention.

DOMINICAN REPUBLIC
2. The instrument should take the form of a Convention, since this would be most effective in eradicating the evil which it is desired to combat.

FINLAND
2. Although conditions in some countries would favour a Convention it might be sufficient, at this stage, if the instrument were to take the form of a Recommendation. Of course, it may also be thought that the few most important aspects should be dealt with in a Convention, whereas the more detailed regulations should be included in a Recommendation.

FEDERAL REPUBLIC OF GERMANY
2. The answer to this question will depend on what standards are to be laid down in the instrument. A Convention might be considered at least as regards part of the matters to be requested. Another solution worth examining would be that of embodying in a Convention some of the points to be dealt with and dealing with others in a Recommendation.

INDIA
2. The regulations may take the following forms:

(1) A Convention relating to employment and training under state control.
(2) A Recommendation covering other employment and training.
(3) A Recommendation relating to the establishment, etc., of agencies for promoting observance of the policy of non-discrimination.
ISRAEL

2. Having regard to the basic character of the rights to be safeguarded the Government favours a Convention establishing the principle of non-discrimination, followed by a Recommendation as to details of application.

It is tentatively suggested that the points referred to in questions 3 to 11 be covered by a Convention and those referred to in questions 12 to 18 by a Recommendation.

ITALY

2. The importance of the principles to be included in the instrument in question, and their general and fundamental nature, make it advisable to adopt a Convention rather than a Recommendation.

JAPAN

2. The basic matters as set out in questions 3 to 7 and in question 11 should be provided for in a Convention, and the matters referred to in question 8 ff. of the questionnaire should be provided for in a Recommendation. Furthermore, of the matters suggested in question 12, it is desirable that the obligation of the competent authorities to encourage employers' organisations and trade unions to accept and observe the public policy, as stated in question 5 of the questionnaire, be provided for in the form of a Convention.

The I.L.O. has exerted its efforts toward the eradication of discrimination in the field of employment and occupation and adopted a large number of Conventions and Recommendations since 1919, when the guiding principles therefore were set out in Part XIII of the Versailles Treaty. The International Labour Conference at its 26th Session in Philadelphia in 1944 adopted the Declaration concerning the aims and purposes of the Organisation and the principles on which the policy of its Members should be based. The Conference reaffirmed the fundamental principles on which the Organisation is based, and in particular that all human beings, irrespective of race, creed and sex, have the right to pursue economic security and equal opportunity. The Universal Declaration of Human Rights contains provisions stating inter alia that everyone has the right, without any discrimination, to access to employment and to just and favourable conditions of work. Since these Declarations are in the nature of recommendations concerning the eradication of discrimination, the proposed instrument having similar aims and purposes could hardly be expected to attain its purposes to the full should it take the form of a Recommendation over again.

Since the eradication of discrimination is an important and fundamental problem having relations with fundamental human rights, the matter should be provided for in the form of a Convention having full binding effect.

However, it is considered that the matters mentioned in question 8 ff. (except for questions 11 and 12) in respect of acceptance, observance and promotion of the public policy concerning the eradication of discrimination would directly affect the present administrative systems or administrative practices of the countries concerned. Hence, the immediate enforcement of these matters in the form of a Convention is inappropriate and they should be provided for in the form of a Recommendation.

However, the point suggested in question 11 as well as the point in question 12 concerning the obligation of competent authorities to encourage employers' organisations and trade unions to accept and observe the "public policy" are matters to be included as basic principles in the proposed instrument. It is desirable therefore that these should be provided for in the form of a Convention as an administrative obligation of the competent authorities, on condition that the countries concerned can put them into effect without any significant changes in their present administrative systems or administrative practices.

See also reply to question 12.
REPLIES FROM GOVERNMENTS

MEXICO

2. A Convention, since anti-discriminatory principles have been approved by
civilised opinion and no reservation regarding their adoption is justified from a
moral, economic or juridical point of view.

KINGDOM OF THE NETHERLANDS

Netherlands

2. The instrument should take the form of a Recommendation, since the
respective grounds of distinction vary in accent and in significance from country
to country and often from district to district. Many States will be loath to support
or ratify a detailed Convention, as there will always be some provisions that are
difficult to accept for one country or another.

Netherlands Antilles

2. The form of a Recommendation, in view of the fact that a considerable
number of nations would probably not be prepared to give effect to a Convention.

Surinam

3. A Recommendation is preferable.

NORWAY

2. In view of the importance of this matter a Convention would be preferable,
but the fact that the questionnaire refers to many problems of a rather compli-
cated nature may on the other hand be an argument for limiting Conference action
to a Recommendation, or a Convention supplemented by a Recommendation.

PHILIPPINES

2. A Recommendation only because, in view of the variety of conditions in
the different countries, it would be difficult to obtain a substantial concord in regard
to a Convention.

SWEDEN

2. The subject in question is of such a fundamental nature that the inter-
national instrument should take the form of a Convention. Such a Convention
should, however, include only certain main principles, while various points such
as are indicated later should, it is considered, be treated in a supplementary Recom-
mendation.

SWITZERLAND

2. Having regard to the complexity of the problem and the difficulties which
would be encountered in seeking a solution at the international level on account
of the fundamental differences which exist in matters of employment, not only
from one country to another but also from one economic field or one occupational
activity to another, it would be expedient for this instrument to take the form of
a Recommendation.

UNITED STATES

2. The instrument should be in the form of a Recommendation. Because
of the wide variations in the factors giving rise to the many different forms of
discrimination reported to exist in the world today it is believed that the greater flexibility to be achieved in a Recommendation is desirable in order that universal steps may be taken towards the eventual achievement of the worthwhile goal outlined in the questionnaire.

**URUGUAY**

2. As a point of general policy, it is considered that the instrument should take the form of an international Convention, although it might possibly be agreed that certain detailed provisions might take the form of a Recommendation, as was decided by the Conference at its 39th Session in respect of other instruments.

**VIET-NAM**

2. A Recommendation is more appropriate at the present stage reached by international regulation in regard to discrimination in employment.

**II. Definition and Scope**

The Government of the U.S.S.R. suggests that this Part should include a statement that discrimination in the field of employment and occupation is a breach of the rights of man as embodied in the Universal Declaration of Human Rights, 1948, and particularly in articles 2, 7, 22, 23 and 24 of the said Declaration.

3. (1) Do you consider that for the purposes of the instrument "discrimination" might be defined as any adverse distinction which deprives a person of equality of treatment and which is made solely on the basis of—

   (a) race;
   (b) colour;
   (c) sex;
   (d) language;
   (e) religion;
   (f) political or other opinion;
   (g) national origin;
   (h) social origin;
   (i) property;
   (j) birth;
   (k) other status.

   (2) Do you consider that in addition to referring to "other status" the instrument should enumerate any further bases of distinction (e.g. age or disablement)?

   (3) Do you consider that any basis of distinction should be specifically excluded from the definition?

Forty-four governments replied to this question. Three governments (those of Brazil, the Netherlands Antilles and Spain) simply reply in the
affirmative to (1) and in the negative to (2) and (3). The other replies, including those of Byelorussia and Cuba, which deal with questions 3 and 4 in a single reply, are reproduced below.

AFGHANISTAN

3. Any kind of discrimination in the provision of opportunities of employment should be abolished.

ARGENTINA

3. (1) No observation.
(2) and (3) No.

AUSTRIA

3. (1) The bases of distinction listed in items (a) to (f) and (h) to (j) should be used as criteria in defining "discrimination".

To avoid erroneous interpretations of what is covered by "discrimination", the international instrument should contain provisions to the effect that there is no discrimination where a distinction is well founded.

As regards item (c) "sex", this should be supplemented and extended as follows: "sex and civil status (unmarried, married, widowed, divorced)". By so doing, due account could be taken of the important considerations indicated in Chapter III of Report VII (1).

The bodies representing the employers express the view that this basis of distinction (sex) should be omitted. They consider that the reasons why there are few women in certain occupations and why these often receive a lower wage than men is that they are less suited to many types of work and that their performance is often of a lower value.

As regards item (d) "language", the Federal Industrial Chamber considers that it will be difficult to draw the line between discrimination and objectively differentiated treatment owing to the fact that ease of communication is in most cases an indispensable condition for employment. It therefore considers that the item relating to language could also be omitted.

The concept of "national origin" (item (g)) may be taken to refer to two things, namely national extraction or citizenship. In so far as it relates to national extraction, there is no objection to the adoption of this item in the definition. But the position is different as regards citizenship. In Austrian law non-possession of Austrian citizenship is of legal significance from various points of view in the field of employment and occupation. For example, the possession of Austrian citizenship is normally one of the conditions of admission to the public service. Moreover, the practice of certain professions, especially in the field of health (practice as a physician, etc.) and also practice as a lawyer or a notary, are dependent on possession of Austrian citizenship. Under section 8 (4) of the Federal Act of 28 March 1947 establishing a system of works representation bodies (Works Councils Act), Austrian citizenship is also required for election as a member of the works council. The same condition is laid down in section 10 of the Federal Act of 19 May 1954 respecting chambers of wage earners and salary earners and the Congress of Austrian Chambers of Labour (Chambers of Labour Act) as regards eligibility for officials of the Chambers of Labour. Finally, under the Order respecting alien employees of 23 January 1933, which is still a part of Austrian law in virtue of the Austrian Law Transition Act, the admission of aliens to employment in Austria is subject to an official permit. Even in future it will not be possible to eliminate the distinction between Austrian citizens and aliens in the field mentioned. The Government has reason to believe that citizenship is a condition for the practice of occupations and admission to employment in many other countries also.

As regards item (j) "birth", the explanations given in Chapter III of Report VII (1) seem to miss the essential point, since any limitation of entry to apprenticeship of the children of practising craftsmen would surely come under the
heading "discrimination on the grounds of social origin". However, discrimination by reason of illegitimate birth is quite possible. Item (j) should therefore read "birth (legitimate, illegitimate)".

The bodies representing the workers have proposed that the following item should be added: "Membership of trade unions and union activity". The Congress of Austrian Chambers of Labour considers that "age" should also be included in the list.

As regards item (k) "other status", see the observation on question 3 (2).

(2) Since a ratifying Member will contract definite obligations, it is indispensable that every "other status" capable of leading to distinctions should be explicitly mentioned. In a Recommendation an exhaustive enumeration of the "other status" distinction would not be necessary and examples merely might be given.

(3) Yes. See what was stated above in regard to question 3 (1) (g). The distinction between nationals (possessing home citizenship) and aliens should be excluded from the definition to the extent there indicated.

**Belgium**

3. (1) Whatever definition is adopted, discrimination should be considered as an adverse distinction based on factors over which the individual has no control.

(2) "Age" should be specified in the bases of distinction.

(3) No.

**Bulgaria**

3. (1) Yes.

(2) Specific mention should also be made of age, disability and trade union affiliation.

(3) No.

**Byelorussia**

3 and 4. Yes. In defining discrimination, however, the word "adverse" should refer to direct or indirect limitation of rights or to the granting of direct or indirect privileges for individuals or groups.

**Canada**

3. (1) Yes, but only in respect to those bases of distinction which are known to arise in relation to employment. From knowledge and experience in Canada these could be confined to (a) race, (b) colour, (e) religion, and (g) national origin. As to (c) sex, measures to deal with inequities of opportunity and treatment in employment as between men and women should be dealt with in special measures, separate from those designed to prevent discrimination on other grounds.

(2) No.

(3) No. It would not be necessary if the bases enumerated in the definition are confined to race, colour, religion and national origin.

**Ceylon**

3. (1) Yes. A distinction based on nationality should not be regarded as discrimination, as the right of any country to limit the opportunities for employment to its own citizens must be preserved.

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1 In the questionnaire in the Russian edition of Report VII (1) the expression employed for item (g) means "nationality"; and the items listed in this reply under (k) to (m) were inadvertently included.
A distinction based on language should not be considered discriminatory where fluency in a particular language is an essential or important requirement for the job.

Discrimination based on religion should be considered discriminatory unless a particular religious profession is a genuinely essential or important requirement for the job.

An exception should be made in the case of defined key posts in the public sector where on grounds of national security care in the selection of candidates has to be exercised.

(2) No.

(3) The definition should exclude exceptions as indicated in the observations on (1) above.

CHILE

3. (1) Yes.
(2) No: (k) is sufficiently broad.
(3) No.

CUBA

3 and 4. Civil status should be added to the field of application of the Convention. Age and disability should continue to be the object of specific international regulations and should therefore be excluded from the instrument on discrimination.

CZECHOSLOVAKIA

3. (1) The word "solely" should be left out of the definition in the English wording and the word "uniquement" out of that in the French wording (this term is not used in the German text), since this term would lend itself to an excessively restrictive interpretation of the concept "discrimination". Any considerations on the definition of discrimination must take into account also the real causes and circumstances underlying discriminatory practices, i.e. the conditions of economic dependency of the workers, employment or unemployment. These causes and circumstances of discrimination should be laid down in the definition itself.

(2) Among the various aspects of discrimination the following should also be included—
participation in the peace movement;
participation in strikes and membership in trade union organisations;
participation in trade union activities both on a national as well as international level;
which are all frequent grounds for discrimination in the employment of workers. The document should also enumerate age or disablement as further bases of distinction.
(3) No.

DENMARK

3. (1) (a) and (b) Yes.
(c) Questions of remuneration on the Danish labour market are normally settled by negotiation between the organisations of employers and workers with no intervention on the part of the State. Considering that the principle of equal remuneration for men and women workers has not been applied in Denmark, the Government must make a reservation in this respect, in case remuneration is intended, as set out in question 5 (f), to be included in a Convention among the principles of public policy.
(d) to (i) Yes.
(g) If by discrimination on the basis of national origin is meant discrimination directed against persons who are of foreign extraction, but who are nationals of their country of residence, the answer is in the affirmative. If, however, the reference is to persons who are not nationals of their country of residence, it should be noted that in Denmark efforts have been made for a liberalisation of the labour
market with resulting equality of opportunity and treatment in the case of employment of any kind. With these ends in view certain restrictions have been abolished in regard to employment of nationals of countries which afford special opportunities in that respect through close cultural and economic relations with Denmark. Norwegian, Swedish and Finnish nationals, for example, are free to go to Denmark to take up employment of any kind without any work permit. As regards nationals of countries which are not covered by the liberalisation, importance is at present attached to their national origin in the granting of work permits.

(h) to (j) Yes.
(k) No.

**Ecuador**

3. (1) In the proposed instrument no discrimination on any grounds should be entertained, since Ecuadorian legislation, the United Nations Charter and the Universal Declaration of Human Rights prohibit any adverse differentiation which treats some individuals as inferior to others.

(2) Legislation in Ecuador permits distinctions in work in relation to age and sex, particularly in connection with night work and underground work, which is prohibited for women and minors under 18 years of age. With regard to disablement this matter is satisfactorily regulated in Ecuadorian social security laws.

**Finland**

3. (1) Yes, but it is to be noted that such a definition of discrimination as drafted in the questionnaire might not be sufficient for the different purposes and that, therefore, a more accurate definition might be necessary.

(2) There would perhaps be reason to consider whether it might be preferable, as mentioned in Report VII (1) (p. 22), not to attempt to say anything about trade union affiliation in this connection.

(3) No.

**France**

3. (1) Yes.

(a) (b) (c) and (j) The Constitution of 1946 proclaims in its preamble the inalienability of the rights of the human person without distinction on grounds of race, of religion or of belief. It states that no one may suffer in his work or his employment because of his opinions or his beliefs. Finally the same text guarantees equal access to public office to the peoples for whom France has assumed responsibility.

Moreover, the labour code for the overseas territories states that “Every person who has undertaken to place his gainful activity in return for remuneration under the direction and control of another person is considered as a worker within the meaning of the law irrespective of sex or nationality”... and “In determining the status of worker no account shall be taken of the juridical status of the employer or of the employee”.

(c) The preamble of the Constitution guarantees to women equal rights with men in all domains. With regard to public employment article 7 of the General Regulations for Officials lays down that no distinction shall be made between the two sexes except where special provisions are included in the Regulations. In fact these special provisions tend to recognise certain special rights for women as regards holidays and medico-social arrangements based on their position as wives and mothers of families.

(h) and (i) The points relating to social origin and to financial position call for certain special remarks in relation to public office. Competition by examination is at present the system on which all recruitment for public office is based. For the higher ranks of the administration the pre-war system of special competitions for each Ministry or each group of officials has given place to a system of recruitment
based on progressive specialisation through the National School of Administration. Selection by competition ensures that recruitment takes no account of the financial position of the candidates. This principle of non-discrimination is moreover translated into fact by arrangements made for entry to the preparatory stage of competitions and by payment to officials, in addition to basic salary and allowances for family responsibilities, of special allowances for administrative responsibilities or duties. These enable an official without private means to occupy all posts in the Civil Service.

(d) and (g) Two of the bases of distinction mentioned in the questionnaire call for special observations—language and national origin. In Report VII (1) these are not considered discrimination in all cases. It does indeed appear indispensable that a worker should understand the language in which instructions for carrying out his work are given to him. The higher a worker rises in the professional scale the more imperative this need becomes.

As regards national origin it may prove necessary for the authority responsible for labour policy to protect autochthonous manpower against competition from manpower coming from foreign countries or from the metropolitan territory concerned. This need which arises for social or political reasons makes it necessary to be cautious in applying rules of non-discrimination so that the policy at present followed of advancement of autochthonous peoples is not interfered with.

It should be noted in respect of public office that article 23 of the General Regulations lays down that all candidates for public office must be in possession of French nationality. It lays down further that this condition must have been fulfilled at least five years before entry into public service. This condition is based on the desire to restrict the service of the State to nationals only. But France, which is an immigration country with a corresponding policy of naturalisation, systematically associates with the management of public affairs persons who have recently acquired her citizenship. The five years' waiting period which results from the provisions of the decree of 19 October 1945 codifying French nationality regulations must be considered very liberal. Moreover, this rule is only one of principle, applying to persons of non-French origin as a whole; in particular cases where certain services have been rendered the five-year rule is not applied.

(2) In France the Manpower Services exercise no discrimination on grounds of age in registering applicants for work provided that they are past the age of compulsory education (14 years) and are fit for work. Even though workers over 65 years of age cannot receive unemployment benefit, their inclusion on the register of applicants for work is never refused. Instructions have, moreover, been given to the Manpower Services that, when employers have notified a vacancy which specifies an age limit, they should be asked to take on a trial basis a candidate, having the required occupational qualifications, whose age is over that limit. The Labour and Manpower Services agree to individual discharges only if it is materially impossible to resettle the older worker within the undertaking. In the case of bulk discharges particular attention is paid to the order of discharge, bearing in mind family responsibilities, length of service in the establishment and occupational qualifications. The fact that length of service in the undertaking is taken into consideration is a factor which often operates to the advantage of older workers.

The Secretariat of State for Labour and Social Security registers all disabled persons in specialised sections within the Departmental Manpower Services. These Services try to persuade employers to offer jobs to such persons. Disabled persons undergo various medical and psycho-technical examinations so that they may be submitted for the employment for which they have shown themselves to be physically and occupationally fitted. The enumeration of the bases of distinction in the questionnaire appears to be sufficiently diversified and it does not seem that it would be useful to include other questions such as age or disability, since these bases of distinction are only justified in connection with the protection of the workers.

In the case of the public services the following remarks may be made concerning age and disablement.
**Age:** it is laid down in the regulations that all officials may continue their career up to the age limit, which at present is fixed at 65 years in the case of sedentary duties and at 60 years in the case of active duties. Retirement cannot be advanced except in the case of disciplinary sanction unless there is definite physical inability to continue carrying out the duties of the job and then only after medical and administrative procedures which guarantee that the person concerned receives objective treatment. An upper limit is generally fixed for entry into the public services. This is mainly justified by the idea of "career" which prevails in the French public services. The official who devotes his life to the public service must enter it at a very early age if he is to have an opportunity of reaching the highest grades in his category and of benefiting from salaries corresponding to his age and his social and family obligations. He must, further, acquire the outlook of a Civil Servant at a very early age. The fixing of the age limit for entry is also affected by the methods of selection employed. Competitions designed to test general education are only appropriate for people of the same age groups in connection with admission to senior positions for which intellectual qualities are an essential element in selection.

**Disablement:** Civil Service regulations provide that all candidates for public employment must satisfy the physical fitness requirements of the post for which they are applying. Disablement is therefore not an automatic reason for refusing access to the public service so long as it does not render a candidate unsuitable for the job for which he is applying. His state of health is determined by medical examinations and administrative procedures which ensure the necessary objectivity.

(3) No.

**Federal Republic of Germany**

3. (1) Subject to the reservations mentioned below, "discrimination" might for the purposes of the instrument be defined as any adverse distinction which deprives a person of equality of treatment and is made on the grounds cited under items (a) to (j). However, consideration should be given to the desirability of a more precise definition of the concept of discrimination along the lines of the opinion of the Secretary-General of the United Nations as quoted on pages 5-6 of Report VII (1). Such a definition must, in particular, take account of the fact (to be dealt with a greater length in the answer to question 4) that the granting of certain special advantages to individual employees or members of a profession does not constitute discrimination against other persons in the same employment or occupation where the granting of such special advantages depends on certain personal or professional prerequisites, and where every person in the same employment or occupation enjoys the same advantages if he satisfies these personal or professional requirements to the same degree. This applies, for example, as regards shorter working hours for young persons, the severely disabled or other handicapped persons. It would also apply to cases where employees with long service are granted better working conditions or are afforded additional protection against dismissal.

It would thus not be possible to apply the term "discrimination" within the meaning of the proposed instrument to cases where individual employees are debarred from certain posts because they do not possess the personal or technical qualifications required for the job (for example, insufficient knowledge of the language in the case of a foreign underground miner). The same would apply where the application of a nurse for employment in a hospital operated and maintained by a religious order is rejected because it is the policy of the hospital to employ only nurses belonging to the same religious denomination, or where an applicant for employment in a newspaper publishing house with political affiliations does not support that political tendency or rejects its political aims (employment in what German law calls Tendenzbetriebe).

For these reasons the Federal Government suggests that "discrimination" should be restricted to adverse distinctions denying equality of treatment in the
field of employment and occupation to a person holding the same personal and technical qualifications on the grounds of his or her being a member of a certain group, social or otherwise, this difference in treatment being based exclusively on the grounds cited under (a) to (j) and not on considerations of occupational safety and social welfare or any of the special factors just mentioned.

On the specific points listed under question 3 (1) the Federal Government wishes to make the following observations:

(a) With reference to the Universal Declaration of Human Rights adopted by the United Nations on 10 December 1948, the Federal Government holds that any discrimination on racial grounds should be inadmissible. This statement is not, however, intended to forestall any discussion of special conditions applying in certain territories which are dealt with in the report submitted by the International Labour Office. So far as the Federal Republic is concerned such special conditions are irrelevant; in the Federal Republic the principle of prohibiting racial discrimination is embodied without further qualification in the constitutional provision referred to in the reply to question 1.

(b) The same applies to the denial of equality of treatment on grounds of colour.

(c) Discrimination based on sex should not be admissible either. It has been rightly stressed in Report VII (1) that where members of one of the sexes are for their own protection excluded from certain types of work which involve danger to health or other risks for persons of that sex (e.g. the prohibition of the employment of women in certain undertakings or for a certain length of time before and after delivery) such provisions do not constitute discrimination. This point will be discussed at greater length under question 4. As to equal remuneration for women, the proposed instrument should contain a reference to the principles laid down in the Equal Remuneration Convention, 1951.

(d) Discrimination on grounds of language should be inadmissible. However, as has rightly been noted by the International Labour Office, fluency in a particular language or combination of languages may be an essential qualification for a particular position.

(e) Religion by itself should not constitute a reason for discrimination in employment and occupation. Nevertheless the Federal Government refers to the instances mentioned above, e.g. institutions and establishments run by particular religious denominations.

(f) Political or other opinion should not be taken as a reason for denying equality of treatment. This principle, as laid down in the Constitution and in particular in its article 3 cited above in the reply to question 1, has been put into effect throughout the territory of the Federal Republic of Germany. The Federal Government wishes, however, to repeat the view expressed above, that the exclusion of persons holding divergent political views from certain positions in the so-called Tendenzbetriebe of the type mentioned in that paragraph should not be regarded as political discrimination.

(g) The proposed instrument should state that national origin is not a valid ground for denying equality of treatment in employment and occupation. Although this is the basic attitude of the Federal Government, it is felt certain special provisions governing the engagement of aliens (nationals of a foreign country as well as stateless persons) must be retained. This point will be treated at length in the reply to question 7.

Finally the Federal Government does not consider it discriminatory against foreign workers for a country to give first priority to full employment of its own nationals.

(h) In the view of the Federal Government social origin should not constitute a reason for the denial of equal treatment in employment and occupation.

(i) The same applies to property. The Federal Government wishes, however, to point out in this connection that according to German law a labour court which is
examining the legality of a dismissal under the Act for the Protection of Workers against Dismissal may consider the degree to which the discharged worker is financially affected by the termination of his contract. If the property and assets of the discharged worker are taken into account by the court in this connection, this does not seem to the Federal Government to constitute discrimination within the meaning of the proposed instrument.

(j) Under the heading of birth Report VII (1) envisages cases where access to certain trades is, in practice, generally restricted to the families of persons already in the trades. Any attempt to counter this situation effectively by government action is likely to involve great difficulties, since such practices are as a rule implicitly accepted as an unwritten law parallel to and independent of statute law. Nevertheless, this is not a reason for excluding this point from mention in the proposed instrument.

(k) Under the heading of other status Report VII (1) mentions age, disablement and trade union affiliation. The question of disablement has already been dealt with in the Vocational Rehabilitation (Disabled) Recommendation, 1955. However, the Federal Government raises no objection to this point being mentioned in the proposed instrument as well, either in the form of a reference to that Recommendation or in any other appropriate manner, nor has it any objection to the mention of trade union affiliation. Where, however, the special privileges ensuing from membership in a trade union (such as enjoyment of the legal advantages established by collective agreement, representation by union representatives in labour courts, access to special facilities created by unions, etc.) are exclusively accorded to union members, this fact should not be deemed to constitute discrimination. As to the age factor, the Federal Government is doubtful of the possibility of preventing discrimination by government action alone. Nevertheless, it has no objection to the mention of age in the instrument. Where age considerations are allowed to affect working conditions (e.g. in the case of longer holidays for young workers) this should not be deemed to be discriminatory against older workers.

(2) In order that there may be no ambiguity in the law it is desirable that the instrument should expressly mention every additional form of prohibited distinction, especially since the types of discrimination most liable to occur in practice appear to be covered by the foregoing cases. However, the Federal Government would also be prepared to consider a covering clause provided that an appropriate way is found to avoid ambiguities—say by listing specific examples in this clause or by giving a sufficiently comprehensive definition of the concept of discrimination.

(3) As can be seen from the instances mentioned above, it may indeed be necessary to some extent to make certain distinctions. As regards method there are two alternative ways of covering such cases. An attempt may be made to make it clear, by adopting a definition of the kind referred to above under 3 (1), that in such cases there is no discrimination in the true sense of the word. On the other hand the possibility might also be considered of drawing up a separate list of reservations, with a clear statement that measures of this type shall not for the purposes of the proposed instrument be deemed to constitute inadmissible discrimination. The second alternative, which has apparently been envisaged in question 3 (3), would carry the advantage of ensuring even less possibility of ambiguity in the law. The two methods could also be used in combination. If the second method (a list of reservations) is chosen, the Federal Government would propose consideration of the cases mentioned above under 3 (1) on items (c), (d), (e), (f), (g) and (i).

Question 4, which is dealt with below, constitutes a special case of such a reservation.

**GREECE**

3. (1) and (2) The definition outlined in this question could serve as a basis for discussions leading to a final definition in the text to be adopted. Age and state of physical health should be taken into consideration, since they are factors which sometimes facilitate and sometimes impede the filling of certain posts.
It must also be taken into consideration that for some posts in public administration national legislation should be able to impose certain conditions or insist on certain special qualifications.

GUATEMALA

3. (1) The definition proposed in the questionnaire is in principle satisfactory, although it is suggested that it should be explained that the discrimination mentioned in the instrument has reference exclusively to the field of employment.

   The bases of distinction listed in the questionnaire are acceptable in principle and it is considered that it is not necessary to specify distinctions such as age or disablement since, if special provisions exist in some legislation for these groups of persons, they are of a protective nature and are founded upon the inferior position in which these groups of persons find themselves in relation to the majority of workers.

   (2) With reference to "other status" the Government indicates that if other Members consider it desirable to include other bases of distinction in the instrument these should be mentioned specifically, since the use of the term "other status" in the instrument would, owing to the vagueness of the wording, be a source of erroneous interpretations in application of the policy of non-discrimination in employment.

   (3) "National origin" should be excluded, as the fact of being a national of a given State gives the right to preferential treatment over persons of other nationality.

HAITI

3. This definition of "discrimination" is suitable. It might be preferable to make provision for other bases of distinction without expressly including them in the definition.

INDIA

3. (1) (a) to (e) Yes.
   (f) No. This may be deleted as, from the political and security points of view, Governments may not be able to assure non-discrimination in respect of individuals who have no regard for the duly established political and social order.
   (g) to (j) Yes.
   (k) This may be deleted, as the concept is vague.

   (2) No. It may be possible for countries with idle manpower to ensure non-discrimination in respect of older or disabled persons.

   (3) The Government have no suggestion to make.

IRELAND

3. (1) Yes, but subject, in regard to (c), to such limitations as may be necessary or desirable for the protection of the family and to any special legislation for the protection of women workers.

   (2) No.

   (3) See (1) above.
DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

ISRAEL

3. (1) Yes, but delete the word “solely”.
(2) “Age” and “disablement” should be specifically referred to.
(3) It should be made clear in the Convention that distinctions based on objective appraisal of the job should not be considered discriminatory.

ITALY

3. (1) The definition contained in this question seems acceptable and to correspond with the purposes envisaged. Considering the categorical character which it appears, should be given to the bases of distinction contained in (a) to (j), it would seem appropriate to omit “other status”.
(2) This does not appear desirable, particularly as regards disablement. When the specialised character of this basis of distinction is considered it will be recognised that special provisions for the employment of the disabled are in fact required.
(3) No.

JAPAN

3. (1) Yes. However, the meaning of “other status” should be decided autonomously by the countries concerned and the international instrument should include a definite statement to this effect.
(2) No, because the “bases of distinction” which should be eradicated and which should be specifically and definitely enumerated in the instrument are already covered in question 3 (1), (a) to (j).

With regard to the meaning of “other status”, Report VII (1) refers to three points, i.e. age, disablement and trade union affiliation. However, the problem of the eradication of discrimination by reason of “age”, notably of “old age”, has far more important relations with the employment situation in the countries concerned than has the problem of the eradication of discrimination by reason of other factors. As regards “disablement”, the Vocational Rehabilitation (Disabled) Recommendation, 1955, has already been adopted with respect to the eradication of discrimination by reason of disablement. Furthermore, as regards discriminatory treatment by reason of “trade union affiliation”, as is pointed out in Report VII (1) opinions vary according to national conditions in the countries concerned and no agreement has been reached yet as to the basic problem of whether such discriminatory treatment should be interpreted as a violation of basic human rights. Such being the case these “grounds” should not be enumerated in the international instrument as an immediate step but the eradication of discrimination on these grounds should be promoted by Members according to the judgment made of their own national conditions, and a mention to this effect should be made with a view to avoiding any differences in the interpretation of the term “other status” in the countries concerned.
(3) No.

MEXICO

3. (1) Yes, as they accord with the spirit of Part VII of article 123 of the Mexican Constitution: “There shall be equal pay for equal work without regard to sex or nationality.” This question extends the list of grounds which may not give rise to adverse distinctions in work to include such distinctions as race, colour, language, religion, political or other opinion, social origin, financial situation and birth; but the condemnation of adverse distinctions on these grounds accords with the spirit of the principle of equal pay for equal work, since these grounds of distinction are determined neither by the quality of work nor the conduct of the workers, and it is consequently in harmony with the Mexican legal tradition, which is inspired by the humanistic current in labour affairs, to support the suggested non-discriminatory standards.
(2) No, since distinctions in employment based on age or disablement may result not from discriminatory motives but from measures of protection of the worker or from lower output and in the case of persons disabled as a result of employment injury are the subject of compensation provisions under other labour legislation.

(3) No, for reasons stated in reply to (1).

**Kingdom of the Netherlands**

*Netherlands*

3. (1) No. Decisions with regard to a person are rarely determined by fate but are mostly based on an appreciation based on a complex of grounds in which those referred to in clauses (a) to (k) play a part, though it is often impossible to say whether this is a predominant part. Moreover, judgment whether the treatment of certain types of distinction is admissible or not often depends to a considerable extent on the particular circumstances of each individual case and also on generally accepted opinion in the group of the country to which one belongs.

In view of these complications it is, therefore, considered preferable not to base the new instrument—at any rate for the time being—on individual discrimination but, on the model of the quotations referred to in Chapter II of Report VII (1), on discrimination between the rights of members of groups distinguished by certain characteristics. Furthermore, the instrument should be exclusively restricted to the field in which the I.L.O. has competence. Finally, it should be defined as clearly as possible—by means of a positive or a negative description or both—what is meant by objectionable discrimination.

Partly in the light of the following replies to the questions 3 (2), 3 (3) and 4, the Government subjoins a preliminary attempt—which is of course subject to any corrections—to draw up a definition of objectionable discrimination.

"Discrimination for the purposes of this document should be taken to mean any system, based on a law, regulations, collective agreement or usage which has the effect of maintaining or creating inequality of rights and obligations for one or more groups or categories of persons, regarding vocational training, performance of work, conditions of employment or other social provisions on no other grounds than the fact that these groups or categories are different from other groups or categories in respect of:

(a) to (j); (k) age; (l) marital status; (m) disablement; (n) trade union membership.

Any discrimination should be avoided or put an end to, unless it is directed towards—

observance of the Conventions and Recommendations of the I.L.O.;

discontinuance or reduction of the disadvantages or drawbacks arising from membership of a certain group or category of persons;

restricted or selective admission of foreign workers in order to protect employment opportunities at home or to protect the demographic structure of the population;

safeguarding public order, safety and health;

preserving the national character of the public service and of undertakings in which the State is concerned;

conforming with national views regarding the contractual capacity of married women, minors and mental defectives."

(2) Yes. Apart from age and disablement other bases of distinction (e.g. being married or single, or belonging to a specific organisation) should also be enumerated.

(3) If it appears impossible to formulate the definition and the grounds of distinction sufficiently exactly, it may be necessary to exclude some bases of distinction.
DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

Surinam

3. (1) We can agree to the definition of “discrimination”.
(2) This is not necessary.
(3) No.

Norway

3. (1) (a) and (b) Yes.
(c) Yes, but with the reservation implied in a definition of discrimination which does not comprise those cases where qualifications for the particular occupation or job may be related to sex.
(d) to (i) Yes.
(2) and (3) No.

Pakistan

3. (1) (a) to (f) Yes.
(g) Yes, but after he has obtained the nationality of the country concerned
(h) to (k) Yes.
(2) Yes. Age, disability and domicile may be listed and last may be “other status”.
(3) No.

Philippines

3. (1) The Government proposes that the words “or mainly” be inserted between the words “solely” and “on the basis of.” Without the words “or mainly,” the employer might commit discrimination by citing one legitimate reason for preferring an employee, though in fact another reason, which is discriminatory, is the main factor in the choice. For instance, there are two employees, A, a white man, and B a coloured man. A has been in the service of the employer for ten years and B nine years. Their skill is substantially the same. The employer in promoting A has really in mind not so much A’s seniority as the fact that he is white and B is coloured.

(k) It is proposed that “condition” be used instead of “status.” The latter might mean legal personality and is narrower, whereas “condition” is broader.

(2) Yes: “previous conviction of a crime.” Discrimination against ex-convicts who have served their sentence defeats the very purpose of modern penology. “Age” may be added, but the law should specify under what conditions age may be a proper ground for distinction.
“Disablement” may also be added, but the law should also state when disablement may be a legitimate reason for distinction.
“Trade union affiliation” should be added. The Philippines has enacted a law (Republic Act No. 875) prohibiting an employer from requiring as a condition of employment that “a person or an employee shall not join a labor organisation or shall withdraw from one to which he belongs”. (Sec. 4 (a) (2)).

(3) “Property” should be specifically excluded from the definition. Report VII (1) itself says that “no evidence has come to light in studying this subject of any arbitrary distinctions whereby access to employment is expressly open only to persons possessing a stated amount of property or a stated private income”. Moreover, if an employer should prefer applicants who are poor and are in dire need of employment to support themselves and their families, this basis of distinction would not be objectionable.

Poland

3. (1) The suggested definition is correct in principle but its wording would profit from being more specific in referring to the sources of discrimination. For this reason it is suggested that the definition should be amended by the addition after
the words "any adverse distinction" of the following words "resulting from law or practice". As experience shows and as is indicated later on in the questionnaire discrimination against workers is based either on law or on traditional practice and it would be expedient to cover both sources of discrimination in the definition proposed.

(2) Yes, having regard to the widespread nature of discriminatory practices affecting older and disabled persons, it would be desirable also to include age and disablement in the list of bases of distinction.

(3) No.

SWEDEN

3. (1) The proposed definition of the concept of "discrimination" seems to be somewhat too wide. The considerations described in greater detail below should provide reasons for a modification of this definition.

(a) and (b) Yes.

(c) Yes. In this connection it should, however, be noted that the Swedish Government has not yet found itself able to ratify the Equal Remuneration Convention, 1951, concerning equal remuneration of men and women for work of equal value. The reason for this is primarily that ratification of the Convention would involve a departure from the principle hitherto generally accepted, that the two sides of industry have the right to conclude wage agreements by free negotiation without influence by the public authorities.

(d) and (e) Yes.

(f) Yes, but see remarks under 5 (h) below.

(g) No. According to present practice in Sweden foreign citizens who have resided in Sweden for at least five years automatically have the right to seek and accept employment. After seven years' satisfactory residence without adverse record they can also be accepted as Swedish citizens. More liberal regulations apply to the citizens of neighbouring Nordic countries. As a result of considerations of foreign policy or developments in the labour market a situation might of course arise which would make a modification of the above practice necessary. For this reason the Swedish Government considers it hardly advisable that a country should restrict its freedom of action in this respect by an international Convention or by agreeing to a Recommendation and thereby assuming a moral obligation.

With respect to appointments to public office, reference must be made to section 28 of the Constitution, according to which the King in Council may appoint and promote Swedish citizens to all offices and posts, higher and lower, within the Royal prerogative. The Crown is, however, free to appoint or promote foreign men or women of outstanding merit to teaching posts in the universities (except for the theological faculty), to teaching and other posts in other institutions of science, arts and crafts or fine arts, and to medical posts.

It may be added that the number of foreigners in Sweden on 1 October 1955 was approximately 250,000, of whom about one-sixth were refugees (mainly from the Baltic countries, Poland and Germany). In recent years scarcely any difficulty in obtaining employment has existed for foreign residents who are fit to work. Reluctance on the part of employers or workers to work with these foreigners has not been experienced. It may be mentioned that according to press reports there is sometimes reluctance among foreign workers to join Swedish trade unions.

(h) to (j) The statements in Report VII (1) concerning these points hardly seem to apply to present-day Sweden. With regard to the situation in other countries, however, no objection would be raised by Sweden to the inclusion of these bases of distinction in the international instrument.

(2) No.

(3) See remarks under (1).
SWITZERLAND

3. (1) The definition of discrimination as "any adverse distinction which deprives a person of equality of treatment and which is made solely on the basis of" (a) to (k) should be made more precise in that it would be appropriate to indicate that discrimination is unlawful only if these factors are taken into consideration when they do not have any connection with the nature of the employment. It is clear, for instance, that sex, language and national origin have to be taken into consideration for certain posts and may form grounds for exclusion which are not in any way discriminatory. Thus certain posts can only be occupied by male personnel and others only by female. Similarly, certain work can only be done by workers knowing a certain language. Finally, public posts are generally occupied only by nationals.

(2) Age or disablement should not be included, since in these cases it is most often a question of a practical distinction which does not have the form of discrimination in the meaning of this instrument. In effect a number of posts can be filled only by persons not above a certain age or having full working capacity. In our opinion measures designed to protect young persons or to favour the employment of older persons or disabled persons should be based on other considerations and should not be included in a text dealing with discrimination in employment. It may be mentioned in this connection that in Switzerland the cantons are required under federal employment service legislation to devote particular attention to the placement of adolescents, particularly at the time of their entry into working life, and to concern themselves as far as possible with placing persons suffering from physical or mental disabilities.

(3) Although at first sight the Government does not see what other bases of distinction apart from those in (1) might be mentioned it would perhaps be premature at this stage to rule out all possible consideration of other bases.

TURKEY

3. (1) Yes.

(2) The term "other status" seems rather vague. It is considered desirable that the instrument enumerate any further bases of distinction, such as age, marital status, or disablement. However, after a certain prescribed age and subject to the condition that they are adequately protected, the aged may not be entitled to equality of opportunity and treatment.

(3) No.

U.S.S.R.

3. (1) There is no objection of principle to the definition of discrimination contained in the questionnaire as any adverse distinction which deprives a person of equality of treatment and which is made solely on the basis of—

(a) race;
(b) colour;
(c) sex;
(d) language;
(e) religion;
(f) political or other opinion;
(g) nationality;
(h) social origin;
(i) property;
(j) birth;

1 See footnote on p. 18.
However, in this definition it should be made clear that "any adverse distinction" includes not only the limitation—direct or indirect—of the rights of individuals or groups of the population but also the establishment of privileges—direct or indirect—for other persons or groups.

UNITED KINGDOM

3. The intention of the definition suggested appears to be that in the employment field each individual has a right to equality of treatment in employment matters and that this right should not be limited because of characteristics affecting the individual which are not relevant to employment. In attempting to define these characteristics and attributes, however, the definition becomes unrealistic because this is not a field which admits of precise analysis. In addition, it draws no distinction between those factors over which the individual has no control, e.g. race, colour, sex, and those, e.g. political or other opinion, which are, to a large extent, within his own choice. In certain fields of employment the latter factors must of necessity affect the suitability of a particular person for employment and any definition of discrimination would be unrealistic if it did not take this into account. Instead of attempting a detailed analysis on the lines suggested, therefore, it would seem preferable to confine the definition to some positive general statement on the lines of the opening sentence of this question. The following comments are, however, made on question 3 (1) without prejudice to the general comments given above.

(1) It is suggested that the definition of "discrimination" would be clarified by amending it to read "any distinction irrelevant to the performance of the particular job which deprives a person of equality of treatment in the field of employment". It is not considered that the items (a) to (k) should be specified in the definition. In particular a loose definition like (k) would open the door to almost anything not covered by the other criteria and is too vague to have a place in an international agreement.

(2) The enumeration of "age" as a further ground of distinction is not thought suitable, for it is usually difficult to isolate this factor as the sole cause of any apparent discrimination in relation to employment. Moreover, the avoidance of discrimination on the grounds of age alone can only be overcome by a general acceptance of the suitability of older people for employment. Without this, enforcement would be impossible and only serve to emphasise the significance of age in relation to employment. If it should be decided that specific grounds of distinction should be included in the definition, then "disability" might be added, as this would be in line with the terms of the Vocational Rehabilitation (Disabled) Recommendation, 1955, which laid down certain arrangements for discrimination in favour of the disabled. It is suggested that any reference to disablement should emphasise that there are certain distinctions arising from mental and physical capacity which should not constitute discrimination and the reference should make it clear that it is condemning discrimination against disablement as such, other things being equal.

(3) The definition should make it clear that discrimination in this context should not be interpreted to include provisions which have been found necessary to protect certain classes of workers, e.g. women, young persons, disabled, etc., including those of a less developed social, economic or cultural status (see reply to question 4 below).
3. (1) The consideration of all these bases of discrimination is essential for the understanding of the problem and measures designed directed toward its elimination. This Government, therefore, welcomes the I.L.O.'s acceptance of the request of the Economic and Social Council that the study which the Organisation is to undertake shall include all the possible grounds of discrimination listed in article 2 of the Universal Declaration of Human Rights.

(2) The additional matters are not considered appropriate for inclusion in this instrument.

(3) The Government does not wish to suggest any bases of distinction which should be specifically excluded from the definition.

URUGUAY

3. (1) This concept of discrimination is considered to be correct.

(2) The list might end with (j). The inclusion of the distinction of "age" would prejudice vocational training and apprenticeship and the inclusion of the distinction "disablement" would prejudice employment opportunities.

It should also be investigated whether language (item (d)) could be considered a discriminatory element in certain cases. It might be shown that the possession of a foreign language is not a cause of unlawful discrimination and that there may be a legitimate exclusion of persons on grounds of lack of knowledge of a language necessary for the performance of employment.

VIET-NAM

3. (1) Discrimination within the meaning of the instrument could be defined as any adverse distinction which deprives a person having the same working capacity of equality of opportunity and treatment in employment on any grounds whatsoever. A list of grounds is in practice liable to be incomplete.

(2) The phrase suggested above, "having the same working capacity", would eliminate the factors of age and disablement.

(3) No. It seems preferable not to attempt a restrictive enumeration.

YUGOSLAVIA

3. (1) Discrimination could be defined in the way suggested.

(2) As regards "other status", the instrument should specify other bases of distinction and the following should be added to the list: (k) age, (l) disablement (both these factors in cases where the person concerned fulfils the fundamental requirements, for instance, in regard to occupational skill).

(3) No.

4. Do you consider it desirable to indicate specifically that action against discrimination in employment should not override any special measures designed to meet the particular needs of women or young workers or disabled persons in so far as such measures are in accordance with the appropriate international instruments, and that it should not override any special temporary measures taken in the interest of peoples of less developed social, economic or cultural status pending their integration into the national community?
Forty-four governments replied to this question. Eighteen (those of Argentina, Bulgaria, Canada, Ceylon, Chile, Finland, Greece, India, Iran, Ireland, Italy, Netherlands Antilles, Norway, Pakistan, Spain, Sweden, Turkey, Yugoslavia) simply reply in the affirmative, and the Government of Surinam simply in the negative. The Governments of Byelorussia and Cuba deal with questions 3 and 4 in a single reply. The replies of the other governments are reproduced below.

**AFGHANISTAN**

4. It is desirable that special measures which have been stipulated in the international instruments regarding women, young workers or disabled persons should be taken into consideration.

**AUSTRIA**

4. Yes. The protective provisions should be supplemented in such a way that provisions of quite general scope for the protection of employees in a less favourable economic position (for example, section 25 of the Austrian Works Councils Act) cannot be interpreted as discrimination against other employees.

**BELGIUM**

4. No. It would be inadvisable to include in the instrument a general provision stipulating that special measures taken in the interest of certain categories of workers are not to be recognised as discriminatory. If such measures are in accordance with international instruments a safeguard is provided, but it has to be borne in mind that international standards affecting special categories of workers change, and though they may originally have been rigid there has been in recent years a marked trend towards greater flexibility. This is so particularly in connection with provisions designed to meet the special needs of women. At the international level, as is shown by the successive revisions of the Night Work (Women) Convention, 1919, and at the national level, there is a marked trend towards eliminating differences of treatment between men and women; such differences seem scarcely compatible with present-day industrial and technical development.

In non-metropolitan territories it is necessary to prevent protective measures from turning against the groups for whom protection is intended. However, the gap in skill between European and African workers is still so wide that there is at present no real competition between the two groups on the employment market and the temporary continuance of certain special measures taken in accordance with international labour Conventions and Recommendations remains essential.

**BRAZIL**

4. Yes. Precedence should always be given to provisions which are most favourable in protecting the individuals or peoples having need of it.

**CZECHOSLOVAKIA**

4. Insertion after the words “disabled persons” of the words “or other persons or groups of persons with a view to difficulty or danger of the conditions of employment or with a view to meeting their particular needs” is proposed.
As to peoples of less developed economic, social and cultural status, the principal objective must be to achieve their economic, social and cultural advancement, so that any such exception should only be of a temporary nature and the provision setting it out should accordingly be so drafted.

DENMARK

4. Yes. As far as Greenland is concerned it should be noted that in this particular field there exist no special rules for the protection of the indigenous population.

ECUADOR

4. It would be appropriate to indicate specifically that action against discrimination should not override any special measures designed to meet the particular needs of women or young workers or disabled persons in so far as such measures are in accordance with the appropriate international instruments and do not conflict with Ecuadorian legislation.

FRANCE

4. It would be desirable to indicate specifically that action against discrimination in employment should not override any special measures designed to meet the particular needs of certain workers, such as regulations protecting autochthonous manpower, women or children or the disabled.

The Overseas Labour Code lays down in article 29 that the recruitment of manpower in overseas regions may be forbidden or limited "as an exceptional measure and for economic or social reasons and particularly in the interests of health or public hygiene". This refers to regulations to protect health (limitation of recruitment in regions still infected with trypanosomiasis for example) or to protect the indigenous economy. Such regulations appear necessary to avoid serious disturbances in the life of these peoples which might result from complete freedom in the field of employment.

In Algeria social legislation does not admit discrimination on any of the bases referred to in question 3 (1), but special measures aimed at ensuring the protection of certain categories of workers do in fact establish distinctions in favour of such workers. This is the case particularly of regulations relating to the work of women and children, of measures relating to the compulsory employment of the war-disabled and of measures which are contemplated with a view to protecting handicapped workers. Finally, recent decrees issued under a law of 16 March 1956 have included measures designed to encourage the entry into the public service and private employment of French citizens of autochthonous origin. Although since 1947 the fullest equality of rights has been established in law between the different categories of the Algerian population, in order to implement this in practice it was found necessary to take measures to encourage the employment of citizens of local origin which compensate for the cultural and technical differences existing between this section of the population and other social groups.

FEDERAL REPUBLIC OF GERMANY

4. It is desirable to include a specific statement of the type envisaged in this question. The statement should principally relate to the fact that special measures designed to meet the particular needs of women, young workers or disabled persons as well as other measures based on social considerations, do not constitute discrimination against those workers who are excluded from the scope of these special measures because the conditions underlying the special measures are not fulfilled in their case. A reference to the content of the measures might also be considered, stating for example that regulations for the protection of labour are not discriminatory, even if they lead to a restriction for the protected workers in employment and occupation.
GUATEMALA

4. The Government’s views on this question are implicit in its replies to earlier questions.

HAITI

4. No. This is not necessary. The general principle of equal pay for equal work suffices.

ISRAEL

4. Yes; it should also be specifically indicated that action against discrimination in employment should not override any special measures designed to further the employment of the aged worker.

JAPAN

4. No. The purpose of the international instrument is to eradicate adverse distinctions as stated in question 3. Since it is clear that the special measures indicated in question 4 are by no means contrary to the aforesaid purpose, there is no need for any specific indication.

MEXICO

4. Yes, since the special measures designed to meet the particular needs of women or young workers or disabled persons and the special temporary measures taken in the interest of peoples of less developed social, economic or cultural status in the terms laid down do not constitute discriminatory practices since they are taken for the benefit of the workers concerned.

KINGDOM OF THE NETHERLANDS

Netherlands

4. Yes. Even to a considerably larger extent than the question indicates, viz.: all discriminating provisions made with regard to certain groups or categories of persons with a view to discontinuing or reducing the disadvantages or drawbacks arising from membership of such a group or category, e.g. a system of lower wages for juveniles in order to encourage them to follow a vocational training course, a system of family allowances to meet increased family needs, prohibition of heavy work for women in order to protect their health, a system of special privileges (e.g. holidays) for foreign workers, etc.

Policy with regard to immigration should be left entirely free. Measures to safeguard public order, to safeguard the national character of the public administration and of personal and family rights should also be left out of consideration.

PHILIPPINES

4. Instead of the provision referred to in this question the following should be inserted:

"4. After consultation with employers’ and workers’ organisations, every Member should pass a law prohibiting discrimination on any of the grounds stated in Point 3, but specifying under what conditions and circumstances the prohibition in each case does not apply."

Conditions in each country vary so much that the exceptions to each prohibition should be specified. The provision as suggested in question 4 refers only to
women, young workers and inhabitants of less developed condition. There is no reason why saving provisions should not be formulated in all other cases (race, colour, religion, etc.) whenever exceptions are necessary.

**Poland**

4. The first provision which proposes taking into consideration special measures affecting women, children and disabled persons, should be included in the instrument. As for the second, dealing with special temporary measures taken in the interest of peoples of less developed social, economic or cultural status, precedence for these measures over the general prohibition of discrimination as proposed in this question might result in discriminatory practices against workers who need special protection against discrimination to which they are subject in independent countries and in dependent territories. For this reason it is suggested that the provision contained in this question regarding these groups of the population should be deleted.

**Switzerland**

4. It is clear that measures taken to counteract discrimination in employment should not override special measures determined by the need to take account of the special needs of certain categories of workers. Although this is undeniable it might be expedient to make specific mention of it in the Recommendation. On the other hand it does not seem necessary to provide that the special measures which would not be affected must be in accordance with the appropriate international instrument in order to safeguard the special interests of the workers or peoples concerned.

**U.S.S.R.**

4. There is no objection to indicating in the Convention that action against discrimination should not override special measures designed to meet the particular needs of women, young workers, disabled persons or persons employed in branches of production with arduous or harmful conditions of work, and that it should also not override temporary measures taken in order to assist peoples of less developed social, economic or cultural status in their integration into the national community.

**United Kingdom**

4. Yes. It should be made clear that action against discrimination should not override any special measures which are designed and are necessary to meet the special needs of particular classes of workers whether or not they are in accordance with or of a kind covered by international instruments. For example, there are in the United Kingdom numerous special provisions in the Factories Acts and the Regulations made under those Acts which relate to women and/or young persons and which are designed to afford these workers special protection. Under the Disabled Persons (Employment) Act there are special arrangements to assist disabled persons to obtain employment. Measures are also taken to help ex-regular servicemen to find suitable work on their release from the forces and it is essential that nothing should be done to prejudice these arrangements. The greatest care is also clearly necessary to ensure that the special interests of the less developed peoples, and in particular those preparing for self-government, are properly safeguarded.

**United States**

4. Action against discrimination in employment should not override special measures designed to meet the particular needs of women, young people, and the disabled. Safeguards such as limitations on hours of work, minimum wages, and
various plant facilities are desirable for all workers. Application of such provisions to women, young workers, and the disabled is not discriminatory as such, but reasonable differences in treatment. Every effort should be made to retain and extend these safeguards, while at the same time eliminating actual discrimination in treatment which has no relation to individual capacities or merit.

It is also desirable to indicate that action against discrimination should not override any special temporary measures taken in the interest of peoples of non-metropolitan areas of less developed social, economic or cultural status pending their integration into the national community. The provisions of Article 18, paragraph 4 of the Social Policy (Non-Metropolitan Territories) Convention, 1947, constitute one example of such beneficial measures.

**Uruguay**

4. It is considered appropriate to indicate this, for the reasons already mentioned.

**Viet-Nam**

4. This reservation seems to us essential if action against discrimination in employment is to be effective, particularly in countries where there is still need to protect less developed peoples.

### III. Establishment of Public Policy

5. Do you consider it desirable that the competent authority, after consultation with employers' and workers' organisations, should establish, by procedures appropriate to national conditions, a public policy directed towards the eradication of discrimination of all kinds in the field of employment and towards the promotion of equality of opportunity and treatment therein based on the following principles:

(a) all persons should have equal opportunity of access to employment of their own choice on the basis of their individual fitness for such employment whether in the public service or otherwise and whether under contract of employment or on their own account;

(b) vocational guidance and employment service placement facilities should be open equally to all persons with a view to assisting them in the free choice of suitable training and employment;

(c) in order to ensure equal opportunity of access to types of employment for which preliminary training is necessary, there should be no discriminatory barriers to, or discriminatory selection for, admission to vocational schools, vocational training courses or apprenticeship, or to any other training facilities at all levels;

(d) all workers should have equal opportunity to advance in employment according to their character, ability and diligence;

(e) there should be no discrimination in respect of security of tenure of employment or, in the event of retrenchment, in the selection of workers to be discharged;
(f) remuneration should be established without regard to any of the factors specified in question 3, the term "remuneration" to include the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or kind, by the employer to the worker and arising out of the worker’s employment;

(g) there should be equal treatment for all workers in the same employment in matters affecting hours of work, rest periods, annual holidays with pay, occupational safety and health provisions, welfare facilities and social security provisions connected with such employment;

(h) there should be no discrimination in connection with the right to establish or to join trade unions, to participate in trade union activities, including the holding of office, or to participate in collective bargaining?

Forty-four governments replied to this question. Five (those of Chile, Ireland, Israel, Pakistan and Turkey) simply reply in the affirmative. The replies of the other governments are reproduced below.

**AFGHANISTAN**

5. All persons should have equal opportunity to work according to their abilities. Facilities such as employment services, training and vocational schools should be made available equally to all. All workers should have equal opportunity to advance in employment, according to their character, ability and diligence.

All workers should receive equal treatment in regard to work, rest periods, holidays, etc.

**ARGENTINA**

5. (a) It would be desirable to omit the reference to the public service, or else to make it clear whether the field of application of the instrument should be restricted to employment in private enterprise and the public sector of the economy and exclude employment in state administration.

**AUSTRIA**

5. (a) Yes, but with the exceptions already mentioned in reply to question 3.

(b) to (f) Yes.

(g) Yes, but with the reservation that as regards unemployment assistance this is in principle limited to nationals or other persons treated as such.

(h) Yes. An extension to activity as member of a works council or in other public functions seems desirable. The Austrian Industrial Chamber has commented on item (h) to the effect that the freedom not to belong to a trade union should be mentioned at the same time as the freedom to join a trade union.

**BELGIUM**

5. Yes. As regards the principles on which the policy should be based, the points proposed in the Office text should be observed by the various countries. However, it would be desirable to state that foreign workers have the right to equality in respect of the matters set out in (a), (e) and (h) only after they have
acquired the status of "privileged workers", that is, after they have been put on an equal footing in all respects with the workers of the country concerned. The period required for attainment of this status should in no case exceed five years.

**Brazil**

5. Yes. The principles listed in (a) to (h) seem to us to form a suitable basis of public policy.

**Bulgaria**

5. Yes.

(c) It would be expedient to provide also for the elimination of discrimination in general education.

(f) This provision should stress that remuneration should be fixed without regard to any of the bases of distinction named in question 3 and in accordance with the principle of equal pay for equal work.

**Byelorussia**

5. It should be laid down that Members of the I.L.O. which ratify the Convention must in the shortest possible time take steps to eliminate all forms of discrimination in law or practice in the field of employment and occupation and to ensure real equality in this sphere.

(c) The provision of equal opportunities in education should apply not only to vocational schools, vocational training courses, apprenticeship, etc., but to schools giving general education as well. General and vocational education should be given in the native languages of the main national groups. Special attention should be given to ensuring that all citizens without discrimination enjoy the benefit of all forms of social security and social insurance existing in the country concerned.

(h) It should be stated that workers have the right to join trade unions, to conclude collective agreements and to elect their representatives, freely and without any discrimination, interference or control from the authorities or from employers. Trade unions must have secure possession of the right to carry out their activities freely.

**Canada**

5. Yes, subject to the answer to question 3.

(a) It is not advisable to include persons working on their own account. So far as work is concerned the instrument should be confined to situations where there is an employer-employee relationship.

**Ceylon**

5. Yes. The "procedures appropriate to national conditions" might include legislative measures. Consultation with employers' and workers' organisations is only possible where such organisations exist.

**Cuba**

5. Since the problem should turn on the question of suitability, it is necessary to establish as permanent social policy that all workers should dispose of the same opportunities to occupy positions and of the same opportunities to obtain the necessary qualifications and training. It follows that the collaboration of
employers' and workers' organisations is essential, since their intervention is
decisive whether or not employment agencies or employment services exist to
regulate the employment market. Employment cards or lists of personnel available
should omit all details which might form the basis of discriminatory practices.

CZECHOSLOVAKIA

5. After the words "the eradication of discrimination of all kinds in the field
of employment" the words "of all bases of distinction and their causes" should
be added, since it is not enough to seek to eradicate individual manifestations of
discrimination, but it is necessary to determine and eliminate the causes and
grounds that are at the root of discriminatory practices.

The words "after consultation with employers' and workers' organisations" should be replaced by "with the broadest possible and direct participation of
employers' and workers' organisations", since the participation of the trade unions
in the implementation of anti-discrimination policies is one of the prerequisites to
their efficacy.

(a) to (f) Yes.

(g) The English text uses the words "occupational safety and health provi­
sions" while the French text uses the words "les mesures de sécurité et d'hygiène
du travail". If the words "health provisions" signify health services in general,
the French text would have to be modified accordingly. Should these words,
however, relate to health provisions in relation to occupational safety alone, the
words "provision of health services" might be added after the words "social
security provisions".

In any case it is proposed that at the end of the paragraph the words "in all
other matters arising, out of the exercise of work or out of the workers' employ­
ment" be added.

(h) Addition of the words "both on a national and international level" is
proposed.

The following additional point is also proposed:

"With a view to the improvement of working conditions of the indigenous
population in dependent and independent countries in those areas where the
indigenous population predominates, schools should be established providing
general education and vocational training as well as courses and centres which
would offer vocational training to the population, the courses in these schools and
centres being conducted in the language of the population concerned."

DENMARK

5. Yes, provided that the term "public policy" does not imply legislative
or administrative intervention in fields which in this country are left to the
decision of the employers' and workers' organisations themselves.

(f) Reference is made to what is stated above in reply to question 3 (1) on the
principle of equal remuneration.

Ecuador

5. The respective public authorities, together with organisations of employers
and workers, should establish procedures appropriate to national conditions so as
to eradicate discrimination of all kinds and to encourage the promotion of equality
of opportunity and treatment in employment, based on the principles laid down
in the Universal Declaration of Human Rights and in national legislation.
5. The objective is correct, but the "public policy" might in many cases be hampered by the fact that the matters in question are dealt with by employers' and workers' organisations without government intervention. If the "public policy" attempts to make over-detailed regulations for the elimination of discrimination, this might lead to a conflict with the freedom of employment contracts and with the right of workers' organisations to negotiate agreements.

(e) It may be pointed out that, when it is a question of the dismissal of a worker, it may be right and proper that the duration of a working relationship, the importance of a worker's position for the undertaking, and the family situation of the workers should be taken into consideration. Thus the general social aspects already lead to a certain discrimination against workers who have no families or have worked in the undertaking only for a short time. The definition of discrimination mentioned in question 3 should not include this kind of treatment.

(f) In countries where the principle of equal pay for equal work is not everywhere applied, it cannot be considered as discrimination in the sense mentioned in questions 1 and 3 if women are not paid equal wages for equal work.

FRANCE

5. Yes. The principles of employment policy advocated in this part of the questionnaire are those which underlie French legislation.

(a) The preamble of the French Constitution (Act of 27 October 1946) lays down that every citizen "has the duty to work and the right to obtain employment". The manpower services examine the case of every applicant for work in order to arrange for him to enter the employment of his choice.

For foreign workers, however, special regulations are applied. In particular the public services are reserved to nationals. French legislation, moreover, mainly for reasons of public order or health, excludes foreigners from entering a number of professions such as the legal profession, the profession of surveyor (absolute prohibition), the medical profession, the professions of architect, chartered accountant, etc. (regulated professions, entry into which is possible for foreigners only in exceptional cases).

(b) The manpower services exercise no discrimination, in the sense defined in the questionnaire, between applicants for work. They try to choose among these applicants the worker or workers whose physical and occupational aptitudes correspond most closely to the requirements of the vacancy notified by the employer. However, there are regulations which lay down that among candidates with equal qualifications priority should be given to certain categories of workers (fathers of families, war victims) for social reasons.

(c) Yes. In France there is no discrimination in respect of vocational training.

(d) Yes. The conditions of admission to the various systems of vocational training are such that they guarantee to all equal access to the public services. In addition to primary and secondary education being free it should be stressed that the schools which give training for public services are open to all candidates by means of competitions and are within the reach of persons with the most limited financial resources. Education and maintenance is in fact sometimes provided free of charge (école normale supérieure, école polytechnique). The pupils of these schools may also be regarded as having the status of officials and so the right to receive a salary (école nationale d'administration, école technique d'application). For candidates for employment in the public services whose means do not enable them to prepare for entry into these schools there is a system of scholarships. In the case of the école nationale d'administration a special competition is open to state officials. The only condition they must satisfy is that they belong to the public service
in any grade. The most promising candidates in this category are given facilities in the form of several months' paid leave to prepare for their examinations.

(e) Yes. It should be noted that length of service within an undertaking may operate in favour of older workers in cases where a general reduction of staff takes place.

(f) In France remuneration is based on the occupational ability of workers. It should be mentioned, however, that, so as to maintain equality of opportunity of access to employment, young workers of less than 18 years of age have their salaries abated by 50 per cent. from 14 to 15 years, by 40 per cent. from 15 to 16 years, by 30 per cent. from 16 to 17 years, and by 20 per cent. from 17 to 18 years. Disabled workers may receive lower wages than those paid to other workers provided that the deduction does not exceed 10 per cent. of the guaranteed minimum wage and that the number of workers to whom such a reduction applies does not exceed 10 per cent. of the workers in the same category. In the public service officials enjoy a position regulated by statute and the circumstances under which their services may be terminated are objectively defined (grave breach of discipline, permanent physical incapacity). They are thus guaranteed a security of employment which can only be affected by factors quite remote from discrimination on personal grounds. Promotion in the public service is based exclusively on length of service, on merit and on abilities. Remuneration is in accordance with a grading scale which ensures uniform treatment for persons in the same grade or performing the same duties irrespective of sex.

(g) Foreign workers have in principle the same right to social security benefits as French workers provided they have fulfilled the employment and insurance conditions required. However, certain exceptions to these principles exist. So far as family allowances are concerned, foreigners do not have the right to the allowance granted to young childless couples nor to maternity allowance (unless the child possesses French nationality at birth). Nor do they usually receive allowances under non-contributory or publicly financed schemes. They have no entitlement to older workers' allowances, to non-contributory old-age allowances for non-employed persons or to the special allowance. Old-age pensions continue to be payable abroad provided that entitlement to them has been established before the departure of the workers; on the other hand, if the person concerned has left France before establishing his entitlement, he can only claim the pension rate recorded in his account. Moreover, French legislation provides for certain exceptions in the case of foreigners entitled to disability allowances leaving France who receive a lump sum equal to three years' allowances. Also, beneficiaries not resident in France at the time a fatal accident occurs to a foreign worker receive no benefit.

France is a party to bilateral and multilateral social security agreements which seek to meet deficiencies in social security or to lessen their effects. These are based on the principle of application to the workers of local legislation, equality of treatment between nationals of signatory countries, and maintenance of rights acquired or in course of acquisition.

(h) The legality of trade unions was recognised in France by a law of 21 March 1884 amended by a law of 12 March 1920. The liberty of trade union action was reaffirmed in the preamble of the Constitution of 1946. However, the executive officials of trade unions must be of French nationality, must be in possession of their civil rights and must not have been convicted of certain penal offences. The regulations governing officials formally recognise that they have trade union rights.

FEDERAL REPUBLIC OF GERMANY

5. The proposed instrument should afford an appropriate means to induce Members to pursue a policy directed towards the elimination of discrimination, with the due participation of the employers' and workers' organisations. In this connection, however, differences in the conditions obtaining in the various member
States should be taken into due account. Thus, for example, the provisions on equal pay referred to in (f) or the provisions on equal working conditions referred to in (g) could only be embodied in such a policy where it is usual for such questions to be decided by national legislation rather than by the employers’ or workers’ organisations. Where such matters are decided by these organisations, question 12 would apply. The same is true of such questions as admission to vocational training courses or other training facilities (item (c)) which are only in part governed by national legislation. The State may also have no power (in the Federal Republic, for example) in relation to the holding of office in trade unions (item (h)) since this matter is governed by the laws of universal application.

Finally, the establishment of an official policy no longer appears to be necessary at the present stage, since this has already been established in the case of the Federal Republic by the provisions of article 3 of the Constitution mentioned in reply to question 1.

(a) The Federal Government accepts the principle that all persons should have equal opportunity of access to employment of their own choice on the basis of their individual fitness for such employment. In this connection the Government starts from the assumption that “individual fitness” includes the possession of the technical qualifications required by national law (such as having gone through the prescribed training, having passed the required examinations, etc.). It should be pointed out, however, that as regards the employment of foreign workers at times of unemployment the natural priority given to national workers must not be interfered with.

The question of whether the provisions of the instrument should also cover persons who are working or wish to work on their own account will require further careful consideration.

(b) Vocational guidance and employment service placement facilities (i.e. the public offices responsible for these functions under national legislation and any existing facilities of this type provided by organisations or by private persons) should be open to all persons for the purpose of assisting them in the free choice of such training and employment as are suited to the applicant’s personal and technical qualifications.

(c) Yes, in so far as the institutions concerned are directly controlled by the State. It should not be regarded as prohibited discrimination within the meaning of the instrument if (for example) technical schools set up exclusively for certain groups do not admit persons not belonging to the group (e.g. refusal to admit non-members of the union to vocational schools established by a union for its members; refusal to admit persons of a different religious denomination to a denominational teachers’ training institute).

(d) The principle referred to should be suitably mentioned in the proposed instrument. However, government action alone will hardly be sufficient to ensure the implementation of this point.

(e) Yes, but if social considerations are taken into account in selecting workers for discharge in the event of retrenchment, this should not be deemed to constitute discrimination within the meaning of the proposed instrument. The result may be that, in a group of workers performing similar jobs, the workers selected for discharge would be those who would suffer less hardship, in view of their personal and economic circumstances, than other workers of the same group (for example, increased protection against discharge for older employees with long service, consideration of financial resources or of the need to support children under age; increased protection against discharge for disabled persons as well as for pregnant women and nursing mothers). See also reply to (a).

(f) The Federal Government agrees to the principle that remuneration should be established without regard to the factors specified in question 3. In this connection the Government starts from the assumption that differences in remuneration based on, for example, the type and length of vocational training, length of experi-
gence in the occupation, seniority in the undertakings and ability, are not discriminatory within the meaning of the proposed instrument.

\((g)\) The Government also considers it desirable for workers to be accorded equality of treatment (i.e. that there should be no differences in treatment on any of the grounds cited in question 3 with respect to the employment conditions mentioned in \((g)\)), in so far as these matters can be dealt with by government action. As far as the Federal Republic is concerned, in the field of social security the Government feels that the prohibition of differential treatment should relate only to the equal treatment of German and foreign workers while employed in Germany. The question thus covers, among other things, the provision of equal conditions on entry into insurance on commencing insurable employment, equal waiting and qualifying periods, equal eligibility for voluntary continuation of insurance, equal contributions for equally paid workers, etc.

The Federal Government considers, however, that differential treatment in the granting of benefit after termination of employment does not come under item 5 \((g)\). Article 68 of the Social Security (Minimum Standards) Convention, 1952, contains a limited prohibition of differential treatment in such cases, and the prohibition should not be further extended. Differences arising in voluntary self-insurance or differences due to the fact that German social security credits German nationals with periods of employment in other countries subject to certain conditions are also outside the scope of \((g)\).

\((h)\) It is desirable that there should be no discrimination in connection with the right to establish or to join trade unions and to participate in trade union activities. An obligation to guarantee workers and employers, without distinction, the right to establish and join organisations of their own choosing without previous authorisation has already been laid down in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (Article 2).

The question of the extent to which such associations are entitled to participate in collective bargaining cannot be subjected, however, to a general ruling. It is true that the Federal Republic of Germany recognises in principle the right of trade unions to participate in collective bargaining. This recognition, however, does not entitle individual trade unions, vis-à-vis employers and employers' organisations, to be invited to take part in specific wage negotiations and to be a party to a specific collective agreement. Whether all trade unions are invited to take part in collective bargaining and to be parties to a collective agreement will rather depend on the decision of the other party, which in turn will primarily be guided by the importance of the union. Thus employers and employers' organisations can hardly be expected to invite unions with a negligible membership to participate in all collective negotiations and agreements.

**GREECE**

5. In principle, yes. The instrument should, however, provide for the adaptation of its provisions by national legislation to conditions existing in the country.

\((a)\) Yes, subject to the principles laid down being applied on lines fixed by national legislation.

\((b)\) Yes, providing the financial situation of the country allows the organisation of the services mentioned.

\((c)\) In principle, yes. However, consideration should be had to the situation in some countries where as a result of demographic problems a large number of young persons seek admission to the various entry examinations organised by schools of all categories, or to the different levels of education, and where the number of persons who can be accepted is limited. This situation results in certain discriminatory measures taken on grounds of general social policy. In Greece in certain schools priorities have been established, though they may affect only a limited number of persons such as the children of persons belonging to the occupa-
tional sphere with which the school is concerned, as for instance in access to military schools in the case of sons of officers, war victims, members of large families, etc.

(d) Yes.

(e) In principle, yes.

(f) and (g) Yes.

(h) The right to join an occupational organisation should be recognised for all citizens without distinction. However, legislation should be able to impose certain general rules in connection, for instance, with age or guarantees of morality in the case of members of trade union executives, or in any other circumstances which might assist the satisfactory operation of trade unions.

GUATEMALA

5. Prior consultation by the competent authorities with workers’ and employers’ organisations is of the greatest importance, since any measure of a social nature should be analysed calmly by the groups most directly interested (in this case workers and employers) in order to ensure greater success in application.

The principles on which this policy should be based as described in (a) to (h) are acceptable, since it may be inferred from their nature that their realisation would result in greater social harmony founded on the purest ideas of human brotherhood, which is an aim which should be fostered by all social legislation.

HAITI

5. Yes. It would be appropriate for the competent authority to establish a public policy aimed at eliminating all forms of discrimination in employment and promoting equality of opportunity and treatment in this field. This also might, with advantage, be based on the principles set out.

INDIA

5. The principles enumerated are generally acceptable, although it may not always be possible to comply with (e) and (h). It is, therefore, suggested that these principles might be incorporated in a Recommendation.

IRAN

5. Yes. But account should be taken of the fact that provision of free compulsory primary education for every individual is necessary to permit equality of access to employment.

(h) After “or to join trade unions” add “federations and confederations, to affiliate to international trade union organisations”.

ITALY

5. Yes. Such a policy should include the adoption of compulsory standards which should be implemented rapidly if not immediately, at a date which should be specified in the instrument.

Such a policy should be based on the principles set out in (a) to (h).

JAPAN

5. Yes. However (h) should be omitted. Furthermore, in establishing a public policy, a competent authority should be allowed to promote the policy with flexibility, taking national conditions into consideration.
The principle listed in \((h)\) should not be denied in itself. Since, however, this principle falls under a different category from the principles listed in \((a)\) to \((g)\), which are directly relative to employment or occupation, it is not desirable that it should be provided for in this international instrument.

A uniform request made to Members for the establishment of a public policy including a wide range of principles as listed in \((a)\) to \((g)\) would bring forth a number of difficult problems, in view of complex national conditions. Therefore, in establishing a public policy there is need for provision so that Members may adopt flexible methods of promotion appropriate to national conditions.

**MEXICO**

5. Yes, including all its clauses, since such principles correspond to the following basic principles in the Mexican Constitution:

1. The principle of freedom of employment (article 4 of the Constitution) which provides that no person may be hindered from engaging in any occupation, industry, trade or employment which suits him, providing it is legal. This provision, by establishing freedom of access to sources of employment for all persons without distinction, also ensures equality of opportunity in promotion, in security of employment or in case of retrenchment in the selection of workers for discharge. Consequently \((a), (b), (c)\) and \((d)\) are in accordance with Mexican constitutional law;

2. The principle of equality of treatment in wage payments (Part VII of article 123 of the Constitution) which provides that "there shall be equal pay for equal work without regard to sex or nationality" and which is confirmed in section 86 of the Federal Labour Act in the following terms: "In fixing the amount of wages in each class of work quantity and quality of work shall be taken into account and equal wages shall be paid for equal work performed in equivalent posts with the same working day and the same conditions of efficiency." These standards are in accordance with \((f)\) and \((g)\) of question 5;

3. The principle of freedom of association (Part XVI of article 123 of the Constitution), which provides that "workers as well as employers shall have the right to associate in defence of their respective interests by forming trade unions, occupational associations, etc." and which is expanded as follows in section 234 of the Federal Labour Act: "The right of employers and employees to form associations without the necessity of previous authorisation shall be recognised. No person may be compelled to become a member of an association or to refrain from doing so." These precepts harmonise with the proposal in \((h)\) of this question.

**KINGDOM OF THE NETHERLANDS**

**Netherlands**

5. Yes, as far as the question is concerned. It is desirable that the competent authority should establish its policy of non-discrimination in the field of employment in consultation with employers’ and workers’ organisations.

No, as far as the principles enumerated are concerned. If in question 3 it has been clearly defined which forms of discrimination are objectionable there is no need for any additional principles. Besides, it leads to confusion if, as in the case concerned, the said principles on the one hand (e.g. \((a), (d), (e)\)) are attuned to the individual case and, consequently, not realisable, and on the other hand (e.g. \((c), (f)\) and \((g)\)) have been framed much too absolutely so that various escape clauses would have to be added in order to avoid misunderstandings.

For this reason it may be preferable to give a clearly defined definition only or, if that is impossible, to make the definition elastic and to complement it with general principles defined in detail, concerning objectionable collective discrimination.
Netherlands Antilles

5. This would be indeed desirable.
   (a) to (g) Yes.
   (h) Regarding the holding of office in trade unions it would be desirable that
       a period of residence not to exceed four years should be required.

Surinam

5. Seeing that such a policy is already being pursued in Surinam, there are no
   objections against these proposals.

Norway

5. Yes, but it is assumed that the expression "public policy" does not
   comprise the introduction of legislation or government control into fields
   which today are left to the decision of employers' and workers' organisations.
   In addition it is suggested that (d) might conclude as follows "character,
   ability, diligence and other personal qualifications".

Philippines

5. Yes. See answers to questions 4 and 6.
   (a) Insert at the beginning: "Subject to the exceptions mentioned in
       Point 4."
   (b) to (h) Yes.
   (i) As an additional principle, discrimination through circumvention or
       indirect means should be prevented.
   Reason: In most cases an open, undisguised discrimination is not practised;
       the employer usually makes use of some pretext or circumvention. Therefore,
       public policy should specifically frown upon indirect discrimination.

Poland

5. All the suggestions made in this question should be accepted subject,
   however, to the reservation that the competent authorities in each country should,
   if necessary, have the possibility, in placing work-seekers in employment, of granting
   priority to persons whose economic situation justifies special official concern (as, for
   instance, family breadwinners, wives of men called up for military service, persons
   without any other source of income, etc.). In the case of discharge of considerable
   numbers of workers a similar special protection should be extended to certain groups
   of workers such as family breadwinners, mothers of young children, older and
   disabled persons, etc.

Spain

5. Yes.
   (a) and (b) Yes.
   (c) These should not exist.
   (d) Yes.
   (e) This should not exist.
   (f) There should be no distinction in the remuneration of workers, whatever
       their status, for the same work.
   (g) Yes, except for the special measures of social protection referred to in
       question 4.
   (h) In accordance with the appropriate national legislation there should be
       no such discrimination.
Sweden

5. (a) and (b) Yes.

(c) The bases of distinction listed under 3 (1) do not, by and large, hinder or indeed have any influence on the chances of admission to vocational training schools in Sweden. It should, however, be noted that in general there may be a priority for Swedish citizens over foreigners. Foreigners, in every case where they are not settled in Sweden, may as a rule be admitted to Swedish vocational training schools only in so far as no suitable Swedish candidates are available. Swedish vocational schools train the manpower which will in due course be placed at the disposal of the Swedish economy. It is therefore natural that priority in admission is given to pupils who may be expected to remain in the country after receiving their training.

(d) and (e) Yes.

(f) The proposed provisions cannot be accepted in Sweden for reasons of principle. It must be added, however, that the practice applied in Sweden meets the purposes of this point.

(g) Yes.

(h) In Sweden there is no legislation in this respect and the two sides of industry are opposed to the introduction of such legislation. In principle the right of free entry to a trade union exists, but the executive is free to test the right of entry in the case of persons against whom any circumstances may be brought forward which, had they been members, might have resulted in their expulsion.

Switzerland

5. Examination of this question brings out clearly that only a Recommendation could be considered for so complex a subject. Though it is in the interest of social progress to recommend the Members of the I.L.O. to apply themselves to the elimination of discrimination in employment based on the distinction previously listed, the situation varies so much from country to country that any rigid standard should be avoided.

As far as Switzerland is concerned equality of treatment is largely achieved in the employment field, since the bases of discrimination listed in question 3 (1) do not legally exist in that country. First it may be mentioned that the federal Constitution guarantees all Swiss persons equality before the law and provides that in Switzerland there are no privileges of place, of birth, of person or family. Foreigners enjoy the same rights as nationals in employment matters as soon as they are in possession of a settlement permit. Though conditions of work are, subject to provisions for the protection of workers, purely a matter of private law, certain legal requirements prevent arbitrary elements from entering into the terms of agreement between the two parties, particularly instances of discrimination of the type under consideration.

(a) In connection with public employment, for reasons of public order the measures recommended should not affect the practice of reserving access to public employment in principle to nationals. In addition, the instrument should deal only with employment resulting from a contract of service and not with pursuit of employment on one's own account. In fact pursuit of such employment does not seem to come within the field of employer-worker relations within the competence of the I.L.O.

(b) to (d). These principles are approved subject to the remarks made in reply to question 7 (a).

(e) Although the Government approves this principle, it considers that there are cases where a certain measure of discrimination is justified. For instance, in the event of retrenchment the employer should, under equal conditions, discharge first those members of his staff for whom unemployment would have the least unfavourable social consequences.
(f) This principle is approved subject to a fuller definition of discrimination in accordance with the observation made in reply to question 3 (1), since practical distinctions resulting from the nature of the employment cannot be considered as discrimination in the meaning of the instrument.

(g) Reservations must be made in respect of special measures taken in the interest of certain groups of workers as, for instance, safety and health measures in favour of women and children, longer paid holidays in favour of young persons, etc. In this connection reference is made to the reply to question 4.

(h) It seems necessary to mention specifically also that no discrimination may be made against non-union workers.

U.S.S.R.

5. It is considered appropriate to include in the international instrument a provision requiring each Member of the International Labour Organisation which ratifies the Convention to take steps to eradicate from law and from practice, within the shortest possible time, every kind of discrimination in the field of employment and occupation, and to establish equality of rights, conditions and opportunities in this field.

(c) This provision, regarding equality of access to education, should mention general as well as vocational schools, for discrimination respecting access to general education inevitably places some workers in a privileged position for access to occupations that require general culture. Furthermore, the following should be added “and facilities should be provided for general and vocational education in the languages of the principal national groups in the population”.

(d) the words “character, ability and diligence” should be replaced by “aptitudes, ability and skills”.

(g) The question of equality in relation to social security should be deleted from this item and dealt with in a separate provision stating that all forms of social security and social insurance existing in the country must extend to all workers according to their occupations, irrespective of the characteristics specified in question 3, and that they must have effective equality of rights regarding the use of housing accommodation, hospitals, transport and other community, medical and related services. Provision must be made for the prohibition of segregation.

(h) The provision regarding discrimination with respect to trade union action should be formulated in a more precise and comprehensive manner, as follows: “There should be unconditional recognition, by law and in practice, of the right of all workers to organise freely in trade unions without any interference or control by the authorities, and of the right to conclude collective agreements; prohibition of interference by the authorities or the employers in the workers’ choice of their representatives; and establishment of every worker’s right to perform the duties of any trade union office and to take part in all trade union action.”

UNITED KINGDOM

5. As has already been stated, the Government consider that this is a matter which can best be dealt with by the education of public opinion. While they would favour encouraging by that means the eradication of discrimination in the employment field, they nevertheless consider that certain exceptions to the strict application of the principles are unavoidable. Moreover, several of the points dealt with in the following questions, particularly remuneration and conditions of employment, are regarded in the United Kingdom as appropriate for settlement by negotiation between employers and workers, free of state intervention, and in regard to such matters the Government would not for their part be able to accept any general obligation. On this, as on other matters concerned with relations between management and labour, firms have at their disposal the Personnel Management Advisory Service of the Ministry of Labour and National Service.
(a) While all persons should in principle have equal opportunity of access to employment of their choice on the basis of their individual fitness for such employment, it must in general rest with the employer to assess such fitness, which may depend on such factors as sex, national origin, marital status, etc. For example, in the United Kingdom aliens are not normally admitted to the Civil Service, and women are ineligible for a few government appointments.

(b) This is acceptable as a statement of principle in so far as public vocational guidance and employment services are concerned.

(c) This is acceptable as a general principle in so far as publicly provided facilities are concerned. The conditions of admission to apprentice training in industry are matters for settlement within industry itself, and the Government cannot undertake to ensure that no discrimination will be exercised.

(d) The selection of employees for promotion is a responsibility of management and the Government could not guarantee that discrimination will not be exercised in the choice of individuals for promotion. In any case, apart from the criteria mentioned in the question, suitability would always be an essential criterion.

(e) In the United Kingdom no discrimination arises in this field from state action; but the Government could not undertake any responsibility with regard to the terms of collective agreements in which provision is made for these matters, and it is known, for example, that some agreements provide that in the event of redundancy foreign workers should be discharged before nationals.

(f) The Government could not undertake any general obligation to promote the application of this principle in a field which is primarily a matter for determination by negotiation between employers' and workers' organisations. "Equal pay" as between men and women workers is not the present general practice in private employment or in respect of those government employees whose wages reflect the general practice in comparable outside industry; although the progressive implementation of equal pay for men and women has been introduced in the non-industrial branches of government employment in the United Kingdom and adopted in certain other fields of public employment.

(g) Under this heading have been included matters which in the United Kingdom are generally settled by joint negotiation between employers and workers and in which the Government could not undertake to intervene (hours of work, rest periods, annual holidays with pay) and matters which are the subject of legislation (occupational health and safety provisions, social security). The extent to which such matters could be the subject of a particular public policy in this country would accordingly differ. Moreover there is ambiguity in the expressions "equal treatment" and "in the same employment", as used in this context, and the principle as stated appears to contemplate the removal in the matters referred to of inequalities on all possible grounds, whether or not they are enumerated in question 3. Thus, it is not clear whether the principle as stated would exclude systems under which the duration of paid holidays varied according to length of service, or differences in hours of work according to the operation on which workers in the same employment were engaged.

(h) These matters appear to a large extent to be matters for the trade unions themselves to decide. If this principle is accepted the Government could not accept obligations in respect of trade union procedure in these matters. Moreover it is considered that in certain employment restrictions on trade union membership may be necessary, as in the circumstances envisaged by Article 9 of the Freedom of Association and Right to Organise Convention, 1948.

It is important that trade unions in non-metropolitan territories which are evolving on non-racial lines should continue to do so in ways best suited to their particular environment. As regards the holding of office in trade unions it is sometimes necessary in the interest of the membership to provide in the laws of non-metropolitan territories that a person who has been convicted of criminal breach
of trust, extortion, intimidation or similar offence may not act as an officer of a trade union if the conviction is such as to render him unfit for that post. It is important therefore that the principle of non-discrimination should not, in its application, impair this very necessary safeguard.

UNITED STATES

5. In general the Government considers the policy outlined in the question desirable. The United States has such a public policy. This is in accord with this nation’s Declaration of Independence, which states that all men are created equal, and with the provisions of the United States Constitution protecting the rights of the individual, including the Fourteenth Amendment, which guarantees due process of law to all persons subject to the jurisdiction of the United States.

In the United States protection against discrimination in employment is extended by both federal and state legislation. The Civil Rights Acts, enacted by Congress in 1870 to implement the provisions of the Fourteenth Amendment to the Federal Constitution, prohibit any action under colour of any statute, ordinance, regulation, custom or usage of any state or territory depriving any person within the jurisdiction of the United States of any right, privilege or immunity secured by the Constitution and laws of the United States. Moreover, it has generally been held that to deprive a person of the right to follow any lawful occupation is to deprive him of both liberty and property under these provisions. Although federal legislation does not regulate employment practices of private individuals acting in an individual capacity, it affords various additional protections against employment discrimination in this field.

Under the Wagner-Peyser Act of June 6, 1933, the United States Employment Service was established in the Department of Labor to promote the establishment and maintenance of a national system of public employment offices. Under the leadership of the Bureau of Employment Security of the U.S. Department of Labor, state and local offices offer free placement service for men, women, and young people who are legally qualified to engage in gainful employment. Administrative regulations establish the policies of the United States Employment Service to ensure that employment opportunities are provided for all applicants on the basis of their skills, abilities and job qualifications and to make definite continuous effort with employers with whom relationships are established, to the end that their hiring specifications be based exclusively on job performance factors. Administrative guidance by the Bureau of Employment Security is specifically designed to attain the following objectives: (1) to promote employment opportunity for all applicants on the basis of their skills, abilities, and job qualifications; (2) to make definitive and continuous effort with employers with whom relationships are established, to the end that their hiring specifications be based exclusively on job performance; (3) to assist the United States Civil Service Commission in effectuating Executive Order 9980 by disregarding non-performance factors of race, colour, religion, or national origin in the recruitment, selection, and referral of workers on job orders from federal establishments; and (4) to co-operate with procurement agencies and other appropriate agencies of the Government in their efforts to secure compliance with non-discrimination clauses in government contracts.

The Supreme Court of the United States has held that both the National Labor Relations Act, as amended by the Labor Management Relations Act of 1947, and the Railway Labor Act must be interpreted as requiring trade unions acting as collective bargaining representatives under statutory authority to represent fairly, impartially, in good faith and without discrimination all persons who are members of the craft or class of workers covered by the collective agreement.

(h) An appropriate formulation should establish the principle of no discrimination by trade unions with respect to membership eligibility and rights. The Government believes that aspects of discrimination relating to the area of union
security as discussed in pages 21-22 of Report VII (1) are not appropriate for inclusion in the proposed Recommendation.

However, referring to union security arrangements in themselves, that is where there is no complication arising from discrimination in admission, the policy of the Federal Government is set forth in the National Labor Relations Act as amended by the Labor Management Relations Act.

The United States believes in the principles of a vigorous free enterprise economy. This system gives maximum opportunity and responsibility to individual business concerns. Public employment in the United States does not play the major role it does in those countries where large segments of the economy are managed by the national government. Private employment is primarily the concern of private management, free trade unions, and individual employers and workers who enter into agreements to establish the conditions of employment.

Since 1883, when the merit system was adopted for employment in the federal Government, Congress has provided that positions in the competitive service shall be filled by appointment of those receiving the highest grades in open examinations for testing the fitness of applicants for federal service. Moreover, there is specific provision in this legislation prohibiting discrimination in any case because of physical handicaps or marital status. The principle of equal pay for substantially equal work regardless of sex, race, colour, religion or national origin is recognised in federal personnel policies. Some preference in both appointment and retention is granted to honourably discharged veterans of the armed forces of the United States.

The policy of non-discrimination in federal employment as a whole has been strengthened through two Presidential Executive Orders. These state that it is the policy of the United States Government that equal opportunity be afforded all qualified persons, consistent with the law, for employment in federal Government and that such policy necessarily prohibits discrimination against an employee or applicant for employment because of race, colour, religion, or national origin. Executive Order 10590 of January 18, 1955, provides procedures by which aggrieved minority workers in the federal Civil Service may seek redress for any violations of their job rights. The prohibition against discrimination in Executive Order 10557 extends to "employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training, including apprenticeship". Two Presidential Committees have been set up to implement these Executive Orders: the President's Committee on Government Employment Policy, established in January 1955, and the President's Committee on Government Contracts, established in August 1953.

Fair employment legislation has been enacted in the following areas: Alaska, Colorado, Connecticut, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Washington and Wisconsin. These laws depend largely upon education for the purpose of changing employment patterns, but most do embody enforcement provisions. These laws are directed toward eradication of many types of discrimination in employment. The principal reach of these statutes is discrimination based on race, colour, religious creed, ancestry, age and national origin. The recently enacted Pennsylvania statute typifies the philosophy of this kind of legislation. It states—

"... The denial of equal employment opportunities because of such discrimination and the consequent failure to utilise the productive capacities of the individuals to their fullest extent deprive large segments of the population of the Commonwealth of earnings necessary to maintain decent standards of living, necessitate their resort to public relief, and intensify group conflicts, thereby resulting in grave injury to the public health and welfare.

"It is hereby declared to be the public policy of this Commonwealth to foster the employment of all individuals in accordance with their fullest capacities regardless of their colour, religious creed, ancestry, age or national origin and to safeguard their right to obtain and hold employment without such discrimination."
On May 17, 1954, the Supreme Court of the United States in a unanimous decision declared that segregation in public education imposed by state law is a denial of the equal protection of the laws guaranteed in the Fourteenth Amendment. Admission to public vocational training and vocational schools in the United States is currently guided by this Supreme Court decision, which stated, in part—

"Today, education is perhaps the most important function of the state and local governments ... it is a principal instrument ... in preparing ... for later professional training ... . Such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

**Uruguay**

5. The whole text is considered adequate.

**Viet-Nam**

5. Yes. All the suggestions listed in (a), (b), (c), (d), (e), (g) and (h) are fully justified.

With regard to (f) it is necessary to take the working capacity and special needs of women, children and disabled persons into account in the definition of the term "remuneration". It would be expedient to state that, for work performed which is equal in quality and quantity, there should be equal pay. In this way it would no longer be necessary to list the grounds.

**Yugoslavia**

5. Yes. The Government is in agreement with the principles on which the policy is based but considers that the following principle should be added: "(i) membership of political organisations or participation in their activity should not lead to any discrimination." It is necessary to suggest this in order to give special protection to persons taking part in the activity of these organisations, whether they are members or not.

**IV. Promotion of the Acceptance and Observance of the Policy**

6. Do you consider that the competent authorities should ensure that the policy of eradicating discrimination and of promoting equality of opportunity and treatment in the field of employment is strictly applied in all spheres of employment and training coming under their direct control and that they should modify any existing legislation which prescribes or authorises such discrimination?

Forty-four governments replied to this question. Sixteen (those of Austria, Belgium, Canada, Ceylon, Chile, Iran, Ireland, Israel, Italy, the Netherlands Antilles, Norway, the Philippines, Spain, Turkey, Viet-Nam and Yugoslavia) simply reply in the affirmative. The Government of Argentina states that it has no observations to make. The replies of the other governments, including those of Byelorussia (which replies in a single answer to question 6, and 8 to 12), Cuba (which deals with questions 6 to 19 in a single reply) and Surinam (which deals with questions 6 and 7 in a single reply) are reproduced below.
AFGHANISTAN

6. Legislation and regulations prescribing discrimination should be eliminated.

BRAZIL

6. Yes. Such a policy can only be implemented by legislative provisions. All existing legislative provisions permitting or prescribing discrimination should be cancelled by the new legislation.

BULGARIA

6. The principles set out in question 5 should be applied in all sectors of employment and training, public and private. Their application should preferably be effected by legislative means as soon as possible by rescinding any legislative provisions and practices which allow these different forms of discrimination in the field of employment and occupation.

BYELORUSSIA

6, and 8 to 12. The authorities must carry out a policy which affords definite safeguards that discrimination will not be allowed and that equality of rights, opportunities and conditions will be assured in all fields of employment, occupation or vocational training. They must not permit the existence of laws which prescribe or allow discrimination and must introduce laws against discrimination guaranteeing that this policy will be implemented.

CUBA

6 to 19. An anti-discriminatory policy does not allow for exceptions. It is necessary to repeat that the only valid factor is suitability to occupy the post concerned. This does not mean, however, that an immigration country has to modify its naturalisation laws where these have been adopted to protect the national labour force and to prevent the debasement of working conditions.

CZECHOSLOVAKIA

6. The provisions of the instrument on ensuring the strict application of the policy of eradicating discrimination should be complemented by provisions under which respective domestic legislation would provide sanctions for any action constituting an infringement of this policy. Within the framework of the legislation serving to ensure the implementation of the policy it is necessary to place particular emphasis on the need for securing the co-operation of the trade union organisations. Any existing legislation which prescribes or authorises discrimination should be abrogated as early as possible.

DENMARK

6. In principle, yes. Reference is made, however, to the replies to question 3 (1) (c), and (g), and to question 5.

ECUADOR

6. The labour authorities should be required to ensure that the policy of eradication of discrimination and promotion of equality of opportunity and treatment in employment is strictly observed by employers as well as workers in all sectors of employment and training.
FINLAND

6. There is as regards Finland no need for such a policy, because our legislation and practice have not given, in this respect, any grounds for criticism.

FRANCE

6. Yes. In France the competent authorities ensure the application, in all sectors of employment and training under their direct control, of the policy of eradicating discrimination and of promoting equality of opportunity in the field of employment.

FEDERAL REPUBLIC OF GERMANY

6. The Federal Government agrees to a provision of the type envisaged in this question, but refers to its observations on question 11 as far as the powers of competent authorities are concerned. The words " or authorises " should be re-examined in the light of the general considerations mentioned under question 5.

GREECE

6. Yes. All provisions aimed at preventing discrimination and the application of measures in this direction should devolve on the state authorities. On ratification of the Convention any discrimination in employment previously in force should be abolished.

GUATEMALA

6. The Government is convinced of the necessity for ensuring by all means the adoption of the policy of non-discrimination and agrees that mention should be made of the obligation of the competent authorities to ensure that the policy of eradicating discrimination and of promoting equality of opportunity in the field of employment is strictly applied in all sectors of employment and training under their direct control.

6. Yes. This is essential.

HAITI


INDIA

6. Yes. Provision for this may be made in a Convention.

JAPAN

6. It should be provided that the application of the policy should be "effected within the scope and limits which shall not hamper national and public interest" and that "as regards the scope and limits, the competent authority, after consultation with representatives of employers' and workers' organisations and other related organisations or groups, should determine them by procedures appropriate to national conditions".

The right to non-discrimination in the field of employment should be respected as one of the basic human rights; but even in the case of the basic human rights priority should be given to national and public interest. Particularly in the case where the competent authorities are the national and local authorities and public agencies, the restriction, within the necessary scope and limits, of the basic human rights concerning discrimination must be allowed in all spheres of employment and training coming under their direct control so as to safeguard national and public
interest. However, in deciding on the aforesaid "necessary scope and limits", it is considered necessary to follow democratic procedure, e.g. consultation with employers' and workers' organisations.

**MEXICO**

6. Yes, since it is obviously the duty of the authorities to set an example in applying the non-discriminatory policy in spheres under their direct control and to guarantee this without reservation.

**Kingdom of the Netherlands**

*Netherlands*

6. The reply to the first part of the question can only be given after it has been established whether the instrument will concern collective or individual discrimination and, furthermore, to what extent. One thing can be stated already, viz. that with regard to such a delicate subject as that under consideration there will be little preparedness to enforce new lines of conduct through strict application. As regards the second part of the question it is observed that a government pursuing a certain policy will obviously make proposals for the modification of any statutory provisions which are clearly at variance with that policy.

**Surinam**

6 and 7. Although there should be no discrimination in the field of employment it is desirable, especially for underdeveloped areas, that citizens of the country, when possessing the same capabilities, should be preferred to foreigners or non-residents.

**Pakistan**

6. Yes, provided restriction to nationals of access to certain posts in public employment is not affected.

**Poland**

6. Yes, subject to the observations made in reply to question 5. In addition to modifying any legislation which prescribes or authorises discrimination there is also need to include the obligation to introduce legal prohibition of all discriminatory practices.

**Sweden**

6. Yes. Such provisions should be included in a Recommendation.

**Switzerland**

6. Since only a Recommendation can be considered, it will be for governments to give effect to it in the manner which seems appropriate to them. In fields subject to private law and those governed by collective agreements it will fall primarily to the employers' and workers' organisations concerned to take adequate measures.

**U.S.S.R.**

6. The competent authorities of the country should be required to provide full guarantees that discrimination will not be permitted and that they will establish (not merely promote) equality of rights, opportunities and conditions for all workers.
These obligations should extend to all fields of employment and occupation, including both public and the private sectors; the words "coming under their direct control" should therefore be deleted. Of course, in order to reach the objectives specified, these authorities must amend the legislation requiring or permitting such discrimination, must prohibit discrimination by statute, and must bring about its practical elimination.

**UNITED KINGDOM**

6. No. While it is agreed that the elimination of discrimination in the field of government employment is a desirable general aim, the literal application of the criteria set out in this questionnaire would be impracticable.

**UNITED STATES**

6. The United States has no federal legislation that prescribes or authorises discrimination. It believes that effective administration of the policy requires that the competent authorities should ensure that the policy of eliminating discrimination and advancing equality of opportunity in the field of employment and occupation is strictly applied.

**URUGUAY**

6. The whole text is considered adequate.

7. Do you consider, however, that this should not affect—

(a) regulations restricting the choice of employment open to non-nationals during an initial period of residence, the length of which should not as a rule exceed five years; or

(b) restriction to nationals of access to certain posts in public employment?

Forty-four governments replied to this question. Twelve (those of Belgium, Byelorussia, Canada, Czechoslovakia, Finland, India, Iran, Israel, Norway, Poland, Spain and Yugoslavia) simply reply in the affirmative. The Governments of Bulgaria and the Netherlands Antilles reply by a simple negative to (a) and a simple affirmative to (b). The Government of Cuba deals in a single reply with questions 6 to 19, and the Government of Surinam with questions 6 and 7. The replies of the other governments are reproduced below.

**AFGHANISTAN**

7. Regulations concerning restriction of employment to non-nationals should be restricted only to certain posts and public employment.

**ARGENTINA**

7. Yes. In Argentina the principle has been established by article 16 of the National Constitution that "all inhabitants are equal before the law and admissible for employment without any other requisite than capacity". This principle prevents the establishment of exceptions or privileges applying to some but not to others in the same circumstances. Argentina would therefore be in a position to comply with this point.
AUSTRIA

7. (a) Yes, but it is recommended that the “initial period of residence” should not be rigidly fixed, so as to enable application of the provision to be more flexible.

(b) Yes, but in addition to not affecting regulations or access to posts in public employment, it should also not affect access to certain occupations of public concern for the practice of which citizenship is a condition (those of physicians, notaries, lawyers, etc.).

BRAZIL

7. Yes, since the question affects public order and the security of the country.

CEYLON

7. (a) Yes, but it should be left to every country to determine at its absolute discretion the duration of the period of initial residence that would qualify non-nationals for employment or whether non-nationals should have the right of employment at all.

(b) Yes. This is implied in the observations on question 3 (1).

CHILE

7. This should not affect the regulations and practices referred to. Clause (b) should be amended by the addition of the words: “or fixed percentages of posts within individual enterprises.”

DENMARK

7. (a) Yes. See the reply to question 3 (1) (g).

(b) Yes. Under section 27 of the Danish Constitution citizenship is a condition for appointment to a Civil Service post.

ECUADOR

7. According to national legislation foreigners may not hold any public post except in cases where they are engaged as technicians by the Government. In connection with the employment of foreigners in private concerns, there is no restriction in our legislation. However, a foreigner entering the country as an immigrant is required to follow the employment specified in his passport.

FRANCE

7. Yes. (a) These measures should not affect regulations restricting the choice of employment open to non-nationals during an initial period of employment, the length of which should not as a rule exceed ten years. It seems better to substitute the idea of employment for that of residence in order better to take account of the real services which a non-national renders to a country.

(b) For the protection of national manpower it is desirable that regulations restricting the choice of employment open to foreigners (in particular in respect of public services) should be retained.
FEDERAL REPUBLIC OF GERMANY

7. Yes, subject to the following considerations:

(a) Regulations restricting the choice of employment open to non-nationals during their initial period of residence in the country concerned should not be affected. As regards the reckoning of time, it would be right to reckon this initial period as beginning on the date on which the alien first enters employment with the authorisation of the competent national authorities, and ending after five years of substantially continuous employment with the first employer, or, in case of a change in the place of work authorised by the competent authorities, after five years of employment with different employers. If the employment is interrupted but the alien maintains his domicile or customary place of residence in the reception country, the period allowed should be ten years, reckoned from the date of the alien’s first taking up authorised employment. Workers granted permanent permission to reside should also be unrestricted as regards gainful employment under contract of service.

(b) Restriction to nationals of access to certain posts in public office should not be affected.

The Federal Government also draws attention to articles 12, 13 and 14 of the Council of Europe Convention on the Reciprocal Treatment of Nationals, which contains provisions of a similar nature.

GREECE

7. Yes. Greek legislation already prohibits aliens from holding office in the public administration.

GUATEMALA

7. The Government would welcome a clear statement in the instrument that restrictions, total or partial, of the right of foreigners to occupy posts under the direct control of the competent authorities are not discriminatory practices, since persons occupying such posts perform duties in connection with the security and sovereignty of the State.

In other cases the Government accepts in principle the partial restriction whereby a maximum period of five years of residence in the country may be demanded of a foreigner.

HAITI

7. These measures should not affect regulations concerning foreign manpower during an initial period of residence or the practice of restricting access to certain posts in public employment to nationals.

IRELAND

7. Yes, but it is considered that (a) should end at the word “non-nationals”.

ITALY

7. (a) Yes, but the initial period of residence should not as a rule exceed two years. It seems in fact excessive to fix at five years the initial period during which limiting regulations may be imposed on foreign workers in respect of their choice of employment;

(b) Yes. The particular nature of public employment makes it advisable to continue to restrict such posts to nationals.
JAPAN

7. (a) The policy should, as a general measure, apply to non-nationals as well. Measures generally restricting the choice of employment open to non-nationals during an initial period of residence would be regarded as clear and definite discrimination by nationality which is considered to be contrary to the aim of this international instrument.

(b) No. The policy should not affect restriction in this case.

MEXICO

7. Yes, since these proposals are not discriminatory but constitute requirements justified by the need for assimilation or citizenship in filling public posts which imply a bond of trust with the State.

KINGDOM OF THE NETHERLANDS

Netherlands

7. (a) Yes.

(b) Yes. See reply to question 4.

PAKISTAN

7. (a) Yes, if by non-nationals is meant alien immigrants.

(b) Yes.

PHILIPPINES

7. (a) Regulations restricting the choice of employment open to non-nationals should be left to the sole discretion of every country. This is a problem that cannot for the present be the subject of a general Convention or Recommendation.

(b) Yes.

SWEDEN

7. Yes. These provisions should be included in a Convention.

SWITZERLAND

7. (a) The measures concerned should not affect regulations restricting the choice of employment open to non-nationals during an initial period of residence. On account of the special situation in Switzerland and the temporary nature of much of the employment of foreign manpower—especially foreign seasonal workers—special provisions have to be made to avoid a flooding of our employment market. Problems in this connection may be dealt with by bilateral agreements which take account of the needs of both contracting parties.

(b) Governments should have complete liberty to reserve access to posts in departments and public undertakings for their own citizens.

TURKEY

7. Yes. However, it would seem more advisable to leave this matter to the Members to decide.
U.S.S.R.

7. There is no objection of principle to stating in the Convention that action against discrimination should not affect regulations limiting the choice of employment open to non-nationals during an initial period of residence, or the restriction to nationals of access to certain posts in public employment.

UNITED KINGDOM

7. (a) Yes. The practice in Great Britain is to lift employment restrictions on aliens at the end of four years' residence.

(b) Yes. It should remain with the Government to decide which posts should be so restricted.

UNITED STATES

7. (a) This Government agrees with the purpose of this provision to exclude from the operation of such a policy regulations pertaining to the employment of aliens.

(b) Federal civilian employment in the United States as a matter of tradition has been restricted to United States citizens who can meet job requirements, including conditions for the internal security of the United States. The Government regards these practices as a sound and desirable exception to the proposed discrimination policy.

URUGUAY

7. It is essential to note that this text should appear in any instrument which is adopted.

VIET-NAM

7. Yes, in so far as the provisions conform with the appropriate international instruments. It would be desirable to add to (b) law and practice reserving for nationals the exclusive right to hold certain government posts or to follow certain trades or occupations.

8. Do you consider that the competent authorities should arrange for the insertion in all contracts which involve the expenditure of public funds of clauses making such contracts dependent upon the observance of the policy by the contractor?

Forty-four governments replied to this question. Ten (those of Belgium, Ceylon, Chile, Czechoslovakia, Israel, the Philippines, Poland, Spain, Turkey and Yugoslavia) simply reply in the affirmative and the Government of Surinam simply in the negative. The Government of Argentina states that it has no observations to make. The Government of Byelorussia deals in one reply with questions 6, and 8 to 12, and the Government of Cuba with questions 6 to 19. The replies of the other governments are reproduced below, including those of the following, which deal in a single reply with more than one question: Bulgaria (8 to 11), France, Sweden and Viet-Nam (8 and 9), India and the U.S.S.R. (8 to 12), Iran (8 to 14), Ireland (8 to 10) and Mexico (8 to 19).
AFGHANISTAN

8. It is desirable that the competent authorities should take into consideration in all contracts which involve the expenditure of public funds the observance of the policy by the contractors.

AUSTRIA

8. Such a provision should perhaps be included in the Labour Clauses (Public Contracts) Convention, 1949.

BRAZIL

8. Yes. This would be an indirect means of compelling private undertakings to adopt the policy of the Government.

BULGARIA

8 to 11. Yes. The measures suggested should form part of legislation aimed at the elimination of discrimination in employment and occupation.

CANADA

8. Yes. There may be certain types of contracts involving small expenditures where it is not practicable to do so.

DENMARK

8. Yes, where such a measure is deemed justified.

ECUADOR

8. Anti-discriminatory clauses should not be included in contracts involving expenditure of public finance, since the political Constitution prohibits contractors from discriminating in employment and occupation.

FINLAND

8. In principle it may be appropriate to do so, but in view of the situation in Finland it is not necessary for the time being.

FRANCE

8 and 9. The methods of supervision and persuasion mentioned in these questions allow the competent authorities to impose strict observance of the relevant legislation. It should be mentioned that clauses in this sense are included in the contracts of various public bodies in application of the decree of 10 April 1937 regarding conditions of work in contracts placed by the State. As regards question 9, provisions in this sense appear in Title IV of the decree of 29 April 1949 governing the vocational training of adults in Algeria.

FEDERAL REPUBLIC OF GERMANY

8. All appropriate methods should be applied to remove existing discriminations, but an addition should be made to the proposed provision so that such clauses are to be inserted in the contracts only where this appears to be appropriate and necessary.
GREECE

8. In Greece labour legislation applies equally to workers employed by private employers and in public employment.

GUATEMALA

8. With regard to making contracts involving the expenditure of public funds dependent on the observance of non-discriminatory principles by the contractor it is considered unnecessary to include this in the instrument, since the incorporation of the principles in national legislation implies that all work carried out with public funds would necessarily conform to this policy, as failure to do so would be an infringement of compulsory compliance.

HAITI

8. No. The insertion of such clauses could be recommended only.

INDIA

8 to 12. The suggestions contained in these questions are generally acceptable. Since, however, the extent to which they can be implemented would depend upon the circumstances obtaining in the individual countries, these may be covered by a Recommendation.

IRAN

8 to 14. If the principle is accepted in national laws, insertion of such clauses does not seem necessary.

IRELAND

8 to 10. No, unless it is clear that there is no other way of dealing with the matter.

ITALY

8. Yes, if and when necessary. The insertion of such clauses may, however, not prove necessary if, as is suggested in the reply to question 5, the abolition of all forms of discrimination with which the questionnaire deals is guaranteed by the enactment of compulsory standards of a general character. In this case the contractors would be bound by a legal standard and not merely by a contractual clause.

JAPAN

8. No. It suffices that observance of the policy by the contractor should be a condition of a contract. The insertion in all contracts of clauses making such contracts dependent upon the observance of the policy by the contractor would make the procedures concerning public contracts more complicated. Not that alone: it is doubtful whether such a formal step would in practice be more effective than when, simply as a matter of fact, the observance of the policy by the contractor is a condition of a contract. Hence, it is inappropriate that Members should be requested to take action, i.e. the insertion in all contracts of such clauses.

MEXICO

8 to 19. Yes. In accepting the anti-discriminatory principles put forward the Government supports in consequence the measures aimed at the spreading, acceptance and practical application of these principles; the measures which emerge from these questions appear to serve this purpose.
Kingdom of the Netherlands

Netherlands

8. No. The circumstances may be different for every individual case. It should be left to the competent authorities to decide whether certain provisions should be inserted or not.

Netherlands Antilles

8. If non-discrimination is made a general rule or law there should be no necessity for inserting special clauses in public contracts.

Norway

8. Yes, where appropriate, but such a system is thought to be unnecessary under conditions such as those prevailing in Norway.

Pakistan

8. Yes, as far as practicable.

Sweden

8 and 9. The arrangements suggested here should be considered in a Recommendation only.

Switzerland

8. The application of principles of social policy by means of clauses in public contracts would appear to be difficult to achieve.

U.S.S.R.

8 to 12. There is no objection of principle to including in the international instrument these points regarding the struggle against discrimination in the various fields of employment and occupation. However, the amendment proposed in connection with question 6 would induce more comprehensive and effective action by placing on the Members of the I.L.O. the specific obligation to eradicate discrimination in all sectors of employment and occupation; this would obviate the necessity for including the points referred to in questions 8 to 12.

United Kingdom

8. No. It would be inappropriate to extend the obligations of government contractors to so wide a degree, especially since it is not agreed that the provisions outlined in previous questions are generally acceptable or capable of precise enforcement.

United States

8. This Government is in full accord with the purposes of this clause. One of the most important grounds for official action is the series of Presidential Executive Orders on Government Contracts. These orders include a provision that employers engaged in contracts with the federal Government must follow non-discrimination policies. A special President's Committee on Government Contracts is charged with promotion and enforcement.
Since government contracts are sought by firms throughout the United States, and effort is made to distribute them widely, opportunities for employment on these contracts have been opened to Negroes and members of other minority groups in areas where segregation of restrictions on such jobs had previously been usual. In 1953 more than 6 million contracts between the federal Government and private employers were in operation, with a total value of over 40 billion dollars. The Vice-President of the United States, who serves as Chairman of the President's Committee on Government Contracts, has pointed out that millions of Americans in every trade and occupation were thus brought under the direct protection of the non-discrimination clause in these contracts.

**Uruguay**

8. Yes, subject, however, to reservation of a minimum percentage of posts to citizens of each country by birth or naturalisation not being regarded as discrimination.

**Viet-Nam**

8 and 9. The insertion of such clauses in contracts would be unnecessary if non-discrimination were covered by a national law.

9. *Do you consider that, where subsidies are paid to private educational establishments giving vocational training, such subsidies should be made dependent upon observance of the policy in respect of admission practices?*

Forty-three governments replied to this question. Eighteen (those of Austria, Belgium, Brazil, Canada, Ceylon, Chile, Czechoslovakia, Denmark, Finland, Japan, the Netherlands Antilles, Norway, Pakistan, the Philippines, Poland, Spain, Turkey and Yugoslavia) simply reply in the affirmative, and the Government of Surinam simply in the negative. The Governments of the following countries deal in one reply with more than one question: Bulgaria (8 to 11), Byelorussia (6, and 8 to 12), Cuba (6 to 19), France, Sweden and Viet-Nam (8 and 9), India and the U.S.S.R. (8 to 12), Iran (8 to 14), Ireland (8 to 10) and Mexico (8 to 19). The replies of the other governments are reproduced below.

**Argentina**

9. Yes, although this would not be necessary in Argentina.

**Ecuador**

9. According to the Constitution private vocational education establishments, whether or not they receive subsidies from the State, are prohibited from exercising discrimination in the admission of pupils, the only requirements for entry being examinations in regard to ability.

**Federal Republic of Germany**

9. The Federal Government has no objection to the adoption of a provision of this type in a Recommendation. In this connection the German Federation of Trade Unions has made the suggestion that such a provision should cover not only the admission of pupils but also the engagement of teaching staff.
9. Private educational establishments giving vocational training should in every case be required to apply the principle of non-discrimination whether they receive a state subsidy or not.

GUATEMALA

9. See observations in reply to question 8. If the State adopts the anti-discriminatory principles included in question 5 it is to be supposed that their observance would be complete, covering in consequence all vocational training centres financed wholly or partly from public funds.

HAITI

9. Yes. This should be an indispensable condition.

ISRAEL

9. Yes. The clause should, however, be drafted so as not to prevent grants to educational establishments not following the co-educational system.

ITALY

9. Yes, with the same observations as those made in reply to question 8.

KINGDOM OF THE NETHERLANDS

Netherlands

9. No. Policy with regard to education in general and, therefore, also to vocational training, is different for each individual country and mostly depends on the national, political and denominational configuration.

SWITZERLAND

9. Governments should retain a large measure of freedom in the payment of subsidies to private vocational education establishments.

UNITED KINGDOM

9. No. It is not regarded as necessary or desirable to make subsidies paid to private educational establishments dependent on observance of a non-discriminatory policy in respect of admission practices. The regulations do, in fact, provide that “a student shall not be refused admission to or be excluded from an establishment on other than reasonable grounds”. Current practice is, therefore, largely on a non-discriminatory basis, the only general exception being that some establishments provide vocational training exclusively for men and others exclusively for women.

UNITED STATES

9. The objectives of this provision are in line with the 17 May 1954 decision of the United States Supreme Court referred to in response to question 5 above. In general the Government does not provide grants to private educational establishments.
URUGUAY

9. It is considered that this provision could raise jurisdictional difficulties with other international organisations. It has also some connection with freedom of education (articles 68 and 69 of the Constitution of Uruguay). The point might be disputed by many countries such as Uruguay. If the State provides vocational education without discrimination, as happens in this country, there would not appear to be any reason to compel private educational establishments created by a special organisation to adopt open admission policies if they prefer to cater for one section of the population (for instance those of a specified religion). This is considered to be a point likely to give rise to discussion.

10. Do you consider that, where private employment agencies are subject to supervision by the competent authorities, licences or authorisations should be made dependent upon the observance of the policy by the agency concerned in respect of acceptance of applications for employment and referral applicants to employment?

Forty-three governments replied to this question. Nineteen (those of Austria, Belgium, Brazil, Canada, Ceylon, Chile, Denmark, Finland, the Federal Republic of Germany, Israel, Japan, the Netherlands Antilles, Pakistan, the Philippines, Poland, Spain, Surinam, Turkey and Yugoslavia) simply reply in the affirmative. The Governments of the following countries deal in one reply with more than one question: Bulgaria (8 to 11), Byelorussia (6, and 8 to 12), Cuba (6 to 19), India and the U.S.S.R. (8 to 12), Iran (8 to 14), Ireland (8 to 10), and Mexico (8 to 19). The replies of the other governments, including the Governments of Sweden, which deals in one reply with questions 10 to 12, and of Uruguay, which answers at the same time questions 10 and 11, are reproduced below.

ARGENTINA

10. Yes, with the reservation that private employment agencies do not exist in Argentina.

CZECHOSLOVAKIA

10. Yes. An influence should also be exerted on those employment agencies which are not subject to supervision by the competent authorities.

ECUADOR

10. Private employment agencies whether or not they are supervised by the competent authorities are prohibited from applying a discriminatory policy in regard to the acceptance of applications and referral to employment.

FRANCE

10. By virtue of the provisions of Decree No. 45-1030 of 24 May 1945 concerning the placement of workers and the supervision of employment no new private employment agencies whether free or fee-charging may be opened. The existing
offices which are subject to the control of the Manpower Services are generally concerned only with particular occupational categories; in this case they place all job seekers in the category concerned. Other employment offices set up by groups such as trade unions or associations of former pupils can place only their own members.

GREECE

10. Yes, although in Greece the question does not arise since private employment agencies were abolished long ago.

GUATEMALA

10. This is considered of the greatest importance, since in a large number of countries employment agencies are an effective means of providing occupation or employment and where they are subject to supervision by the competent authorities these should ensure that the agencies follow a policy in accordance with the principles advocated by the central authorities. The Government agrees that mention should be made in the instrument that in the event of non-compliance with these principles by one of these agencies its operating licence should be withdrawn and that a prior condition for the grant of licences to employment agencies should be acceptance and observance of the non-discriminatory policy.

HAITI

10. Yes. If the policy is not observed licences or authorisations should be refused.

ITALY

10. Yes, provided that the agency applies the policy or, preferably, ensures the strict application of the provisions mentioned in question 8.

KINGDOM OF THE NETHERLANDS

Netherlands

10. No. Here the national, political and denominational configuration also plays a part.

NORWAY

10. Yes, but this question will be without practical importance in those countries which have no private employment agencies.

SWEDEN

10 to 12. Yes. Such provisions should be included in a Recommendation.

SWITZERLAND

10. The method of control and the method of supervision of private employment agencies should be left to the discretion of governments to take account of the differences which exist between one country and another.
United Kingdom

10. No. The United Kingdom Government would not wish to make the issue of licences to private employment agencies dependent on the observance of non-discriminatory policy. The subject is unsuitable for legislative action and progress is best made by educating public opinion.

United States

10. Responsibility in this field in the United States rests entirely with state and local authorities. The degree of regulation covering employment agencies varies in the several states. In states having Fair Employment Practices Laws these laws apply to private employment agencies with respect to acceptance of applications and referral of applicants.

Uruguay

10 and 11. These are considered adequate for the purpose of promoting a policy of non-discrimination.

Viet-Nam

10. The policy of non-discrimination in employment adopted by the national authorities should, of course, be followed by private employment agencies.

11. Do you consider that provincial and local authorities and independent public corporations should be encouraged by all possible means to apply the policy in all spheres of employment coming under their control?

Forty-two governments replied to this question. Nineteen (those of Argentina, Austria, Belgium, Canada, Ceylon, Chile, Czechoslovakia, Denmark, Greece, Ireland, Israel, Pakistan, the Philippines, Poland, Spain, Surinam, Turkey, Viet-Nam and Yugoslavia) simply reply in the affirmative. The following Governments dealt in one reply with more than one question: Bulgaria (8 to 11), Byelorussia (6, and 8 to 12), Cuba (6 to 19), India and the U.S.S.R. (8 to 12), Iran (8 to 14), Mexico (8 to 19), Sweden (10 to 12) and Uruguay (10 and 11). The replies of the other governments, including the Government of Norway, which deals in a single reply with questions 11 and 12, are reproduced below.

Brazil

11. Yes, since the policy of regional authorities follows the policy adopted at the national or federal level.

Ecuador

11. Authorities—national, provincial or local—have the obligation to see and to insist by all means at their disposal that employers, associations of employers and vocational educational establishments do not apply a discriminatory policy.
FINLAND

11. Yes, but the expression "by all possible means" may be too ambitious.

FRANCE

11. Yes. In France, in Algeria and in the Overseas Departments and Territories the regional and local authorities and public undertakings are subject to the central authority and are required to apply in all spheres the policy laid down by the central authority.

FEDERAL REPUBLIC OF GERMANY

11. Provincial and local authorities should be encouraged to apply a policy directed against discrimination in all spheres under their jurisdiction. The Government suggests, however, that the words "by all possible means" be replaced by the words "by suitable means appropriate to the conditions obtaining in the member State concerned" or a phrase of similar purport. The reason is that in many instances the powers of governments to issue instructions to independent public corporations or other bodies will in many cases be limited; moreover, in many federal States the Federal Government will not have power to supervise or issue directions to provincial and local authorities. (On this point the federal Government assumes that, in States having a federal constitution, the obligations under the proposed instrument will also be governed by paragraph 7 of article 19 of the I.L.O. Constitution.) In other respects reference may be made to what is said below on question 13.

GUATEMALA

11. It is suggested that the instrument should recommend the central authorities to procure compliance with the policy through local and provincial agencies.

HAITI

11. Yes. They should be encouraged as far as possible.

ITALY

11. Yes, but such encouragement should mainly aim at securing the enactment of provisions of a compulsory character within the limits of regional or local autonomy.

JAPAN

11. The term "under their control" should be "under their direct control" as is used in question 6. Similarly, the term "in all spheres of employment" should be "in all spheres of employment and training" as is used in question 6. As regards the application of the policy, it should be provided that similar restrictions as stated in reply to question 6 may be placed concerning its scope and limits.

KINGDOM OF THE NETHERLANDS

Netherlands

11. Yes. This goes without saying, if the central Government pursues a certain policy.
Norway

11 and 12. Yes, but the word "possible" might be replaced by a less absolute expression, e.g. "appropriate".

Switzerland

11. In Switzerland, in fields dependent on the public authorities, such steps could only be taken within the framework of our federal system.

United Kingdom

11. The attitude of local authorities and the independent public corporations in the United Kingdom to the question of discrimination in employment appears to be generally in line with that of the Government and there is no need for the action suggested. In any case wages and conditions of service of employees of local authorities and nationalised industries are matters for settlement by joint negotiation within the industries concerned, free from government intervention.

United States

11. It is desirable that state and local authorities and independent public corporations, using the latter term in the sense that "public utility" or "private corporation" is used in the United States, should be encouraged by all possible means to apply the policy in all spheres of employment coming under their control. Section 7 of Executive Order 10479 declares that "The Committee [i.e. the President's Committee on Government Contracts] is authorised to establish and maintain co-operative relationships with agencies of state and local governments as well as with non-governmental bodies, to assist in achieving the purposes of this order".

12. Do you consider that employers' organisations and trade unions should be encouraged by all possible means—

(a) to accept and apply the policy in respect of their own activities;
(b) to further the acceptance of the policy by their members;
(c) to have regard to the policy in all collective agreements and industrial relations at all levels; and
(d) to establish such internal machinery as may be necessary to give effective implementation to the policy?

Forty-three governments replied to this question. Eighteen (those of Austria, Belgium, Bulgaria, Canada, Ceylon, Chile, Finland, Ireland, Israel, the Netherlands Antilles, Pakistan, the Philippines, Poland, Spain, Surinam, Turkey, Viet-Nam and Yugoslavia) simply reply in the affirmative. The Governments of the following countries deal in one reply with more than one question: Byelorussia (6, and 8 to 12), Cuba (6 to 19), India and the U.S.S.R. (8 to 12), Iran (8 to 14), Mexico (8 to 19), Norway (11 and 12) and Sweden (10 to 12). The replies of the other governments are reproduced below.
ARGENTINA

12. No observation. In this connection, in Argentina section 3 of Legislative Decree No. 9270 of 1956, which lays down rules for the formation of workers' occupational associations, prohibits these bodies from differentiating between their members on grounds of political or religious beliefs, nationality, race or sex.

BRAZIL

12. Yes, since it is through the trade unions and collective agreements that the new policy must enter into industrial and commercial practice. It is the function of these organisations as representative bodies of workers and employers to put anti-discriminatory measures directly into effect.

CZECHOSLOVAKIA

12. Yes, at the same time measures should be taken to ensure the broadest possible participation of the trade union organisations in the implementation of the policy.

DENMARK

12. (a) to (c). Yes.
   (d) The procedure to be followed by the employers' organisations and trade unions for the implementation of the policy should, in our opinion, be left to the decision of the organisations themselves.

ECUADOR

12. The labour authorities are required to encourage by all possible means organisations of employers and workers to avoid discrimination on any grounds whatsoever, in order to achieve compliance with the objectives set out in this question.

FRANCE

12. Organisations of employers and workers represent the best means of applying an anti-discriminatory policy and it is obvious that authorities who wish to carry out such a policy should not neglect them. But in this sphere compulsion is not possible and only persuasion can be effective.

FEDERAL REPUBLIC OF GERMANY

12. Yes. Here too, however, the text might be modified so as to limit such encouragement to cases where it seems appropriate to the conditions obtaining in the individual member States. In the Federal Republic employers' organisations and trade unions enjoy a high degree of autonomy. Furthermore, the Government would not approach individual employers' organisations and trade unions but only their central organisations. The employers' and workers' organisations of the Federal Republic have informed the Government that their practice is in any case already in line with the proposed provision.

GREECE

12. The general principles governing non-discrimination in employment should also be observed by the occupational organisations without, however, encroaching on freedom of occupational association or on the opinion of the majority.
GUATEMALA

12. It is suggested that measures of a concrete nature should be laid down leading to full implementation of the non-discrimination policy in workers' and employers' organisations.

HAITI

12. Yes. Strongly.

ITALY

12. Yes, so far as this is compatible with the systems in force in each country.

JAPAN

12. Yes. However, we have already expressed the desirability in connection with question 2 of providing in the form of a Convention for the obligation of competent authorities to ensure that employers' and workers' organisations should be encouraged to accept and observe the policy, but we do not consider it necessary to go so far as to enumerate in a Convention in a concrete form such items as suggested in this question with a view to encouraging such organisations.

KINGDOM OF THE NETHERLANDS

Netherlands

12. Yes. This goes without saying, if the opening lines of question 5 have been observed.

SWITZERLAND

12. Employers' and workers' organisations should enjoy the necessary freedom, within the limits fixed by legal provisions, to adopt and apply the policy justified by the circumstances.

UNITED KINGDOM

12. See answer to question 5. The Government could not undertake to intervene in the free negotiation of conditions of employment in order to urge upon the parties the adoption of particular principles.

UNITED STATES

12. The Government is in accord with appropriate efforts to achieve the aims of these provisions. Executive Order 10479, section 6, provides that "The Committee" i.e. the President's Committee on Government Contracts "shall encourage the furtherance of an educational programme by employer, labour, civic, educational, religious and other voluntary non-governmental groups in order to eliminate or reduce the basic causes and costs of discrimination in employment".

URUGUAY

12. It is desired to make a specific reservation in regard to the right of countries to introduce national legislation setting requirements of citizenship or length of residence in the country for persons holding executive or delegate posts in employers' and workers' organisations. In the community today trade unions in addition to their legal functions hold considerable practical power.
13. Do you consider that national, provincial or local agencies, either existing or specially established, should be designated to assume responsibility for promoting observance of the policy?

Forty-three governments replied to this question. Eight (those of Argentina, Chile, Israel, Japan, the Netherlands Antilles, Spain, Surinam and Turkey) simply replied in the affirmative. The Governments of the following countries deal in one reply with more than one question: Cuba (6 to 19), Finland (13 to 20, simply referring to its reply to question 6), Iran (8 to 14), Mexico (8 to 19) and the Philippines (13 to 15, and 17, simply referring to its reply to question 18). The replies of the other governments are reproduced below, including those of the following, which deal in a single reply with more than one question: Bulgaria, India, Ireland, Switzerland and the United Kingdom (13 to 18), Denmark (13 to 18, and 20), Netherlands (13 to 15, and 17 and 18), Sweden and Uruguay (13 to 20).

Austria

13. The international instrument should leave to the Members the decision as to whether existing or specially established agencies should be given responsibility for promoting this policy.

As regards Austria, it will not be necessary to establish new agencies since, in the event of ratification of a Convention on the subject, Austrian constitutional law ensures that all Austrian agencies will refrain from making any adverse distinction prohibited by the Convention; it also provides the citizen with a possibility of seeking a remedy in the courts against any alleged discrimination and of appealing in final instance to the Administrative Court.

Belgium

13. No. According to the country concerned, responsibility should be given to government departments or other agencies. It is inappropriate to recommend one formula rather than another.

Brazil

13. Yes, in some countries. In Brazil it is not necessary.

Bulgaria

13 to 18. As a matter of principle, agencies of the public authorities should undertake the application of this policy. Co-ordinated action of such agencies, advisory committees and voluntary organisations would be useful in the application of the policy aimed at the elimination of all the forms of discrimination concerned. Such action would be effective if it is based on appropriate legislation. This legislation should specify the method for the settlement of disputes by compulsory decisions of the courts, administrative tribunals or other appropriate bodies according to national conditions.

Byelorussia

13. The responsibility for carrying out the policy against discrimination should lie with the central authorities of the State, as having the widest authority and power.
Canada

13. Yes, assuming that this question refers to public or government agencies.

Ceylon

13. If the policy is to be implemented by legislation, the enforcement of the law should be effected through the same machinery as exists for other labour laws. Where the policy is not sought to be enforced by law or its adherence is to be promoted by some other means, such as public education programmes, the assistance and co-operation of national provincial or local agencies would be valuable.

Czechoslovakia

13. Yes, and the aforesaid agencies should in the final instance be responsible for the implementation of the policy to the supreme organ of power in the State. The consistent observance of the policy must be secured at all levels by effective sanctions against any violations thereof.

Denmark

13 to 18, and 20. Yes, where according to the conditions of the country concerned such measures are deemed to be fully justified. The instrument should not contain any absolute requirements concerning these matters.

Ecuador

13. The national, provincial or local authorities and agencies should assume the duty of promoting the non-discriminatory policy in every branch of employment and every vocational training establishment.

France

13. The task of promoting the application of employment policy rests in France with the Labour and Manpower Inspectorate. There is therefore no reason to entrust this task to other bodies. In any other country where the role of the Labour Inspectorate is narrower the employment service or certain committees could be made responsible for regularly impressing on employers' and workers' organisations the principles of official policy relating to non-discrimination in employment.

Federal Republic of Germany

13. Here again it is suggested that the establishment of new agencies should be limited to cases where it appears to be indispensable in the light of national conditions. In the case of the Federal Republic, for example, the existing agencies established in accordance with the law and Constitution are adequate to promote observance of the policy. It does not appear to be necessary to designate existing agencies to assume the responsibilities in question, since these agencies are already responsible for performing these tasks under the laws at present in force.

Greece

13. Promotion of the principles should be the responsibility of the national legislature, which should establish the method of applying them having regard to the conditions prevailing in each country.
13. This responsibility is a logical consequence of the functions of these agencies and therefore it is unnecessary to include a statement in the instrument, since negligence or failure on the part of these agencies would involve them in legal responsibility.

**Haiti**

13. Yes, national, regional or local agencies which need not be specially created for this purpose.

**India**

13 to 18. Yes. However, for the reasons given in the General Observations it is suggested that these points may be included in a Recommendation.

**Ireland**

13 to 18. No. Members should be free to promote observance of the policy by means best suited to themselves.

**Italy**

13. It does not seem appropriate to provide for the creation of ad hoc institutions to give effective implementation to the provisions in question except where existing national, provincial or local agencies are not in a position to assume this responsibility.

**Kingdom of the Netherlands**

13 to 15, and 17 and 18. The establishment of new agencies and the entrusting of new special tasks should be restricted to those countries in which there is a real need for them on account of the conditions existing in those countries.

**Norway**

13. Yes, but the instrument should not contain an absolute requirement to this effect, because there are countries where this might be unnecessary.

**Pakistan**

13. Yes, to the extent possible.

**Poland**

13. The obligation to eliminate all forms of discrimination in employment and occupation should devolve upon the Government and public agencies of countries bound by the future Convention.

**Sweden**

13 to 20. Yes, such provisions should be included in a Recommendation. From the Swedish point of view it is not thought that there is any need for such bodies, but in view of the fact that such a need may exist in other countries there does not appear to be any reason to oppose the inclusion of such provisions in the international instrument.
Switzerland

13 to 18. The system described in these questions seems to us complicated and awkward in application. It could give rise to endless discussions at all stages. From the point of view of Switzerland we do not consider that there is need to designate or create agencies, advisory committees or an independent and impartial commission to promote or enforce the policy of elimination of discrimination in employment or to intervene in cases of dispute.

U.S.S.R.

13. The obligation to effectuate a policy of eradicating and preventing discrimination should be placed on the central state organs, which should also exercise control over the practical application of the measures directed towards securing equality of rights, opportunities and conditions for all workers in the field of employment and occupation, irrespective of the characteristics specified in question 3.

It should be provided, in addition, that the competent authorities of the country shall ensure the implementation of anti-discriminatory measures and, in particular, should make provision for penal sanctions against guilty officials, public servants and other agents of the authorities, and employers and employers' representatives, for any discriminatory practices against workers on the grounds specified in question 3.

United Kingdom

13 to 18. No. As it is not considered that the elimination of discrimination could appropriately be dealt with by legislation or other methods of state intervention, but that it is primarily a question of educating public opinion, it follows that special agencies to assume responsibility for promoting observance of this policy of non-discrimination are not considered an appropriate method of dealing with the problem. There are already in existence many voluntary organisations dealing with specific problems and aspects of the work in the employment field and there is no doubt that, as a general rule, they play a useful part in educating public opinion on discrimination and other matters in which prejudice exists.

United States

13. Under current administrative practice the federal government agencies are directly responsible for the promotion of the acceptance and observance of a non-discrimination policy only in the field of federal employment activities and employment under public contracts. A number of states and local communities have established Fair Employment Practice Commissions within the framework of their Fair Employment Practice Laws. Currently 15 states, Alaska, and about 40 cities and towns have enacted such laws.

Uruguay

13 to 20. These are considered adequate and sufficient.

It is appropriate to mention that the democratic and egalitarian convictions and practices which reign traditionally in the Republic have for all practical purposes eliminated the problems which the proposed instrument aims at solving.

Viet-Nam

13. Yes. In Viet-Nam the labour department with its executive branches seems to us to be the appropriate authority to promote observance of this policy.
13. The function of securing a more effective observance of this policy or promoting its observance should be assigned to a central body or, if none exists, to another corresponding body.

14. (1) Do you consider that these agencies should be assisted where appropriate in the interpretation and promotion of the policy by advisory committees which should include representatives of employers' and workers' organisations and of associations concerned with the prevention of discrimination, particularly those representative of groups most liable to be subject to discriminatory practices?

(2) Do you consider that such advisory committees should assist the agencies, in particular, in specifying those acts which are regarded as discriminatory and contrary to the policy?

Forty-three governments replied to this question. Nine (those of Austria, Chile, Israel, Japan, the Netherlands Antilles, Spain, Surinam, Turkey and Yugoslavia) simply reply in the affirmative. The Governments of the following countries deal in one reply with more than one question: Bulgaria, India, Ireland, Switzerland and the United Kingdom (13 to 18), Cuba (6 to 19), Denmark (13 to 18, and 20), Finland, Sweden and Uruguay (13 to 20), Iran (8 to 14), Mexico (8 to 19), the Netherlands (13 to 15, and 17 and 18), and the Philippines (13 to 15, and 17, simply referring to its reply to 18). The replies of the other governments (including those of Byelorussia, Poland and the U.S.S.R., which deal in one reply with questions 14 to 16, and of Greece and Norway which answer at the same time questions 14 to 18) are reproduced below.

**Argentina**

14. (1) Only in special cases.
(2) Yes.

**Belgium**

14. (1) Yes. The government departments or agencies concerned should obtain the collaboration of employers' and workers' organisations.
(2) Yes. It is self-evident that one of the tasks of the commissions or agencies responsible for this question would be to define the acts which are regarded as discriminatory and contrary to the policy.

In non-metropolitan territories it would be unnecessary to establish special bodies to promote the observance of the policy. This task could be given to existing bodies such as the committees for indigenous labour and social progress and the works councils.

**Brazil**

14. Yes, for countries where it would be necessary to form such public agencies. These committees would be technical bodies advising the public authorities, as they are generally in Brazil (article 513 of the Consolidation of Labour Laws).
Byelorussia

14 to 16. It would be advisable to delete these items, since they weaken the responsibility of the central Government for the abolition and prevention of discrimination.

Canada

14. (1) Yes, where appropriate.
(2) Advisory bodies might assist public agencies but should not be made responsible for interpreting legislation or specifying acts regarded as discriminatory.

Ceylon

14. As in the case of national, provincial or local agencies referred to in question 13, the assistance and co-operation of advisory committees including representatives of employers' and workers' organisations and all associations concerned with the prevention of discrimination would be useful.

Czechoslovakia

14. Yes, depending on the circumstances, the establishment of advisory committees could serve a useful purpose. All measures in the sphere of the observance of the policy must take place in co-operation with the trade unions.

Ecuador

14. (1) It is not considered necessary for the national agencies with the help of advisory committees to promote the non-discriminatory policy, since constitutional, civil and labour legislation clearly specify the prohibition of discrimination so that national citizens and foreigners may carry out their work freely.
(2) As national legislation clearly specifies prohibition of discrimination, there is no need for advisory committees.

France

14. (1) Yes. Special consultative committees which include representatives of employers' and workers' organisations operate under the aegis of the Secretariat of State for Labour and Social Welfare and are responsible for studying problems concerning particular categories of workers. They deal with questions relating to these categories of workers and seek ways of promoting their employment. Advisory labour committees also operate in Overseas Territories under the auspices of the Inspectorate of Labour and of Social Laws. In Algeria there exist a Consultative Committee on Full Employment and Manpower, a Higher Commission for Vocational Training, and consultative committees operating under the departmental offices of labour and manpower.

Federal Republic of Germany

14. (1) Yes. Advisory committees should be established where necessary. They should include representatives of employers' and workers' organisations, but other associations should also be given an opportunity of being heard.
(2) Yes.

Greece

14 to 18. If non-discrimination in employment is regulated by legislation, formation of special bodies and their participation in administration should not be necessary.
In Greece, since discrimination of this type does not exist, the measures suggested in these questions are not considered necessary, but, if some countries regard the formation of such bodies as necessary, the instrument should contain such a provision, which would not, however, be of general application.

Guatemala

14. (1) The Government considers it necessary to state that agencies should be assisted by advisory committees which include among their members workers as well as employers, in order to ensure the success of the policy; as the employers and workers are the sectors most directly affected it is reasonable to suppose that they will have great interest in discussing the methods of application in the most suitable way.

(2) Specification of acts regarded as contrary to the policy of non-discrimination is considered to be a consequence of the functions of the advisory committees and inclusion of a statement to this effect in the instrument would be welcome.

Haiti

14. (1) Yes. Their collaboration can be very helpful in certain cases.

(2) Yes, in the capacity of advisory committees.

Italy

14. Advisory committees should be created only when the tasks which they are called upon to perform cannot be performed by committees which exist already, with of course the participation of representatives of employers’ and workers’ organisations.

Norway

14 to 18. Yes, but compare the answer to question 13.

Pakistan

14. (1) Yes, but only in cases where the setting up of such committees is considered necessary.

(2) Yes, but in a consultative and advisory capacity.

Poland

14 to 16. The proposed international Convention should impose on countries ratifying it the obligation of public prosecution in all instances of discrimination, as with other offences, and should ensure to citizens subject to such discrimination the right to seek their rights through legal channels.

The Polish Government mentions in this connection that article 69 of the Polish Constitution guarantees "equal rights in all fields of public, political, economic, social and cultural life to citizens without difference of nationality, race or religion" and lays down that "breach of this principle by granting any direct or indirect privilege or by restricting rights as a result of nationality, race or religion, is a punishable offence."

The provision of sanctions for the application of discrimination is an essential element in the proposed Convention, which would otherwise lose a great part of its value.
The advisory committees proposed in questions 14 to 16 could play a useful part, particularly in countries where discriminatory measures are widespread in public life and where it is necessary to organise a campaign for the education of the public. It would perhaps be desirable to provide that the organisational details and the activity of such bodies should be the subject of a Recommendation supplementing the future Convention in this connection.

U.S.S.R.

14 to 16. The provisions set out in questions 14 to 16 may be left to the appreciation of the country concerned. Every kind of "public advisory committee" and "public education programme" should of course play its part in bringing people to condemn discrimination and in the struggle with prejudice in the human mind. However, the Convention should be directed specifically towards the abolition of discrimination: it should therefore not include such provisions, for they would weaken the obligation of the state authorities of the country to effectuate the eradication of discrimination and to prevent it in the future.

UNITED STATES

14. The United States' experience indicates the value of such advisory agencies to assist in the interpretation and promotion of policy. A statutory advisory body, the Federal Advisory Council, was established for the United States Employment Service under the Wagner-Peyser Act of June 6 1933. The Federal Advisory Council is composed of men and women representing employers and employees in equal numbers and the public for the purpose of formulating policies and discussing problems relating to employment and ensuring impartiality, neutrality, and freedom from political influence in the solution of such problems. The Wagner-Peyser Act further requires the organisation in each state of an advisory council having similar composition and functions to those of the federal council. Separate from these bodies a number of states that have passed Fair Employment Practice Acts have established advisory groups to aid the Fair Employment Practices Commission. New York, for example, has made considerable use of advisory groups. In that state the Commission has established community councils which serve as a two-way channel of communications. First, they acquaint the communities they serve with the philosophy and provisions of the anti-discrimination law, the policies and procedures of the law's enforcement agency, the Commission, and the problems with which the law and the Commission are concerned; discrimination based on race, creed, colour or national origin in employment, in places of public accommodations, resort and amusement, and in public and publicly assisted housing. Second, they interpret the community to the Commission by involving in the planning and carrying out of their educational work leaders from labour, management, religious, educational, veteran, women's and other civic groups. The New York Commission has also established from time to time various industry liaison committees. (See also this Government's comments on the role of voluntary organisations in reply to question 16.)

VIET-NAM

14. Yes, whenever this serves a useful purpose.

15. (1) Do you consider that one of the functions of these agencies should be to carry out or to stimulate comprehensive and sustained public education programmes designed to make the general public aware of the unfair nature
of discriminatory practices with a view to securing the maximum possible voluntary adherence to the policy?

(2) Do you consider that such programmes should include study and research and the publication of the results of such study and research with a view to correcting any mistaken impressions as to the relative working capacity of different groups or the ability of different groups to work together harmoniously, and other measures designed to combat prejudices which have the effect of creating distinctions among workers and impeding the achievement of equality of opportunity and treatment in employment?

Forty-three governments replied to this question. Fourteen (those of Argentina, Austria, Belgium, Canada, Ceylon, Chile, Israel, Japan, the Netherlands Antilles, Pakistan, Spain, Turkey, Yugoslavia and Viet-Nam), simply reply in the affirmative, and the Government of Surinam simply in the negative. The Governments of the following countries deal in one reply with more than one question: Bulgaria, India, Ireland, Switzerland and the United Kingdom (13 to 18), Byelorussia, Poland and the U.S.S.R. (14 to 16), Cuba (6 to 19), Denmark (13 to 18, and 20), Finland, Sweden and Uruguay (13 to 20), Greece and Norway (14 to 18), Mexico (8 to 19), the Netherlands (13 to 15, and 17 to 18), the Philippines (13 to 15, and 17, simply referring to its reply to 18). The replies of the other governments are reproduced below.

**Brazil**

15. Yes. Action against discrimination would be impossible unless an endeavour were made to create a new mental attitude by education and propaganda.

**Czechoslovakia**

15. Yes, primarily it is necessary to ensure the participation and co-operation of the trade union organisations.

**Ecuador**

15. It would be appropriate for the national agencies, with a view to making the public aware of the unfair nature of discrimination, to organise talks and publish pamphlets aimed at informing employers and workers in regard to the application of anti-discriminatory policy.

**France**

15. Yes. Such a policy is already followed in France by the Secretariat of State for Labour and Social Welfare. Studies have already been undertaken both at the national and the local level relating to conditions of work of older workers, young workers and the disabled.

**Federal Republic of Germany**

15. The agencies referred to in question 13 should also be charged with carrying out the functions mentioned in question 15, as far as that is possible for them and as far as this appears appropriate in the light of the situation.
GUATEMALA

15. (1) The Government agrees with the inclusion of this principle in the instrument.

(2) It is also considered desirable to mention study and research work as well as the publication of the results of such study and research. It is suggested nevertheless that the instrument should include an obligation on governments ratifying the Convention to create a central body to co-ordinate such activities as far as possible in order to promote a uniform general policy.

HAITI

15. Yes. These are essential functions.

IRAN

15. Yes, but it should be added that wide publicity should be given in schools and undertakings to the standards established by this instrument.

ITALY

15. The agencies mentioned in questions 13 and 14 may be called upon to carry out the functions mentioned in questions 15 and 17, but only in those countries in which the situation requires it. Their action should be directed principally towards creating a favourable atmosphere for the adoption, as early as possible, of general compulsory regulations.

UNITED STATES

15. (1) Yes, this is very important. Great emphasis is placed in a democratic society on the role of education in spreading the maximum information for the thorough understanding by all citizens of every aspect of a public policy. Such an understanding is the very basis for the successful acceptance of public policy. (For further comments see the Government's replies to questions 12, 14 and 16.)

(2) Research is an important tool in constructing a sound foundation for education and policy promotion. The Women's Bureau of the United States Department of Labor makes continuous studies of the employment opportunities for women. Other agencies of the federal government make studies of a similar nature pertaining to other groups. The importance attached to research is reflected in several state Fair Employment Practices Acts. For example, the Massachusetts Fair Employment Practices Act provides in part that the Commission shall issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimise or eliminate discrimination because of race, colour, religion, creed, national origin or ancestry. Connecticut has developed a very fine division of research in its Commission on Civil Rights.

16. Do you consider that the special role of voluntary organisations in educating public opinion and in otherwise improving inter-group relations should be recognised and that their activities should be encouraged?

Forty-three governments replied to this question. Fifteen governments (those of Argentina, Austria, Belgium, Chile, Czechoslovakia, the Federal Republic of Germany, Iran, Israel, Japan, the Netherlands Antilles, Pakistan,
the Philippines, Spain, Turkey and Yugoslavia) simply reply in the affirmative. The Governments of the following countries deal in one reply with more than one question: Bulgaria, India, Ireland, Switzerland and the United Kingdom (13 to 18) Byelorussia, Poland and the U.S.S.R. (14 to 16), Cuba (6 to 19), Denmark (13 to 18, and 20), Finland, Sweden and Uruguay (13 to 20), Greece and Norway (14 to 18), and Mexico (8 to 19). The replies of the other governments are reproduced below.

Brazil

16. Yes. All these organisations could work towards the same objective.

Canada

16. It is recognised that voluntary agencies are in a position to make an important contribution in educating public opinion and appropriate recognition and encouragement should be given to their activities in this area.

Ceylon

16. Yes, provided the activities of the voluntary organisations are properly regulated, and provided further that such organisations are carefully defined to exclude those encouraging discrimination.

Ecuador

16. The special role filled by private organisations in the education of public opinion and in the improvement of inter-group relations should be recognised and other activities should be encouraged, such encouragement being channelled for preference through employers' and workers' organisations.

France

16. Yes. The Secretariat of State for Labour and Social Welfare encourages the development of relations between the public services and private organisations set up to facilitate the integration of all categories of workers into the economic life of the country.

Guatemala

16. Recognition of the essential role undoubtedly played by private organisations in the education of public opinion and the improvement of inter-group relations could be included in the instrument.

Haiti

16. Yes. Within the framework and in accordance with the principles of public policy.

Italy

16. Yes. However, it should be borne in mind that the situation in many countries does not call for this.
Kingdom of the Netherlands

Netherlands

16. There is no objection whatever to voluntary organisations which advocate the policy of non-discrimination endorsed by the central Government being recognised and encouraged in their activities by that central Government.

Surinam

16. This depends on the policy pursued in a certain country and it will be different for each individual country.

United States

16. Full recognition should be accorded to the special role of voluntary organisations. Under the freedom of association granted in a democratic society such groups have always placed an instrumental role in educating public opinion and otherwise improving inter-group relations in the United States. Valuable contributions in this field have been made by the National Urban League, the Catholic Interracial Council, the American Jewish Committee, and the National Conference of Christians and Jews, and a great number of other organisations.

For example in Rhode Island the law against discrimination empowers the Commission to utilise voluntary and uncompensated services of private individuals and organisations as may from time to time be offered and needed, and to create such advisory agencies and conciliation councils, local or state-wide, as will aid in effectuating the purposes of this Act. The Commission may itself study, or it may empower these agencies and councils to study, the problems of discrimination in all or specific fields of human relationships when based on race, or colour, religion, or country of ancestral origin, and foster through community effort or otherwise good will among the groups and elements of the population of the State.

Viet-Nam

16. Encouragement should be given to the activities of voluntary organisations which can collaborate with the public agencies in action against discrimination in treatment and employment.

17. (1) Do you consider that the agencies referred to in question 13 should be empowered to receive and examine complaints that the policy is not being observed by any national, provincial or local authority, independent public corporation, contractor, private educational establishment, private employer, employers' organisation or trade union, and, if necessary, to attempt, by informal negotiation, to secure the correction of any practices regarded as in conflict with the policy?

(2) Do you consider that the agencies should have powers of investigation?

Forty-three governments replied to this question. Six (those of Chile, Iran, Israel, the Netherlands Antilles, Surinam and Yugoslavia), simply reply in the affirmative, the Government of Pakistan simply replies in the negative and that of Argentina in the affirmative to (1) and in the negative to (2). The Government of Italy merely refers to its reply to question 15.
The Governments of the following countries deal in one reply with more than one question: Bulgaria, India, Ireland, Switzerland and the United Kingdom (13 to 18), Cuba (6 to 19), Denmark (13 to 18, and 20), Finland, Sweden and Uruguay (13 to 20), Greece and Norway (14 to 18), Mexico (8 to 19), the Netherlands (13 to 15, and 17 and 18), and the Philippines (13 to 15, and 17, merely referring to its reply to 18). The replies of the other governments, including those of Byelorussia, which deals in a single reply with questions 17 and 18, and of the U.S.S.R., which deals with questions 17 to 19, are reproduced below.

**Austria**

17. (1) Yes.
(2) See answer to question 13.

**Belgium**

17. Yes. If special agencies are established there is nothing to prevent their being given certain powers of investigation, but these must not encroach on the normal functioning or competence of public institutions.

**Brazil**

17. Yes. Without sanctions these principles would only have the force of "positive morality". Investigation is necessary for this purpose.

**Byelorussia**

17 and 18. Complaints of the non-observance of the anti-discrimination laws should be received, investigated and examined by the central government bodies.

**Canada**

17. (1) Yes, assuming that the agencies referred to are public agencies, as is the Government's understanding of question 13, and subject to any special procedures which may be established by any country for dealing with complaints against the public authority itself.
(2) Yes, subject to the Government's reply to question 13.

**Ceylon**

17. If the policy is implemented by legislation, all complaints should be addressed to and investigated by the authority responsible for the enforcement of the law.
Non-government agencies should not have powers of investigation.

**Czechoslovakia**

17. These agencies should likewise be empowered to propose measures with a view to the removal of specific instances of discrimination and act in an auxiliary capacity in the supervision of the implementation of the policy, and in case of violation of the policy, in the adoption of measures serving as sanctions.
17. The agencies referred to in question 13 should be empowered to receive and examine complaints that the policy is not being observed, and these agencies should also have powers of investigation into employers' and workers' organisations as well as into all branches of vocational education.

FRANCE

17 (1). No. The External Services of Labour and Manpower are empowered in France to receive and examine complaints made by workers. They have powers of investigation and entry into all industrial and commercial establishments for purposes of supervision and inquiry.

FEDERAL REPUBLIC OF GERMANY

17. The Federal Government agrees to (1) and (2) in principle, but suggests that such measures should only be taken where they are necessary in view of the particular national conditions. In this connection the Government refers also to its reply to question 13.

GUATEMALA

17. The national, provincial or local agencies responsible for the application of the policy of non-discrimination in employment should be empowered to receive and examine complaints of non-compliance with this policy in the sectors required to observe it and these agencies should have the power of investigation, since the Government considers both as indispensable for the fulfilment of the task for which the agencies were created and is therefore of the opinion that these powers should be included in the instrument.

HAITI

17. Yes. In countries where trade union development permits this.

JAPAN

17. It is desirable that the agencies should be empowered to receive and examine complaints referred to in this question as a means of securing the effectiveness of the policy, but national conditions must be taken into consideration in determining whether the agencies should be empowered or not, when they should be empowered and how they exercise their powers.

POLAND

17. Yes, subject to the reservation that the existence of these agencies should not in any case bar the way to resort to the courts.

SPAIN

17. (1) Yes.
(2) Yes, providing they are under the authority of the State.

TURKEY

17. Yes, but negotiations should be formal and the said agencies should have powers also to that effect.
U.S.S.R.

17 to 19. It should be provided in the Convention that complaints of breach of anti-discriminatory legislation should be examined by the state organs having authority over the machine which will give effect to their decisions. This of course does not exclude the adoption of an "informal negotiation" procedure or the establishment of "independent and impartial commissions"; but to include mention of these in the Convention would be quite inappropriate, for to do so would weaken the basic obligation of the organs of the State.

UNITED STATES

17. This has proved useful in United States experience. In general the agencies established in the United States for the elimination of discrimination from employment use mediation, conciliation, and persuasion to achieve their objectives. Most of the Commissions established under Fair Employment Practice Acts have the power to receive and investigate, and in some instances initiate, complaints. The Federal Executive Orders applying to federal employment and government contracts also allow for the investigation of complaints. Provisions for processing complaints are an essential aspect of this work, because the complaint process has proved of value in an educational effort.

VIET-NAM

17. (1) The Department of Labour and Regional Labour Inspectorates are competent to assume these tasks. Legal inspection could also be introduced.
   (2) The competent agencies should have powers of investigation.

18. Do you consider that an independent and impartial commission should be appointed to consider any complaints which cannot be effectively settled by informal negotiation and to issue decisions concerning the manner in which it considers any discriminatory practices revealed should be corrected?

Forty-three governments replied to this question. Seven (those of Argentina, Chile, Israel, the Netherlands Antilles, Spain, Surinam and Yugoslavia) simply reply in the affirmative. The Governments of the following countries deal in one reply with more than one question : Byelorussia (17 and 18), Bulgaria, India, Ireland, Switzerland and the United Kingdom (13 to 18), Cuba (6 to 19), Denmark (13 to 18, and 20), Finland, Sweden and Uruguay (13 to 20), Greece and Norway (14 to 18), Mexico (8 to 19), the Netherlands (13 to 15, and 17 and 18), and U.S.S.R. (17 to 19). The replies of the other governments, including that of Canada, which deals with questions 18 and 19 in one reply, are reproduced below.

AUSTRIA

18. The international instrument should leave the decision on this matter to the Members.

The establishment of such a commission would not be necessary as regards Austria, for the reasons given in respect of question 13.
Belgium

18. Yes, in so far as existing procedures for dealing with disputes are insufficient.

Brazil

18. Yes, in countries where this practice is common.

Canada

18 and 19. There should be provision whereby, in event of failure to effect settlement of complaints of apparent substance by informal negotiation, such complaints could be processed before an impartial body which could be the court or a commission or other appropriate body having the power to find the facts and to determine whether or not the discrimination complained of in fact exists in contravention of the remedial legislation and with appropriate authority for correction of same.

Ceylon

18. No. If, however, despite all attempts to introduce the policy either by legislation or otherwise, discriminatory practices continue to prevail on an extensive scale, the appointment of a general commission of inquiry would be the normal procedure that would be adopted in this country.

Czechoslovakia

18. Yes. It is, however, necessary to determine the composition of such a commission more exactly. In any case the trade union organisations should be represented on it.

Ecuador

18. The national, provincial or local agencies should be required to deal with complaints which have not been effectively settled through direct negotiation and to prevent any discriminatory practices on the part of employers or workers.

France

18. No. In France the conseils de prud'hommes were set up to resolve by conciliation disputes arising in connection with contracts of service in commerce, industry and agriculture between employers or their representatives and the employees, workers and apprentices of either sex whom they employ.

Federal Republic of Germany

18. It would be advisable to consider whether the appointment of such commissions should not be limited to cases where it appears to be necessary under the given conditions.

Guatemala

18. The creation of an independent commission to settle complaints presented is not necessary, since the provincial, national or local agencies could be empowered to settle them.
18. Yes, if the collaboration of such a commission proves necessary.

**Iran**

18. It would be more practical and logical to entrust this function to the national bodies concerned with the settlement of disputes.

**Italy**

18. No. It would be more appropriate for such tasks to be carried out by existing administrative and judicial organs.

**Japan**

18. No. This should be replaced by the following statement:

"In order to consider any complaints which cannot be effectively settled by informal negotiation and to correct any discriminatory practices revealed, appropriate action should be taken in accordance with national conditions."

Since varied administrative systems exist in the countries concerned, it is not appropriate that every country should adopt a system under which a commission has comprehensive jurisdiction over complaints of every category and scale.

**Pakistan**

16. The appointment of an impartial commission may be left to the discretion of the competent authority in each country.

**Philippines**

18. Yes. Such an independent and impartial commission is necessary and would be more useful than the agencies mentioned in questions 13, 14, 15 and 17. The commission should, in addition, perform the functions of the agencies referred to in questions 13, 15 and 17.

**Poland**

18. Yes, subject to the same reservation as made in reply to question 17.

**Turkey**

18. Yes. The commission should be appointed by the agencies referred to in question 13 and it should report to them.

**United States**

18. In states which have fair employment legislation with enforcement powers there has generally been no need for any outside bodies. The decisions of the Fair Employment Practice Commission in these states are subject to court review and enforcement. Only one state has established under its Fair Employment Practice Law the type of commission contemplated in this question. In Minnesota the law provides that if the Commission fails to eliminate an unfair employment practice the Commission shall notify the governor and request him to
appoint a board of review to conduct a public hearing in the case and reach a decision in regard to the matter.

The board is drawn from a panel of 12 persons named and appointed by the governor with the advice and consent of the Senate. At least four members of the panel shall be lawyers. For the purpose of holding prescribed hearings three persons, one of whom shall be a lawyer, shall be appointed from the panel by the governor and shall constitute and serve as the board of review.

VIET-NAM

18. Any dispute concerning *prima facie* discriminatory practices should be brought before the tripartite labour courts.

19. *Do you consider that any other methods of enforcement should be provided for the implementation of the policy?*

Thirty-eight governments replied to this question. Ten (those of Argentina, Belgium, Byelorussia, Chile, Denmark, France, Italy, Japan, Pakistan and Turkey) simply reply in the negative. The Governments of the following countries deal in a single reply with more than one question: Canada (18 and 19), Cuba (6 to 19), Finland, Sweden and Uruguay (13 to 20), Mexico (8 to 19), and the U.S.S.R. (17 to 19). The replies of the other governments are reproduced below.

AUSTRIA

19. The bodies representing the employees have proposed the following as basic methods:

(1) revocation of termination of contract if this has been due to discrimination;

(2) proceedings for invalidation of adverse treatment during employment where this has been due to discrimination.

BRAZIL

19. The proposed methods seem sufficient.

BULGARIA

19. With a view to a more effective application of the policy of the elimination of discrimination in the field of employment and occupation, the workers' organisations concerned should have the opportunity to supervise the application of legislative measures against discrimination. Effective penalties should also be provided for persons contravening anti-discrimination provisions.

CEYLON

19. The Government has none to suggest.

CZECHOSLOVAKIA

19. Yes. As to methods of enforcement see mention of sanctions in replies to 6 and 13.
FEDERAL REPUBLIC OF GERMANY

19. All possibilities should be exploited in order to ensure the enforcement of a policy directed against discrimination, but the Government has no further suggestions to make.

GUATEMALA

19. The Government would agree in principle to any method suggested which has as its object compliance with the policy of non-discrimination.

HAITI

19. No. The methods of enforcement suggested are broad enough.

INDIA

19. The Government have no suggestions to make.

IRAN

19. Observations in reply to this question will be presented when the Committee meets.

ISRAEL

19. Agencies referred to in question 13 or other specially designated bodies should serve as tribunals to decide upon grievances relating to discriminatory practices.

KINGDOM OF THE NETHERLANDS

Netherlands

19. No. In the opinion of the Government, what has been referred to in the questionnaire even goes too far in some respects.

Netherlands Antilles

19. It would appear that the preceding measures will be sufficient.

NORWAY

19. Experience in Norway in this field is not sufficient to enable a well founded answer to be given.

PHILIPPINES

19. By means of frequent conferences between employers' and workers' organisations under the auspices of the Ministry or Department of Labor.

POLAND

19. In accordance with the observations made in reply to questions 14 to 18 there is need to include in the proposed international Convention:

(1) provision for penal sanctions for the application of discriminatory practices against any group of citizens or against individuals;
(2) a provision granting each citizen the opportunity to seek through normal legal channels the rights which result from the provisions of the proposed international Convention.

Spain

19. Yes. Any other useful or suitable method towards this object.

Switzerland

19. The Government does not consider any other methods of application of the policy of eliminating discrimination in employment necessary. In cases of breach of constitutional or legal provisions the parties concerned have the opportunity of resort to the ordinary courts.

United Kingdom

19. No. As has already been explained, the policy can best be promoted by educating public opinion.

United States

19. Although the Government does not have any suggestions to make at this time concerning other methods that should be provided for the implementation of the policy, it again wishes to stress the desirability of promoting the policy at every opportunity and of furthering its acceptance through widespread educational activity.

Yugoslavia

19. Substantially all the methods of enforcement of this policy have been foreseen. However, nothing should be done to prevent the possible use later of more favourable methods discovered in other countries.

V. Collaboration in the Prevention of Discrimination in Other Fields

20. Do you consider that the agencies referred to in question 13 should, in elaborating their programmes of action, have regard to action being taken to prevent discrimination in other fields, and should maintain close and regular collaboration with the authorities concerned in any educational or ameliorative measures taken to reduce the impact of discrimination and to promote equality of opportunity and treatment generally?

Forty governments replied to this question. Eleven (those of Austria, Belgium, Chile, the Federal Republic of Germany, Israel, Japan, the Netherlands Antilles, Poland, Spain, Turkey and Yugoslavia) simply reply in the affirmative, and the Government of Byelorussia simply in the negative. The Government of the United Kingdom simply refers to its reply to question 13. The Government of Denmark deals in one reply with questions 13 to 18, and 20, and the Governments of Finland, Sweden and Uruguay with 13 to 20. The replies of the other governments are reproduced below.
AFGHANISTAN

20. The I.L.O. and the Members should adopt an instrument to prevent discrimination in the field of employment, as well as in other fields, and should maintain close and regular collaboration with the authorities concerned in any educational or ameliorative measures taken to reduce the impact of discrimination and to promote equality of opportunity and treatment in all phases of work and life.

ARGENTINA

20. Yes. The eradication and prevention of discrimination should of course not be limited to employment, since its existence in this field is only one manifestation of the problem. Consequently, action in the field of employment should be closely co-ordinated with that being taken in other fields.

BRAZIL

20. Such agencies where they are brought into being should use all means within their power to eradicate discriminatory practices in all fields and at all times.

BULGARIA

20. The public authorities, workers' and employers' organisations and other appropriate bodies should, in elaborating their programme of action, have regard to action being taken to prevent discrimination in other fields, and, by co-ordinate action should promote, as soon as possible, equality of opportunity and treatment generally.

CEYLON

20. Yes, if national, provincial or local agencies are utilised for the purpose contemplated in question 13.

CUBA

20. The prohibition of discrimination forms an integral part of labour laws. Consequently such practices in the full sense indicated should be condemned by legislation with sanctions for offenders, powers of investigation by the competent ministries and powers of prosecution before the ordinary courts. The effective fulfilment of these measures depends, however, on the co-operation given to the public authorities by employers' and workers' organisations. Attention is invited to article 74 of the Cuban Constitution and Decree No. 4832 of 1951.

CZECHOSLOVAKIA

20. The question should refer also to question 12, in view of the exceptional importance that co-operation of the trade union organisations has for the entire scheme.

ECUADOR

20. The programmes of action elaborated by the agencies referred to in question 13 should extend to all fields of activity and they should maintain close and regular collaboration in any educational or cultural measures aimed at reducing discrimination and promoting general equality of opportunity and treatment.
FRANCE

20. Yes. This policy is already followed in France.

GUATEMALA

20. It is considered most useful that the agencies responsible for the application of the policy of non-discrimination in employment and vocational training should have regard to action being taken to prevent discrimination in other fields and co-operate as closely as possible in educational ameliorative action aimed at reducing discrimination. The Government would therefore welcome the inclusion of a statement to this effect in the instrument.

HAITI

20. Yes. Employers' and workers' organisations have an important role to play in this field.

INDIA

20. Yes, but this, along with the points covered by questions 13 to 18, may be incorporated in a Recommendation.

IRAN

20. Since the United Nations General Assembly, the Economic and Social Council and the Commission on Human Rights have carried out detailed studies of this subject, it is desirable, in the interest of effective action against discrimination in employment and occupation, that close collaboration should be established between these institutions and the I.L.O.

ITALY

20. Yes, bearing in mind the considerations mentioned above and the differing situations which exist in various countries.

MEXICO

20. Yes, since the principles which inspire the fundamental laws and regulations in Mexico reflect the doctrine of human equality without restriction.

KINGDOM OF THE NETHERLANDS

Netherlands

20. See reply to question 13. For the rest, it goes without saying that these agencies in their policy should take account of all the measures providing for the abolition of discrimination in other fields than that of employment and vocational training.

NORWAY

20. Yes, but reference is made to the reply to question 13.

PAKISTAN

20. Yes, to the extent possible.
PHILIPPINES

20. Yes, but the commission specified in question 18 should undertake these tasks.

SWITZERLAND

20. The object of the international instrument is to prevent discrimination and to promote equality of opportunity and treatment in employment. The scope of the instrument should not be expanded to other fields, quite apart from the question as to whether such a move would raise any question of competence.

U.S.S.R.

20. There is no need for this point: as it speaks only of "reducing the impact" of discrimination and "promoting" equality, it would weaken the mandatory force of the Convention.

UNITED STATES

20. It is desirable that close and regular collaboration should be maintained between all authorities engaged in any educational or ameliorative measures taken to reduce the prejudices and social tensions which give rise to discrimination in employment and to promote the equality of opportunity generally.

VIET-NAM

20. Since prevention of discrimination in employment is bound up with prevention of discrimination in other fields, it would, of course, be desirable for the competent agencies to collaborate closely with authorities competent in the other field.
CHAPTER II

COMMENTS AND PROPOSED CONCLUSIONS

This chapter gives an analysis of, and a commentary on, the replies of governments to the questionnaire and puts forward proposed Conclusions based on those replies.

COMMENTS

General Observations

Several governments make general observations in the light of the situation in their own countries. The Canadian Government, while recognising the need for ample opportunity to secure compliance with anti-discriminatory standards by education and conciliation, has found from its own experience that certain forms of discrimination in employment are overt acts which can be identified and can accordingly be prohibited by legislation. The Indian Government refers to constitutional guarantees in India of equality of opportunity in employment under the State and in state-maintained and state-aided educational institutions but emphasises that there is no constitutional prohibition of discrimination by other bodies; it suggests that a similar distinction might be followed by the I.L.O. and that the subject might be dealt with by three separate instruments: (1) a Convention providing for the abolition of discrimination in employment and training under state control; (2) a Recommendation covering other employment and training; and (3) a Recommendation regarding the establishment of machinery for promoting observance of the policy of non-discrimination.

The Government of Israel attributes discrimination mainly to prejudices and false ideas having the nature of a disease which can best be cured by educational processes, but recognises the value of legislative action in achieving equality of human rights.

The Governments of Bulgaria, Byelorussia, Czechoslovakia, Poland and the U.S.S.R. advocate the legal prohibition of all forms of discrimination. The Governments of Czechoslovakia and the U.S.S.R. consider that standards should also apply to non-self-governing territories, and the former considers that the instrument should devote attention to the causes of discrimination. The Government of Italy considers that while voluntary measures might be useful in a transition period, this should be followed by compulsory legislation.

The United Kingdom Government doubts whether the subject can be dealt with realistically in a single instrument of general character. Differing national circumstances make the issue a series of problems which must be
discrimination in employment and occupation dealt with in different ways; in so far as they can be dealt with by international instruments at all, this would best be done in relation to specific subjects. It considers, however, that it is by the education of public opinion towards the eradication of prejudice that discrimination in employment and occupation will be effectively eliminated, and accordingly believes that the best way of dealing with the subject would be a resolution emphasising the desirability of equality of opportunity and treatment in employment and the avoidance of discrimination on irrelevant grounds.

I. Form of the International Instrument

Question 1

Except for the Government of the United Kingdom, whose views are summarised above under General Observations, all governments replying to the questionnaire favour the adoption of international regulations of one form or another. The Government of the Netherlands, however, indicates that its support is subject to its being found possible to avoid duplication with provisions in existing instruments, particularly "duplications in other words". This is indeed a serious difficulty in dealing with a subject of such broad scope, and it scarcely seems possible to avoid some overlap with provisions in other instruments; with care it should, however, be possible to ensure that, where there is such an overlap, there is no incompatibility with standards which have already been adopted.

The Government of the U.S.S.R. considers that the instrument should speak of "eradication of discrimination" and not only of "prevention" and should speak of "establishment" of equality rather than "promotion". The Governments of Bulgaria and Byelorussia similarly consider that the aim of the instrument should be the "abolition" of discrimination.

Question 2

Among those countries which have replied affirmatively to question 1 there is a division of opinion on the form which the instrument or instruments should take. The governments of eighteen countries express themselves without qualification as in favour of a Convention; those of thirteen are in favour of a Recommendation; those of eleven suggest a Convention supplemented by a Recommendation (or in the case of the Government of India, a Convention supplemented by two Recommendations).

Of those replying in favour of a Convention, the Mexican Government argues that anti-discriminatory principles have been approved by civilised opinion and that no reservation regarding their adoption is justified. The Brazilian Government refers to the fact that a number of points have already been regulated by Conventions.
Governments replying in favour of a Recommendation appear, where they have given their reasons, to have been prompted primarily by the difficulty which would be encountered in framing a Convention which would meet the varying circumstances in the different countries. This view is advanced by the Governments of Belgium, the Netherlands, the Philippines, Switzerland and the United States. The Netherlands Government adds that a detailed Convention would contain provisions which it would be difficult for individual countries to accept and the United States Government holds that the greater flexibility of a Recommendation is desirable so that universal steps may be taken towards the desired goal.

Governments contemplating the adoption of a Convention supplemented by a Recommendation appear to have been guided in this view by the desire to reconcile the two main requirements: (1) a firm statement of the basic principles which should be accepted by the great majority of countries, and (2) flexibility in the application of these principles to deal with the situations existing in each particular country. As regards the points which should be included in a Convention and those which should be included in a Recommendation, the general view of the Governments of Austria, Denmark, Finland, the Federal Republic of Germany, Norway and Uruguay appears to be that the more important basic points should go into a Convention, and that the other more detailed provisions such as those relating to methods of application should go into a Recommendation. The Government of Israel suggests tentatively that a Convention should deal with the points covered by questions 3 to 11, and a Recommendation with those covered by questions 12 to 18. The Government of Japan would prefer a Convention to deal with the points covered by questions 3 to 7 and 11 and 12, and a Recommendation with those covered by questions 8 to 10 and 13 to 18. The Government of Sweden indicates in its replies to later questions that it considers that a Convention should deal with certain main principles, including those covered by question 7, and that the matters covered by questions 6, and 8 to 20 would be more suitable for inclusion in a Recommendation. The Indian Government, which gives its views in detail in its General Observations, considers that the instruments should take the form of (1) a Convention relating to employment and training under state control; (2) a Recommendation covering other employment and training; and (3) a Recommendation relating to the establishment of machinery for promoting observance of the policy of non-discrimination.

It seems possible that a solution following the lines referred to in the previous paragraph might also be acceptable on examination to a number of those governments which in their replies have expressed themselves in favour either of a Convention only, or of a Recommendation only. With this in mind the Office has drawn up the proposed Conclusions in two parts. Part A contains Conclusions which might form the basis of a Convention and Part B those which might form the basis of a Recommendation. In Part A are included
those points to which it appears that governments attach the greater importance and in respect of which there appears to be assurance of wide acceptance; an attempt has been made to keep these brief and strictly to the point, so that the essential principles shall not be submerged by minor detailed provisions. Part B covers the points in respect of which governments indicate the need for flexibility to permit of adaptation to the national situation and certain other points which governments appear to regard as desirable but not so fundamental as those included in Part A.

II. Definition and Scope

Question 3 (1)

The definition proposed in this question is regarded as satisfactory by the Governments of Brazil, Chile, Haiti, Mexico, the Netherlands Antilles, Spain, Surinam and the United States. Other governments either have major criticisms to make of the text as a whole or suggest changes in one or more parts of it.

The Governments of Finland, the Federal Republic of Germany, the Netherlands, Sweden, Switzerland and the United Kingdom consider that the definition is not precise enough.

The Governments of Austria, the Federal Republic of Germany, Israel, Switzerland and the United Kingdom consider in particular that it is not sufficiently clear that distinctions determined by the inherent requirements of the job are not regarded as discrimination. This point is taken up by other governments in relation to the individual items (a) to (k).

The Governments of Byelorussia and the U.S.S.R. suggest that it should be made clear that "adverse distinction" covers also the granting of privileges to other persons or groups, and the Government of Poland that it covers distinctions "resulting from law and practice".

The Government of Belgium considers that the instrument should deal only with distinctions based on factors over which the individual has no control, and the Government of the Netherlands that it should deal not with discrimination against individuals but with discrimination affecting the rights of different groups.

The Governments of Czechoslovakia and Israel suggest the omission of the word "solely", and that of the Philippines that this should be amended to read "solely or mainly". The Government of Czechoslovakia considers also that the definition should contain some reference to the causes of discrimination.

Tentative alternative definitions are put forward by the Governments of the Federal Republic of Germany, the Netherlands, the United Kingdom and Viet-Nam. The definitions proposed by the last two Governments would take the form of a general statement omitting any list of bases of distinction.
Regarding the bases of distinction to be covered, the Canadian Government considers that these should be confined to (a) race, (b) colour, (c) religion, and (g) national origin. Other governments make reservations in respect of one or more of the bases of distinction listed, and these are analysed item by item below.

Questions 3 (1) (a) and (1) (b).

All governments in favour of listing the bases of distinction support the inclusion of "race" and "colour".

Question 3 (1) (c).

The Canadian Government considers that inequalities in employment between men and women should be dealt with by other measures.

The Governments of Denmark and Sweden indicate that they would have to make some reservations in regard to equal remuneration of men and women workers in view of their policies of non-intervention in wage negotiations.

The Government of Ireland considers that the inclusion of this item should be subject to such limitations as may be necessary or desirable for the protection of the family, and the Government of the Netherlands that the policy should conform with "national views regarding the contractual capacity of married women".

Question 3 (1) (d).

Comments on distinctions based on language have been made only by the Governments of Ceylon, the Federal Republic of Germany and Uruguay, which emphasise that such distinctions frequently result from the need for fluency in a particular language in the employment in question.

Reference may also be made in this connection to the observation made in reply to question 5 (c) by certain governments relating to the provision of education in their own languages for the major national groups.

Question 3 (1) (e).

All governments in favour of listing the bases of distinction support the inclusion of the item "religion". The Governments of Ceylon and the Federal Republic of Germany suggest, however, that there may be instances in which membership of a particular confession or denomination may be a genuine requirement for a job.

Question 3 (1) (f).

The majority of governments support the inclusion of this item without, however, commenting or giving their reasons. The Indian Government opposes its inclusion on the ground that governments may not be able to
assure non-discrimination in respect of individuals who have no regard for the duly established political and social order. The Government of the Federal Republic of Germany suggests that, in regard to employment in politically orientated concerns, possession of divergent political views might be a legitimate ground for exclusion.

*Question 3 (1) (g).*

Inclusion of this item does not meet with the same measure of acceptance as preceding items. Those governments supporting its inclusion do not comment or give their reason for doing so. Governments opposing its inclusion give their reasons at some length.

Having regard also to the replies given to question 7, it appears to be the almost universal view that there must be some reservations in granting equal rights in employment to persons of foreign nationality. Some governments would be satisfied with the exceptions allowed for in question 7; others regard these as insufficient and wish "nationality" to be specifically excluded from the policy.

The Austrian Government indicates that in its country Austrian nationality is a statutory requirement for the practice of certain professions and for membership of works councils and chambers of labour. The Government of Ceylon considers that the right of each country to "limit the opportunities for employment to its own citizens" must be preserved. The Federal German Government does not consider it discriminatory against foreign workers for a country to give first priority to full employment of its own nationals. The Guatemalan Government considers that the fact of being a national of a given State gives the right to preferential treatment over persons of other nationality. The Swedish Government indicates in its reply to question 5 (c) that it considers there is justification for giving preference in admission to vocational training schools to nationals, since they may be expected to remain in the country after receiving their training.

The Government of Denmark refers to measures for the liberalisation of the employment market under which Norwegian, Swedish and Finnish nationals, but not other foreigners, are free to take up employment of any kind in Denmark without a work permit; nationality is in this case a significant factor, and Denmark could only support the inclusion of this item if it referred to persons of foreign extraction who are nationals of the country in which they reside. The Government of Pakistan puts forward the same point of view.

*Question 3 (1) (h).*

General agreement is indicated to the inclusion of this item, although governments in the main do not comment in relation to the situation in their own countries or give reasons for their replies. The Swedish Government
regards this item, and items (i) and (j), as scarcely relevant in Sweden, but would not for that reason raise any objection to their inclusion.

**Question 3 (1) (i).**

The affirmative replies to this question from the majority of governments appear to indicate rather that objections would not be raised to its inclusion than that any special importance is attached to its inclusion.

Inclusion of this item is opposed by the Government of the Philippines, which suggests that it would be unobjectionable for an employer to give preference to a particular applicant for employment because he is poor and in dire need of employment. The Federal German Government mentions that under German law labour courts examining the legality of a dismissal are permitted to take the property and assets of the dismissed worker into account.

**Question 3 (1) (j).**

Few comments have been made on this item. The Federal German Government suggests that government action against the practice of restricting access to certain trades to the families of persons already in the trades would involve difficulties. The Austrian Government considers that the item should relate specifically to discrimination by reason of legitimacy or illegitimacy of birth.

**Question 3 (1) (k).**

There is considerable opposition to the inclusion of the item "other status". Its vagueness makes it unacceptable to the Governments of Austria, Guatemala, India, Iran, Italy, the Netherlands, Turkey, the United Kingdom and Uruguay, which all consider that it should be omitted; certain of these governments add that, if other bases of distinction are to be included, they should be specifically stated. The Austrian Government suggests, however, that this would not be so necessary in a Recommendation.

The Government of the Philippines suggests the alternative wording "other condition".

The Government of Japan suggest that the difficulty might be met by a statement in the instrument that governments should decide independently which additional bases of distinction they wish to include within their non-discriminatory policy.

The Federal German Government would be prepared to consider a covering clause if an unambiguous wording could be found.

**Question 3 (2)**

The Governments of Brazil, Canada, Ceylon, Chile, India, Ireland, Italy, Mexico, Norway, Spain, Sweden, the United States and Uruguay oppose the enumeration of any further bases of distinction.
On the question of age\(^1\), eleven governments have expressed themselves in favour of a specific reference though in some cases with limitations, while nine governments specifically oppose such a reference.

On the question of disablement\(^1\), eight governments are in favour of a specific reference and eight governments specifically oppose such a reference.

The Governments of four countries (Bulgaria, Czechoslovakia, the Netherlands and the Philippines) would welcome a reference to trade union affiliation\(^1\) and the Federal German Government would have no objection to this if it is made clear that privileges exclusively accorded to union members do not constitute discrimination. The Government of Switzerland indicates in its reply to question 5 its view that there should be some mention of the position of non-union workers. The Finnish Government on the other hand suggests that it would be preferable not to say anything about trade union affiliation; the United States Government also indicates in its reply to question 5 its belief that aspects of the subject in the area of union security are not appropriate for inclusion in the instrument.

The Governments of Austria, Cuba and the Netherlands submit that there should be specific mention of marital status.

The Governments of Iran and the Philippines submit that mention should be made of previous court conviction.

The Government of Yugoslavia in its reply to question 5 suggests mention of membership of political organisations or participation in their activity.

**Question 3 (3)**

Almost all the governments replying to this question answer in the negative. Reference has already been made in connection with question 3 (1) \((g)\) to those governments wishing to exclude “nationality”.

The Government of the Netherlands considers that it may prove necessary to make some exclusions if the bases of distinction already discussed cannot be defined precisely enough.

The Federal German Government and the United Kingdom Government consider that some reservation regarding the interpretation of the bases of distinction in specific circumstances might be necessary. However, this might also be dealt with on the lines contemplated in question 4.

While there is thus a diversity of opinion on the list as a whole which would therefore not be acceptable in an instrument as it stands, there is general agreement on certain of the items. Of those governments wishing to have an enumerative list, all support the inclusion of the items “race”, “colour” and “religion”; the inclusion of the item “sex” is supported by all except the Canadian Government; the item “national origin” is not generally

\(^1\) It will be recalled that this item was inadvertently included in question 3 (1) in the Russian edition of Report VII (1). See footnote on p. 18.
acceptable without amendment but, if it is made clear that nationality is not covered, for instance by amending the item to read "national extraction", it appears that the objections of most of the governments concerned would fall away.

The items mentioned above all appear to be regarded as fundamental and it seems that there would be wide support for their inclusion in a Convention. Although this does not emerge so clearly from the replies, it also appears probable that the items "political opinion" and "social origin" would generally be held to be fundamental. The list of bases of distinctions suitable for inclusion in a Convention has therefore been put forward in the Conclusions as follows: race, colour, sex, religion, political opinion, national extraction and social origin.

Regarding the other bases of distinction, there appears to be little objection in principle to including "language" within a national non-discriminatory policy, but difficulties in application are foreseen. "Property" appears to be considered of little relevance to the problem, and "birth" to give rise to difficulties both of interpretation and application. Opinion is divided on the subject of "age", some governments believing that the special problems of older and of young workers could be dealt with by a general non-discriminatory policy and others holding that quite different measures are required; there is a similar division of opinion regarding disablement, which it has been observed is already adequately covered in the Vocational Rehabilitation (Disabled) Recommendation, 1955.

There is nevertheless clearly a widespread desire to deal with as many forms of discrimination in employment as is practicable within the conditions prevailing in each country, and not to exclude arbitrarily discrimination on any grounds which may be of importance in particular countries. Therefore, in the proposed Conclusions directed towards a Recommendation it is suggested that action taken under that Recommendation might be extended to additional bases of distinction which the competent authorities consider, after consultation with employers' and workers' organisations, might be dealt with in a similar manner (Point 3 (b)).

It is proposed that the position of immigrant workers of foreign nationality should be covered by reference to the relevant provisions of the two main I.L.O. instruments already dealing with these categories (Point 9).

Question 4

The Governments of Haiti, Japan and Surinam consider that it is unnecessary to make specific mention of the types of measures which are not regarded as discriminatory.

Most other governments which have made observations consider that such a mention is desirable but are not satisfied with the wording proposed. The Government of Poland considers that the reference in the latter half of
the question should be deleted. The Government of the Netherlands suggests that reference should be made to measures to safeguard public order, personal and family rights, and the Government of Israel that reference should be made to measures furthering the employment of older workers.

Seven Governments (those of Austria, Belgium, Brazil, Czechoslovakia, the Federal Republic of Germany, the Netherlands and the United Kingdom) would prefer the reference to be more general in character so that it would cover a variety of special measures for the protection of workers in a less favourable position. The Governments of Belgium, Switzerland and the United Kingdom suggest that it is unnecessary to limit the reference to measures “in accordance with the appropriate international instruments”.

On the basis of those observations a tentative re-phrasing of the idea has been put forward in Point 8 of the Conclusions directed towards a Recommendation.

III. Establishment of Public Policy

Question 5

The steps contemplated in this question meet with general approval in principle by the majority of governments which have replied to the questionnaire. The objections which have been raised fall into two main categories: those from governments which consider the principles suggested not rigid enough and those from governments which consider them too rigid. The Governments of Byelorussia, the Philippines, Poland and the U.S.S.R. consider that measures should take the form of legislation.

On the other hand, the Governments of Japan and Switzerland stress the need for flexibility and the Governments of the Netherlands and the United Kingdom regard certain of the principles listed in (a) to (h) as too absolute.

The Governments of Denmark, Finland, the Federal Republic of Germany, Norway, Sweden and the United Kingdom recall that in their countries many of the aspects covered in these principles are dealt with by collective bargaining, and that the Governments cannot therefore accept any obligations in relation to these aspects. It may, however, be mentioned in this connection that, in framing this question, the Office did not have in mind that the practical measures taken would in all cases be restricted to Government action; the intention was that the “public policy” would set standards which the Government would apply in fields under its own control but which would nevertheless also be applicable in other fields on acceptance by employers’ and by workers’ organisations.

The Government of Czechoslovakia suggests that the policy should also aim at the elimination of the causes of discrimination. It was, however,
the Office’s intention to deal with measures designed to eliminate causes of discrimination in questions 15 and 16, dealt with below.

A number of governments point out that certain of the principles would not be fully realisable in respect of foreign workers; this appears to be an additional reason for excluding the element of nationality from the list of bases of distinction, as suggested under question 3.

Other significant points raised on individual clauses are analysed below.

Question 5 (a).

The Governments of Canada and Switzerland consider that no reference should be made to employment on one’s own account; the German Federal Government also shows some hesitation on this point.

The United Kingdom Government stresses that assessment of individual fitness for a particular employment must in general rest with the employer concerned and that sex, marital status, etc., may in fact be relevant factors; a somewhat similar point is made by the Netherlands Government in reply to question 3.

Question 5 (b).

The Governments of France and Poland consider that the employment services should be free to give priority in placement to certain categories on social grounds. This difficulty would, however, appear to be met by the general reservation included in Point 8 of the Conclusions directed towards a Recommendation.

Question 5 (c).

The Federal German Government considers that training schools set up by groups (for instance trade unions or religious denominations) for their own members should not be interfered with. The Government of Greece would not wish to interfere with the custom of giving priority in admission in certain cases on grounds of general social policy. The United Kingdom Government recalls that admission to apprentice training in its country is settled by the industry concerned and that it could not accept any obligations in this field.

The Governments of Bulgaria, Byelorussia, Iran and the U.S.S.R. suggest that this principle should be extended to cover admission to general education; such an extension would, however, conflict with the desire of other countries to keep the instrument strictly within the field of competence of the I.L.O. The Governments of Byelorussia and the U.S.S.R. suggest a provision that education should be given in the languages of the major national groups; the Government of Czechoslovakia also suggests an additional principle regarding schools for indigenous people giving courses in their
own language. It would seem, however, that this is one of the methods by which unequal educational and training opportunities resulting from language differences may be remedied, rather than a basic non-discrimination principle.

**Question 5 (d).**

The selection of employees for promotion is regarded by the United Kingdom Government as a responsibility of management in respect of which the Government could not accept any obligations; the Federal German Government also points out that the possibilities of government action on this point are limited.

The Government of the U.S.S.R. suggests replacement of the words "character, ability and diligence" by the words "aptitude, ability and skills"; the Government of Norway suggests the addition of the words "and other personal qualifications". There is some doubt whether either of these amendments would be generally regarded as constituting a significant improvement of the text.

**Question 5 (e).**

The Governments of Finland, the Federal Republic of Germany, Poland and Switzerland refer to the practice of some employers of giving greater security of tenure on social grounds to certain categories (for instance family breadwinners) and insist that this is a practice which should not be interfered with. It would seem that the general reservation included in Point 8 of the Conclusions directed towards a Recommendation would meet this point.

The Government of India suggests that it might not always be possible to comply with this principle.

**Question 5 (f).**

The Governments of Denmark, Finland, the Federal Republic of Germany, Sweden and the United Kingdom refer to the fact that in their countries remuneration is settled largely by collective bargaining in which the Government does not interfere, and that agreements do not always accept the principle of equal pay for men and women workers. The principle of equal remuneration of men and women workers for work of equal value has, however, already been accepted by the International Labour Conference and it would seem scarcely possible to exclude it here.

The Government of France refers to the existence of lower rates of pay for workers under 18 years of age and the Federal German Government to higher rates of pay determined by such factors as type of training, length of experience and seniority which should not be regarded as discriminatory. The Government of Switzerland indicates that its support for this principle would be subject to a more precise definition of what is understood by "discrimination".
Question 5 (g).

The United Kingdom Government considers this too sweeping in that it contemplates the removal of inequalities on all grounds, and it regards the terms "equal treatment" and "in the same employment" as ambiguous. The Government of Czechoslovakia suggests that the principle should be widened to cover health services in general and "all other matters arising out of the exercise of work or out of the workers' employment".

The Federal German Government considers that, in respect of social security, no attempt should be made to go beyond Article 68 of the Social Security (Minimum Standards) Convention, 1952.

Question 5 (h).

The Government of Japan considers this a separate issue which should not be dealt with in this instrument. Other governments are generally in favour of the principle, but mention points of detail which might arise in its application.

Some governments hold that certain distinctions may be justified in connection with the right to hold office, for instance a requirement laying down a minimum period of residence (Belgium, the Netherlands Antilles), age limits or certain guarantees regarding morality (France, Greece and the United Kingdom, the last in respect of non-metropolitan territories).

The Federal German Government suggests that the present wording might be constructed as giving any trade union, however small, the right to demand participation in specific wage negotiations or to be a party to specific collective agreements.

The Governments of Czechoslovakia and Iran consider that the principle should be extended to include the right to affiliate with international trade union confederations.

The Governments of Byelorussia and the U.S.S.R. ask for a prohibition of any interference by the authorities or by employers with the right to form or join trade unions or to elect representatives; this seems, however, to fall within the field of freedom of association rather than that of non-discrimination.

The Government of the Philippines suggests an additional principle to the effect that "discrimination through circumvention or indirect means should be prevented"; it seems, however, possible that insertion of such a clause might weaken the principles already listed which are intended to apply to disguised discrimination as much as to overt discrimination.

The main purpose of this question was to obtain the views of governments on the areas of employment to which an anti-discriminatory policy should apply and the points which it should cover in each area. Many governments indicate that certain of the aspects suggested in the question are ones over
which they have no control and in respect of which they could not accept any obligations; another general criticism is that while certain of the points are linked with prevention of discrimination on the grounds listed in question 3, others are absolute and imply avoidance of inequalities of a general kind.

In the proposed Conclusions an attempt has been made to meet the first criticism by indicating more clearly that the policy would rely for its implementation on the full co-operation of employers' and workers' organisations, and that it would be formulated and put into application by methods appropriate to national conditions. To meet the second criticism the main points from question 5 have been re-phrased so that they no longer contain statements of absolute rights, but are all linked with avoidance of discrimination on the grounds determined in the national policy (Point 5 (2) of the proposed Conclusions directed towards a Recommendation). Moreover, the words "public policy" have been replaced by "national policy" to avoid any implication that responsibility for promoting equality of opportunity and treatment in all fields of training and employment falls only on the public authorities.

In the interest of avoiding duplication with other instruments the point covered by clause (h) has been omitted, since a more specific standard already exists in the Freedom of Association and Protection of the Right to Organise Convention, 1948. With the exclusion of "nationality" from the field of application of the policy, the need for special mention in clause (g) of social security provisions largely falls away: moreover there is difference of opinion as to which distinctions in social security can properly be called discriminatory. It has accordingly appeared wisest to omit the field of social security provisions from the list.

IV. Promotion of the Acceptance and Observance of the Policy

Question 6

Several governments observe that the steps contemplated would be a logical outcome of the adoption of a policy of non-discrimination.

The United Kingdom Government considers, however, that a literal application of the criteria would be impracticable, and the Netherlands Government that there would be little preparedness to enforce strict application. The Government of Japan considers that, in the national interest, certain limits to the application of the policy might be set after consultation with employers' and workers' organisations.

The Governments of Ecuador and the U.S.S.R. indicate their views that there should be an obligation on governments to ensure a strict application of the policy also in the private sector, and the Governments of Czechoslovakia and Poland again record their opinion that there should be a legal prohibition of discriminatory practices.
It is clearly not possible to reconcile all these views. In an attempt to find a standard which would receive a wide measure of support, the Office has put forward in the proposed Conclusions directed towards a Convention the obligation “to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy” (Point 3), and in the proposed Conclusions directed towards a Recommendation it is suggested that the public authorities should ensure application of the principles in spheres of training and employment and in vocational guidance and placement facilities coming under their direct control (Point 6) and modify or repeal any legislative provisions which prescribe, authorise or otherwise countenance discrimination (Point 7).

**Question 7**

The replies to this question show, as do those to questions 3, 5 and 6, that almost all governments wish to maintain reservations of one kind or another in connection with equality of access of non-nationals to employment. This wish will be met by the exclusion of the element of nationality from the bases of distinction suggested for the policy in the Conclusions.

However, it appears that the Conclusions directed towards a Recommendation would be incomplete without some mention of the position of foreign immigrants who have completed an initial period of regular residence. Since standards in this connection have already been adopted by the International Labour Conference in the Migration for Employment Convention (Revised), 1949 and the Migration for Employment Recommendation (Revised), 1949, it would appear appropriate to make reference to them (Point 9).

**Question 8**

The Governments of Ireland, Japan and the United Kingdom do not favour the inclusion of non-discrimination clauses in public contracts and the Government of Switzerland foresees difficulty in such a procedure. The Governments of Denmark, the Federal Republic of Germany, the Netherlands, and Norway consider that this procedure might be appropriate in certain circumstances but not in others. The Canadian Government, while approving the suggestion in principle, considers that it might not be practicable with certain types of contract involving small expenditure.

The Governments of Ecuador, Guatemala, Iran, Italy, the Netherlands Antilles, the U.S.S.R., and Viet-Nam, while not opposed to the principle underlying this question, suggest that the measures contemplated would be unnecessary if legislation were adopted which was enforceable on all employers.

The Governments of France and the United States refer to their own experience in operating measures of this kind.
On balance there appears to be support for the retention of this measure which has been included as a possible method for promotion of observance of the policy in *Point 6 (a)* of the proposed Conclusions directed towards a Recommendation.

**Question 9**

The Governments of Ireland, the Netherlands, Surinam, Switzerland and the United Kingdom are opposed to the inclusion of this provision. The Government of Uruguay refers to the connection with freedom of education and suggests that if the State provides non-discriminatory vocational education facilities there is no reason to impose open admission policies on private establishments. However, the majority of governments support the principle.

The Government of Israel, while supporting the principle, suggests that it should not prevent grants to establishments not following the co-educational system.

The Greek Government considers that unsubsidised private establishments also should be required to apply the policy.

A number of governments record their view that the matter might be covered by general legislation.

In the proposed Conclusions directed towards a Recommendation the idea has been retained in *Point 6 (a)*.

**Question 10**

The majority of governments are in favour of this measure, although certain of them point out that there are countries in which it would not apply since private employment agencies no longer exist.

The provision is opposed by the Governments of the Netherlands and Switzerland on the ground that it would not suit all national circumstances, and by the United Kingdom Government, which considers this a subject unsuitable for legislative action.

The Government of Czechoslovakia considers that influence should also be exerted on private employment agencies not otherwise subject to official supervision.

The measure envisaged in this question is covered in *Point 6* of the proposed Conclusions directed towards a Recommendation.

**Question 11**

The majority of governments consider this an essential step. However, the Federal German and Swiss Governments point out that there are limits to the influence which a federal government can exert on other authorities.
The Governments of Finland, the Federal Republic of Germany, and Norway consider the wording "by all possible means" too wide.

The Governments of Brazil and France indicate that in their countries provincial and local authorities follow the policy of the central governments, and the United Kingdom Government states that in its country local authorities and independent public corporations generally have the same attitude as the central government.

The Government of Italy considers that autonomous regional authorities should be encouraged to adopt appropriate legislation.

Clearly the method of encouragement would vary from country to country. The idea has therefore been put in a flexible form in Point 6 (b) of the proposed Conclusions directed towards a Recommendation.

**Question 12**

There is general agreement that effective implementation of the policy depends on its acceptance and application by employers' and workers' organisations, but there is a difference of opinion on the extent to which governments can or should attempt to exercise influence in this direction.

The Government of Switzerland considers that the matter should be left to the discretion of the organisations, and the Government of Denmark considers that the question of machinery (clause (d)) is one for the discretion of the organisations. The United Kingdom Government indicates that it could not intervene in the free negotiation of conditions of employment by urging the parties to adopt particular principles. The Federal German Government states that it would only approach the central organisations, and the Greek Government suggests that there should be no encroachment on freedom of association or the wishes of the majority.

In an attempt to meet some of these objections the idea has been presented in the proposed Conclusions in a slightly different way, namely by including the respective responsibilities of employers and of trade unions in these matters within the principles to which regard should be had in formulating the policy (Point 5, paragraphs (4) to (6), of the proposed Conclusions directed towards a Recommendation).

**Questions 13 to 19**

The matters dealt with in these questions are closely interlinked and in fact several governments deal in one reply with all these questions; others make general comments which are relevant at the same time to several questions. It is therefore proposed to analyse the significant points arising in the replies together.

Points made by several Governments (Denmark, Finland, Greece, Italy, the Netherlands, Norway, Pakistan, Sweden and Switzerland) are that
special measures of the type envisaged in these questions would only be necessary in certain national circumstances; that a need for them does not arise in their own countries; and that therefore it should not be suggested that they are essential everywhere.

The Government of India considers that the urgency for setting up such machinery would depend on the circumstances in the individual countries, and the Government of Ireland that Members should be free to use the means best suited to themselves.

The United Kingdom Government, since it does not consider that elimination of discrimination can be appropriately dealt with by legislation or other methods of state intervention, does not support the type of machinery suggested.

On the other hand, governments which regard enforcement by legislation as the most effective means of dealing with the problem (for instance, those of Byelorussia and the U.S.S.R.) criticise measures of the type suggested in questions 14 to 19 on the ground that they would weaken the obligation of the state authorities themselves to eradicate discrimination.

The Governments of Bulgaria, Czechoslovakia, Greece, Italy and Poland also attach importance to legislative measures prescribing sanctions for contravention of the policy. The Polish Government considers also that mention should be made of the right of the citizen to seek his rights through legal channels.

A number of governments are opposed to the creation of ad hoc agencies or committees and consider that the matter should be dealt with by the existing machinery competent in labour matters (the Governments of Austria, Belgium, Ceylon, France, the Federal Republic of Germany, Italy and Viet-Nam). In certain cases it is pointed out that suitable tripartite advisory committees already exist and that both these and impartial bodies dealing with conciliation and arbitration in industrial relations are already able to deal with any problems which arise.

The Canadian Government considers that advisory committees should not have the power to interpret the policy, and the Governments of Belgium, Ceylon and Spain are opposed to giving special powers to non-government agencies.

The Government of Czechoslovakia stresses the importance of the participation of trade unions in the implementation of the policy.

With regard to question 18, a number of governments consider it unnecessary to have an impartial commission to deal with complaints not settled by informal negotiation. However, the Government of the Philippines expresses itself strongly in favour of such a body, to which it considers the functions mentioned in questions 14, 15 and 17 should also be entrusted. The Canadian Government considers that provision should be made for the processing of such complaints before an impartial body. The Government of Ceylon considers that where this is a normal procedure a commission of
inquiry could be appointed, and the Governments of France, Iran and Viet-
Nam consider that the matter could be dealt with by existing bodies
concerned with the settlement of disputes.

In regard to question 19 the majority of governments have no further
methods of enforcement to suggest. The Governments of Bulgaria, Czecho-
slovakia and Poland refer again to their view that the provision of sanctions
for offences against the policy is essential. The Government of Bulgaria
suggests also that workers' organisations should supervise the application of
the policy.

The Government of the Philippines suggests the desirability of frequent
conferences between the labour administration and employers' and workers'
organisations.

It is clear that certain of the views expressed by governments are not
reconcilable with those expressed by others, particularly in relation to the
enforcement of the policy by the provision of sanctions.

There is, moreover, general criticism that the measures suggested lay
too much stress on a particular method of dealing with the problem; the
majority of governments would seem to prefer that greater latitude should
be left to permit of the adoption of measures appropriate to national
circumstances. In the Conclusions the measures suggested have therefore
been simplified with a view to setting out in rather more general terms what
appear to be widely accepted as the basic needs for promotion of the
observance of the policy (Point 10 of the proposed Conclusions directed
towards a Recommendation).

V. Collaboration in the Prevention of Discrimination in Other Fields

Question 20

There is agreement in the main that collaboration is desirable with the
authorities concerned with elimination of discrimination in other fields. The
Swiss Government emphasises, however, that the instrument itself should
not deal with other fields, and the Government of the U.S.S.R. opposes
inclusion of the point on the ground that it would weaken the force of the
instrument.

The wording has been re-phrased with a view to avoiding any ambiguity
and now constitutes Point 11 of the proposed Conclusions directed towards
a Recommendation.
PROPOSED CONCLUSIONS

A. PROPOSED CONCLUSIONS DIRECTED TOWARDS A CONVENTION

I. Form of the International Instrument

1. The instrument to take the form of a Convention.

II. Scope

2. The proposed Convention to provide that each Member for which this Convention is in force agrees to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, including admission to training and employment and terms and conditions of employment, with a view to eliminating any adverse discrimination in respect of employment or occupation on the basis of race, colour, sex, religion, political opinion, national extraction or social origin which deprives anyone of such equality of opportunity or treatment.

3. The proposed Convention to provide that each such Member agrees to co-operate with employers’ and workers’ organisations and other appropriate bodies in promoting the acceptance and observance of this policy, to promote such educational programmes as may be calculated to secure the acceptance and observance of this policy, to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy, and to indicate in its annual report on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

B. PROPOSED CONCLUSIONS DIRECTED TOWARDS A RECOMMENDATION

I. Form of the International Instrument

1. The instrument to take the form of a Recommendation.

II. Formulation of Policy

2. The proposed Recommendation to provide that each Member should, by methods appropriate to national conditions and practice, formulate and, in so far as is consistent with such methods, ensure the application of a national
policy designed to promote equality of opportunity and treatment for all persons without discrimination in employment and occupation.

3. For the purpose of the proposed Recommendation, the term "discrimination" to include—

(a) any adverse distinction which deprives a person of equality of opportunity or treatment in employment and occupation and which is made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin; and

(b) as appropriate in the national circumstances, such other adverse distinctions affecting a person's employment or occupation as may be specified by the Member concerned after consultation of representative employers' and workers' organisations.

4. For the purpose of the proposed Recommendation the terms "employment and occupation" to include access to vocational training, access to employment and the terms and conditions of employment.

5. Each Member to formulate its policy in co-operation with representative employers' and workers' organisations and with full regard to the following principles:

(1) The promotion of equality of opportunity and treatment in employment and occupation is a matter of public concern.

(2) All persons should, without discrimination, enjoy equality of opportunity and treatment in respect of—

(a) access to training and employment of their own choice on the basis of individual fitness for such training or employment;

(b) access to vocational guidance and placement facilities;

(c) advancement in accordance with their individual character, ability and diligence;

(d) security of tenure of employment;

(e) remuneration for work of equal value;

(f) conditions of work including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, and welfare facilities provided in connection with employment.

(3) All agencies of government should apply fair and non-discriminatory employment policies in all phases of their work.

(4) Employers should not countenance or practise discrimination in engaging for or training for or advancing or retaining in employment any person or in fixing his terms and conditions of service.
(5) Trade unions should not countenance or practise discrimination in respect of admission to trade unions or retention of trade union membership or participation in union affairs.

(6) In collective negotiations and industrial relations, the parties should respect the principle of equality of opportunity and treatment in employment and occupation and should ensure that collective agreements contain no provisions of a discriminatory character in respect of access to, training for or retention of, employment or in respect of the terms and conditions of employment and promotion.

III. Application of Policy

6. Each Member to ensure application of the principles of non-discrimination in all spheres of training and employment and in vocational guidance and placement facilities coming under the direct control of the public authorities and, where practicable and necessary, to promote their observance in other spheres of training and employment and other vocational guidance and placement facilities by such methods as—

(a) making eligibility for contracts, subsidies or licences dependent on observance of the principles;

(b) encouraging local authorities and independent public corporations to further observance of the principles.

7. Each Member to modify or repeal any legislative provisions which prescribe, authorise or otherwise countenance discrimination in employment and occupation.

8. Application of the non-discrimination policy not to affect adversely special measures designed to meet the particular needs of persons who, on account of their sex, age, disablement, family responsibilities or cultural status are generally recognised to require special protection or assistance.

9. With respect to the training and employment of immigrant workers of foreign nationality, regard to be had to the provisions in the Migration for Employment Convention (Revised), 1949, relating to equality of treatment and to the provisions in the Migration for Employment Recommendation (Revised), 1949, relating to the lifting of restrictions on access to employment.

10. The proposed Recommendation to provide that there should be continuing co-operation between the competent authorities, representatives of employers and workers and interested bodies in taking all practicable measures to foster public understanding and observance of the principles of non-discrimination and in considering what further positive measures may be necessary in the national circumstances to put the principles into effect.
IV. Co-ordination with Prevention of Discrimination in Other Fields

11. The authorities responsible for action against discrimination in employment and occupation to co-operate closely and continuously with those responsible for action against discrimination in other fields in order that measures taken in all fields may be co-ordinated.