# Reports of the Governing Body Committee on Freedom of Association

## Fifteenth Report of the Committee on Freedom of Association

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- Analysis of the Complaints
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INTRODUCTION

1. The Committee on Freedom of Association set up by the Governing Body at its 117th Session (Geneva, November 1951) met at the International Labour Office, Geneva, from 23 to 25 February 1955. In the unavoidable absence of the Chairman of the Committee from the meeting, the Committee met under the chairmanship of Mr. Roberto Ago, Chairman of the Governing Body.

2. In accordance with the terms of reference of the Committee, as defined by the Governing Body, members of the Committee disqualified from participating in the consideration of particular cases by reason of their nationality or official position did not participate in the consideration of such cases.

3. The Committee had before it 22 cases in which the complaints had already been communicated to the governments concerned for their observations, namely those relating to France-Morocco (Case No. 16), France-Tunisia (Case No. 61), France (Case No. 69), Venezuela (Case No. 72), the United Kingdom-British Honduras (Case No. 73), Brazil (Case No. 83), Peru (Case No. 92), India (Case No. 97), France (Case No. 99), El Salvador (Case No. 100), the Union of South Africa (Case No. 102), the United Kingdom-Southern Rhodesia (Case No. 103), Iran (Case No. 104), Greece (Case No. 105), Burma (Case No. 107), Guatemala (Case No. 109), Pakistan (Case No. 110), the Union of

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2 The Fifteenth Report of the Committee on Freedom of Association was approved by the Governing Body nem. con., with one abstention, on 3 March 1955.
Soviet Socialist Republics (Case No. 111), Greece (Case No. 112), France-Morocco (Case No. 113), the United States (Case No. 114) and Greece (Case No. 115).

4. The Committee adjourned until its next session its examination of the cases relating to El Salvador (Case No. 100), Greece (Case No. 105) and Burma (Case No. 107), in which the observations of the governments had not been received. The Committee was informed that the observations of the Government of Burma were expected to arrive shortly. The Committee decided that the governments should be informed that any observations which they might wish to be taken into account when the Committee considered these cases at its next session should be received by the International Labour Office at the earliest possible date and not later than 15 April 1955.

5. The Committee has adjourned until its next session further consideration of the case relating to Venezuela (Case No. 72).

6. With regard to the case relating to the United Kingdom-British Honduras (Case No. 73), there have been no developments since the last report of the Committee.

7. With regard to the cases relating to France-Tunisia (Case No. 61) and France (Case No. 69), concerning which the Committee has already submitted an interim report to the Governing Body in its Twelfth Report, the Committee has taken note of communications received from the French Government informing it of the present stage reached in the judicial proceedings now pending with respect to certain of the matters raised in these two cases; it will report further on these cases when the results of the proceedings in question are known.

8. With regard to the cases relating to Peru (Case No. 92), India (Case No. 97), Iran (Case No. 104), the Union of Soviet Socialist Republics (Case No. 111) and Greece (Case No. 112), the Committee has requested the Director-General to obtain further information from the Governments concerned before it formulates its recommendations to the Governing Body; it will report further on these cases when the information in question has been forwarded to it.

9. In the present report, the Committee submits for the approval of the Governing Body the conclusions which it has reached concerning the ten remaining cases it had before it. These conclusions may be briefly summarised as follows:

(a) The Committee recommends that, for the reasons indicated in paragraphs 11 to 69 of this report, five of these cases, namely those relating to Brazil (Case No. 83), France (Case No. 99), France-Morocco (Case No. 113), the United States (Case No. 114) and Greece (Case No. 115) should, subject to the observations contained in those paragraphs, be dismissed as not calling for further examination.

(b) With regard to the cases relating to France-Morocco (Case No. 16), the Union of South Africa (Case No. 102), the United Kingdom-Southern Rhodesia (Case No. 103), Guatemala (Case No. 109) and Pakistan (Case No. 110), the Committee, for the reasons indicated in paragraphs 70 to 243 of this report, has reached certain conclusions to which it wishes to draw the attention of the Governing Body.

CASES WHICH THE COMMITTEE RECOMMENDS SHOULD BE DISMISSED

10. The Committee now proceeds to indicate the grounds on which it recommends that five of the cases submitted to it should be dismissed. If the Governing Body approves of these recommendations, the complaining organisation and the government concerned will in each case be informed of the conclusions reached.
Case No. 83:
Complaint Presented by the Trade Union International of Postal, Telegraph, Telephone and Radio Workers (W.F.T.U.) against the Government of Brazil

ANALYSIS OF THE COMPLAINT

11. In a communication presented on 3 August 1953, the complainant alleges that in 1952, 6,000 telephone girls employed by the Telephone Company (Light and Power Concern) took action in Rio de Janeiro to obtain payment of a minimum wage. The police are alleged to have expelled the telephonists who remained on the premises where the service was carried on with such brutality that one of them went mad, 20 others being injured and all the employees under 18 years of age being arrested.

ANALYSIS OF THE REPLY

12. In its reply dated 5 January 1955, the Government declares the complaint to be without foundation and adduces, in particular, the following arguments.

13. At the beginning of 1952, four employees of the Companhia telefônica brasileira were legally dismissed by the Company. On 10 April 1952, wishing to protest against the measure taken against them, they entered the staff refectory on the Company's premises, where some 200 persons were gathered together, and organised a meeting, in the course of which seditious speeches were delivered. The responsible supervisors were unable to restore order and had to call in the police, who sent an official of the Federal Department of Public Security, who was booed and even attacked. At the same time, another employee organised another meeting near the door leading to the Company's premises. As a general disturbance threatened to develop, the public security official called on the police for help. Ten telephonists were detained on charges of disorderly behaviour, committing damage and inciting others to abandon work. Warrants were issued for the arrest of four of them, whose names are given by the Government, while the six others, being minors, were committed to the Juvenile Court. The ten telephonists arrested were immediately admitted to bail.

14. The Government states that no person was injured and that no minor was imprisoned.

CONCLUSIONS

15. On 18 November 1952, the Brazilian Government ratified the Right to Organise and Collective Bargaining Convention (No. 98), 1949. Brazil has not ratified the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948.

16. The complainant alleges, in particular, that on the occasion of a strike called for the purpose of obtaining payment of a minimum wage by the Rio de Janeiro Telephone Company, the police intervened with such violence that several employees were injured and one young girl went mad. All the employees under 18 years of age are alleged to have been arrested.

17. The Government declares that the case in question was not one of a strike but of a disturbance committed on the premises of the Telephone Company by four employees, who entered in order to protest against their dismissal, which had been legally effected. The responsible supervisors were unable to restore order and had to call in the police. Ten telephonists were arrested on charges of disorderly behaviour, committing damage and inciting others to abandon
work. These ten persons, including the six minors committed to the Juvenile Court, were immediately admitted to bail. The Government emphasises that no person was injured nor were any minors imprisoned.

18. The complaint consists essentially of the allegation that on the occasion of a collective action taken by telephonists in order to obtain payment of a minimum wage, violence was exercised against the strikers by the police and that, for this reason, there was an infringement of the free exercise of trade union rights.

19. The Government, on the other hand, denies that there was any strike. According to the Government, disturbances broke out as a result of the intrusion in the Company's premises of four telephonists who had been legally dismissed, and who had consequently ceased to belong to the staff of the undertaking. As the responsible supervisors could not control the disturbance, they asked for the police to intervene to restore order. It is stated that no one was injured as a result of this intervention. The ten persons concerned were arrested on charges which have no direct relation to trade union rights: committing damage, disorderly behaviour, inciting others to abandon work; they were immediately admitted to bail.

20. In view of the explanation given by the Government that the Brazilian authorities intervened solely in order to restore order on the premises of the Telephone Company, the Committee considers that the complainant has not offered sufficient proof to show that any infringement of the free exercise of trade union rights occurred in the case in question and, therefore, recommends the Governing Body to decide that the case does not call for further examination.

Case No. 99:
Complaint Presented by the Inter-Union Committee of Printing Trade Workers (Paris) against the Government of France

ANALYSIS OF THE COMPLAINT

21. The complaint consists of a protest on the part of the Inter-Union Committee of Printing Trade Workers (Paris) against a governmental decision alleged to have prohibited a procession intended to enable the workers of Paris to demonstrate on the occasion of May Day 1954.

ANALYSIS OF THE REPLY

22. In a letter dated 15 February 1955, the Government indicates that a Legislative Decree of 23 October 1935 makes demonstrations on the public highway subject to prior notification and allows them to be prohibited if they are considered likely to disturb public order. The Government states that the prohibition complained against falls within the general powers of the police and was occasioned, having regard to the circumstances then prevailing, solely by a desire to maintain public order.

CONCLUSIONS

23. France has ratified the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948.

24. The complainant considers that the prohibition by the French Government of a procession arranged to take place in Paris on the occasion of May Day 1954 constituted an infringement of the freedom of association of the workers of Paris.
25. In several earlier cases the Committee has had occasion to emphasise that the right to organise public meetings, particularly on the occasion of May Day, constitutes an important aspect of trade union rights.1

26. In the present case the Government does not deny that the procession was prohibited, but states that under a Legislative Decree of 23 October 1935, which makes demonstrations on the public highway subject to previous notification, they may be prohibited if they are likely to disturb public order. The prohibition in question in this case was occasioned, the Government emphasises, having regard to the circumstances then prevailing, solely by a desire to maintain public order.

27. It would appear from the Government's reply that the prohibition related not to a public meeting but to a demonstration on the public highway. Although the Government does not refer to it, it is known that this measure, while it placed obstacles in the way of a procession of workers on a particular route, did not prevent the workers in Paris from participating on 1 May 1954 in a public meeting held on the outskirts of the capital.

28. In these circumstances, while regretting the lack of details in the Government's reply, the Committee, noting that the prohibition complained against related not to a public demonstration but to the holding of that demonstration on the public highway, and that a public meeting was organised on 1 May 1954 in another part of the capital, in which the Paris workers were able to participate, considers that the complainant has not offered proof that the measure taken constituted an infringement of the exercise of trade union rights and, therefore, recommends the Governing Body to decide that the case does not call for further examination.

Case No. 113:
Complaints Presented by the Trade Union International of Transport, Port and Fishery Workers (W.F.T.U.) and by the Trade Union International of Workers in the Building, Wood and Building Materials Industries (W.F.T.U.) against the Government of France (Morocco)

ANALYSIS OF THE COMPLAINTS

29. The Committee had before it three complaints, all dated 27 September 1954. The first, addressed to the Secretary-General of the United Nations and transmitted by him to the I.L.O., emanates from the Trade Union International of Transport, Port and Fishery Workers (W.F.T.U.); the second was addressed directly to the I.L.O. by the Trade Union International of Workers in the Building, Wood and Building Materials Industries (W.F.T.U.); and the third was addressed by the latter organisation to the Secretary-General of the United Nations and transmitted by him to the I.L.O. As the three complaints have the same purpose—the last two complaints, in fact, are completely identical—they will be analysed together.

30. The complainants allege that, following the events of 8 December 1952 in Casablanca, in the course of which the trade union hall was occupied by the police, and which constituted a deliberate provocation with the object of depriving the trade union organisations of their leadership, 13 Moroccan leaders of the General Union of Confederated Trade Unions of Morocco, whose names are

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given in the complaint presented by the Trade Union International of Transport, Port and Fishery Workers, were incarcerated in the Kenitra prison or deported to South Morocco, although no judgment had been given against them.

ANALYSIS OF THE REPLY

31. In a letter dated 16 February 1955, the French Government emphasises that the 13 Moroccan trade unionists referred to as being in prison or in exile are all at present enjoying their freedom. Twelve of them, accused of endangering the internal safety of the State in December 1952, following the events in Casablanca of which the complainants, according to the Government, give a manifestly inaccurate version, were liberated after the competent court had dismissed the charges made against them on 28 September 1954. The thirteenth, caught red-handed on several occasions when distributing pamphlets contrary to public order, was arrested in May 1954 and set free a few days later. Having resumed his subversive activities, he was placed under surveillance by an Order dated 31 July 1954, which was revoked on 30 December 1954.

CONCLUSIONS

32. In its Twelfth Report, the Committee was called upon to examine a number of complaints relating to the exercise of freedom of association in Morocco. While it did not reach conclusions on various allegations relating to the non-recognition of certain trade union rights of Moroccan workers, which still remain before it in Case No. 16, the Committee decided that, subject to the observations made in paragraphs 397 and 398 of that Report, various allegations relating to measures taken against trade union officials and to the repression of movements in favour of social demands did not call for further examination. The Committee's conclusions on this point were approved by the Governing Body at its 124th Session (Geneva, March 1954).

33. The complaints now before the Committee contain a further allegation, in specific terms, with respect to the detention of 13 Moroccan trade unionists, whose names are given by the complainants.

34. In its reply, the Government declares that the 13 persons in question are at present all enjoying their freedom. Twelve of them, accused of endangering the internal safety of the State in December 1952, have been set free following the dismissal of the charges by the competent court on 28 September 1954, that is to say subsequent to the presentation of the complaints. The thirteenth person, who had on several occasions been caught in the act of distributing pamphlets contrary to public order, was arrested in May 1954, set free a few days later and then placed under surveillance for having resumed his subversive activities; but he also has again been free since 30 December 1954.

35. Although recognising that the critical situation at present existing in Morocco may sometimes necessitate the adoption of measures for the purpose of maintaining public order, the Committee wishes, having regard to the fact that the preventive detention of the persons concerned was not terminated until the end of September 1954, whereas the facts giving rise to this detention dated back to the month of December 1952, and that the detention was terminated as the result of charges being dismissed by the court, to express its regret at the slowness in the preparation of the case and the interference with their operation which the trade union organisations, to which the persons concerned belonged, must have experienced solely as a result of the prolonged detention of their

leaders. It notes, however, that the allegation relating to the detention of 13 Moroccan trade union militants, which was communicated only on 27 September 1954, has now become purposeless as a result of the liberation of the persons concerned, and, accordingly, recommends the Governing Body to decide that the present complaint does not call for further consideration.

Case No. 114:
Complaint Presented by the United Railroad Operating Crafts against the Government of the United States

ANALYSIS OF THE COMPLAINT

36. In two communications dated 27 September and 17 November 1954 respectively, the United Railroad Operating Crafts (U.R.O.C.) (San Jose, California) makes the following allegations.

37. The complaining organisation is organised in accordance with the Railway Labor Act, 1926. This Act was amended by Public Law 914, 1951, which authorises union shop agreements in the railroad industry. Such agreements may provide that workers shall join the union which is party to the union shop agreement within a stipulated time unless already members of another organisation which is "national in scope". The complaining organisation declares that it has 3,000 members and 150 nation-wide locals and that it is "national in scope". Its national scope has not been recognised by the Brotherhood of Railroad Trainmen or by the employers, who are parties to a union shop agreement. The courts claim that they have no jurisdiction in such a matter, but the National Railroad Adjustment Board, which does claim jurisdiction, is alleged to be hostile to the complaining organisation. Hence, the complaining organisation declares that its right as an organisation of "national" scope to organise workers where there is a union shop agreement in force is being violated, and that its members are deprived of the right to belong to an organisation of their own choosing.

38. It is alleged further that Mr. Hillard Hiner and some 127 others of the members of the U.R.O.C., whose cases are "identical" with his, have been dismissed from their employment. Mr. Hiner himself forwarded a statement explaining his own case. He states that a union shop agreement concluded on 9 August 1951 between the Boston and Maine Railroad and the Brotherhood of Railroad Trainmen provides that, within 60 days of the date of the agreement or of their engagement—whichever is the later—employees shall become and remain members of the Brotherhood as a condition of continued employment, but that this condition of employment shall not be required with respect to employees to whom membership is not available upon the same terms and conditions as are generally applicable to any other member or with respect to employees to whom membership has been denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in the Brotherhood. The agreement also states that membership in the Brotherhood shall not be required in the cases of train or yard employees who maintain membership in any one of the other labour organisations, national in scope, organised in accordance with the Railway Labor Act, representing employees in train or yard service, and admitting to membership employees engaged in any of the said services.

39. Mr. Hiner states that, when he received notice of discharge, he demanded a hearing, which took place on 28 May 1953. He states that the company's representative conducted the hearing to determine whether or not he was a member of the Brotherhood and refused to receive evidence of his membership of another organisation, national in scope, as specified in the agreement, and
having been certified by the National Mediation Board. His case eventually reached the Federal Court, which stated that it had no jurisdiction. On 12 May 1954 he applied for membership of the Brotherhood, which was refused. Another notice of dismissal was given to him, to be effective on 21 June 1954. A further hearing was refused, and he claims that his discharge was wrongful because of the provision that a man cannot be discharged after membership of the Brotherhood has been denied. The reason for refusal of membership was never made known to him and he claims that in this respect there has been discrimination against him, because another man denied membership of the Brotherhood for having worked during a legal strike could not be dismissed for this very reason.

ANALYSIS OF THE REPLY

40. The Government declares, in the first place, that workers in the United States are free to organise in unions of their own choosing and to bargain collectively with their employers, that American workers have greater political, economic and social freedom than do those of any other country in the world, that their rights are guarded by constitutional and legislative provisions and by an independent and free judiciary and that, in addition to their rights as trade unionists, they also have rights as free American citizens, to whom the secret ballot is a part of daily living.

41. As all the cases cited by the complainant are stated to be identical with that of Mr. Hiner, the Government bases its observations on his case.

42. It appears to the Government, from the information submitted, that Mr. Hiner has not exhausted the regular administrative remedies available to him. Since the Railway Labor Act (44 Stat. 577, as amended) is apparently applicable to this matter, the next step which should appropriately be taken by Mr. Hiner is to invoke the jurisdiction of the National Railroad Adjustment Board, which operates under the authority of the Act.

43. The material submitted indicates that Mr. Hiner was dismissed from employment by the Boston and Maine Railroad as a consequence of a union shop agreement entered into on 9 August 1951 between the Railroad and the Brotherhood of Railroad Trainmen, as permitted by the 1951 amendment to the Federal Railway Labor Act. After hearings regarding Mr. Hiner's status under the union shop agreement—which appear to have established that he was not a member of the bargaining union and was subject to dismissal—he applied for and was denied membership in that union. He was discharged with effect from 21 June 1954. An injunction against his dismissal, presumably issued by a federal district court, was dissolved on 13 May 1954 on the ground of the lack of the court's jurisdiction.

44. The procedures for settling disputes in railroad employment involving inter-state commerce operations are set forth in the Railway Labor Act. This Act requires that grievance matters growing out of the interpretation of contracts be negotiated by the parties at successive levels of authority up to the chief operating officer of the carrier involved and then referred by either party, if settlement is not made, to the National Railroad Adjustment Board for final action. There is no showing that Mr. Hiner sought to avail himself of this recourse for review of the action taken by his former employer.

45. The Act of 1951 (Public Law 914, 81st Congress) amended section 2 of the Railway Labor Act by restoring the right to carriers and labour organisations in the railroad industry to enter into agreements for a union shop. These agreements may require as a condition of continued employment that, within 60 days after employment or the effective date of the agreement, whichever is later, all employees in the craft or class represented must become members of the collective bargaining union. Membership, however, must be made available on the same basis to all employees. Further, employment is not to be affected.
if membership is denied or terminated for any reason other than the failure to tender the periodic dues, initiation fees and assessments uniformly required of all members.

46. It is clear from the information submitted that Mr. Hiner did not apply for membership in the bargaining union within the 60-day period, and that he received his initial notice of discharge approximately one year before making such application.

47. The requirements as to union membership in the railroad industry exempt train service and yard employees from the obligation to join the bargaining union if they belong to another union which is "national in scope" on the effective date of the union shop agreement. The phrase "national in scope" is not defined in the Act. Accordingly, controversies have arisen respecting the right of members of particular unions to claim the exemption and be relieved of the obligation to join the bargaining union.

48. Under another section of the Act (section 3), a union must be "national in scope" in order to participate in the selection of labour members of the National Railroad Adjustment Board. The 1951 amendment to the Act authorising union shop agreements, however, is not correlated to the language of section 3. A number of unions have been recognised for many years as meeting the "national in scope" requirement of section 3 pertaining to National Railroad Adjustment Board organisation. The unions which comprise this group are principally those which, by mutual agreement, formed the first selection body when the National Railroad Adjustment Board was established under the authority of the 1934 amendments to the Railway Labor Act. Even this section of the Act, however, does not contain any reference to specific standards for determining the scope of a new union, such as the U.R.O.C., which, according to the Government's information, was formed about 1951.

49. Mr. Hiner implies that the U.R.O.C. is "national in scope" by stating that it "...has been duly certified by the National Mediation Board". It was certified, after elections, as the bargaining union for the craft or class it represents, with two small carriers (the Indianapolis Union Railway with respect to switchmen, and the Western Pacific Railroad Company with respect to brakemen). As the result of a subsequent election, the U.R.O.C. lost representation with the Western Pacific to the Brotherhood of Railroad Trainmen, which was certified as the bargaining union for the craft or class concerned. These certifications, of course, have nothing to do with a determination that the union is "national in scope".

50. In another case, involving the removal of a fireman (Milton P. Hanson) from the service of the Chicago, Burlington and Quincy Railroad Company because he did not maintain membership in the Brotherhood of Locomotive Firemen and Enginemen under the union shop agreement with that carrier effective 16 August 1951, the National Railroad Adjustment Board (First Division, Docket No. 30,074) in its Award No. 16,475 of 13 October 1953 determined that the U.R.O.C., to which Mr. Hanson belonged, was not "national in scope".

51. In the case of Johns v. Baltimore and Ohio Railroad Company (118 F. Supp. 317 (N.D. III Jan. 1954)), a railroad engineer was contending, as Mr. Hiner seems to be, that his union organisation was "national in scope" within the meaning of the 1951 amendment to the Railway Labor Act and that he was therefore exempt from the obligation of joining the union. He also raised a constitutional question with respect of the 1951 amendment to the Act. The court in this case held that it was without jurisdiction to consider matters of this nature until the employee had exhausted his administrative remedies before the National Railroad Adjustment Board. The United States Supreme Court affirmed this decision without an opinion (347 U.S. 964, 17 May 1954).

52. The facts of this case show clearly that no infringement of trade union rights is involved and that the complainant has not exhausted the administrative
remedies available to him. In the view of this Government, the case should be dismissed.

CONCLUSIONS

53. The essential allegations may be summarised as follows. A union shop agreement was concluded—as permitted by the 1951 amendment to the Railway Labor Act, 1926—between the Boston and Maine Railroad and the Brotherhood of Railroad Trainmen, requiring workers, as a condition of continued employment, to join the Brotherhood within 60 days of the date of the agreement or of their engagement, unless they already belonged to another trade union of national scope. The U.R.O.C. claims to be a union of national scope, but that the employers and the Brotherhood will not recognise it as such, that the courts refuse to act in the matter and that the National Railroad Adjustment Board, which claims jurisdiction, is hostile to the complaining organisations. Hence, this union's members cannot retain their employment unless, within the said 60-day period, they join the Brotherhood. Specific reference is made to the case of Mr. Hillard Hiner (the names are given of 127 members whose cases are said to be identical with his). He is said to have applied for membership of the Brotherhood, but this was refused and he was dismissed—contrary to the 1951 amendment (as well as to the agreement), which does not allow dismissal in such circumstances.

54. The Government, dealing with the claim of the U.R.O.C. to be "national in scope", states that this phrase is not defined in the Railway Labor Act, but that a number of unions have been recognised as such in practice for many years (the complaining organisation was formed only about four years ago). Certification as a bargaining agent in respect of certain railroads is no criterion in this connection. The Government refers, however, to an award made in another case by the National Railroad Adjustment Board on 13 October 1953, which declares that the U.R.O.C. is not "national in scope". With respect to the particular grievance of Mr. Hiner, the Government states, on the one hand, that he did not apply for membership in the bargaining union within the stipulated 60 days, and, on the other, that grievances of this nature are required to be negotiated at various levels culminating in settlement by the National Railroad Adjustment Board under the Railway Labor Act, but that there is no evidence that Mr. Hiner availed himself of this recourse. The courts, states the Government, declined jurisdiction in another case of dismissal (on another railroad) under a union shop agreement until the employee concerned in that case had exhausted his administrative remedies before the National Railroad Adjustment Board. The next step, according to the Government, should be for Mr. Hiner to invoke the jurisdiction of this Board.

55. The complaint is embodied in two communications from the U.R.O.C. and also in an individual statement, with respect mainly to his own case, forwarded in substantiation by one of the persons referred to in the complaint of the complaining organisation itself. The Government has seen fit to treat all three communications on the same basis, irrespective of their source, and has commented in detail on the issues raised in all of them.

56. The amendment to the Railway Labor Act, 1926 1, made by Public Law 914 of 10 January 1951 2 is the addition of the following paragraphs to section 2 of the principal Act (as already amended in 1934 3):

Notwithstanding any other provisions of this Act, or of any other statute or law of the United States, or Territory thereof, or of any State, any carrier or carriers as defined in this Act and a labor organization or labor organizations duly designated

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1 I.L.O. Legislative Series, 1926 (U.S.A. 1).
2 Ibid., 1951 (U.S.A. 1).
3 Ibid., 1934 (U.S.A. 1).
and authorized to represent employees in accordance with the requirements of this Act shall be permitted—

(a) to make agreements, requiring, as a condition of continued employment, that within sixty days following the beginning of such employment, or the effective date of such agreements, whichever is the later, all employees shall become members of the labor organization representing their craft or class: Provided, That no such agreement shall require such condition of employment with respect to employees to whom membership is not available upon the same terms and conditions as are generally applicable to any other member or with respect to employees to whom membership was denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership.

(b) to make agreements providing for the deduction by such carrier or carriers from the wages of its or their employees in a craft or class and payment to the labor organization representing the craft or class of such employees, of any periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership: Provided, That no such agreement shall be effective with respect to any individual employee until he shall have furnished the employer with a written assignment to the labor organization of such membership dues, initiation fees, and assessments, which shall be revocable in writing after the expiration of one year or upon the termination date of the applicable collective agreement, whichever occurs sooner.

(c) The requirement of membership in a labor organization in an agreement made pursuant to subparagraph (a) shall be satisfied, as to both a present or future employee in engine, train, yard, or hostling service, that is an employee engaged in any of the services or capacities covered in section 3, First (h) of this Act defining the jurisdictional scope of the First Division of the National Railroad Adjustment Board, if said employee shall hold or acquire membership in any one of the labor organizations, national in scope, organized in accordance with this Act and admitting to membership employees of a craft or class in any of said services; and no agreement made pursuant to subparagraph (b) shall provide for deductions from his wages for periodic dues, initiation fees, or assessments payable to any labor organization other than that in which he holds membership: Provided, however, That as to an employee in any of said services on a particular carrier at the effective date of any such agreement on a carrier, who is not a member of any one of the labor organizations, national in scope, organized in accordance with this Act and admitting to membership employees of a craft or class in any of said services, such employee, as a condition of continuing his employment, may be required to become a member of the organization representing the craft in which he is employed on the effective date of the first agreement applicable to him: Provided, further, That nothing herein or in any such agreement or agreements shall prevent an employee from changing membership from one organization to another organization admitting to membership employees of a craft or class in any of said services.

(d) Any provisions in paragraphs Fourth and Fifth of section 2 of this Act in conflict herewith are to the extent of such conflict amended.

57. Section 3 of the 1934 amendment to the Railway Labor Act establishes a National Railroad Adjustment Board. Paragraph (i) of section 3 reads as follows:

(i) The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes.

58. The position is that a system of union security exists in the Maine and Boston Railroad in favour of the Brotherhood of Railroad Trainmen and employment is denied to all except those who become members of the Brotherhood or who are members of other organisations “national in scope”.
59. The Committee decided in a previous case\(^1\) that it was not called upon to express an opinion on union security arrangements. The Committee was guided, in reaching this conclusion, by the fact that the International Labour Conference Committee on Industrial Relations in 1949 expressed in its report\(^2\) to the 32nd Session of the Conference the view—accepted by the Conference when it adopted the report—that the Right to Organise and Collective Bargaining Convention (No. 98), 1949, "could in no way be interpreted as authorising or prohibiting union security arrangements, such questions being matters for regulation in accordance with national practice".\(^3\)

60. In the present case, the issue is complicated by the fact that it is alleged that, in two respects, there is discrimination against the complaining organisation and its members—in particular, Mr. Hiner—as the result of actions which are contrary to the union shop agreement and to the law authorising that agreement to be made: the refusal to admit members of the complaining union to employment as members of an organisation of national scope, and the denial to them (all cases are said to be "identical" with that of Mr. Hiner) of membership in the union in whose favour the union security arrangements operate.

61. It would appear from the 1934 amendment to the Railway Labor Act that the National Railroad Adjustment Board is competent to handle disputes arising out of grievances or out of the interpretation of agreements. There is no evidence that the members of the union concerned in this case have applied to the Board on the issue that the union is an organisation of national scope, but the Government refers to one case, involving another railroad, in which the Board has ruled that the U.R.O.C. is not of national scope.

62. While considering that, where union security arrangements operate and require membership of a given organisation as a condition of employment, there might be an unfair discrimination if unreasonable conditions were to be attached to persons seeking such membership, the Committee observes that the union shop agreement in this case, in accordance with the law authorising it to be made, provides that, if application is made in a stated period of 60 days, the condition of membership will not be a condition of employment for employees to whom membership is not available upon the same terms and conditions as are generally applicable to any member or for employees whose membership of the Brotherhood has been denied or terminated for any reason other than failure to pay various union fees and contributions. It would appear that Mr. Hiner did not apply for membership within the stipulated period (he was an employee when the union shop agreement was made in August 1951 and he applied for membership in May 1954). He now contends that he has been refused membership for some reason unknown to him—according to the Government, for not applying within the stipulated 60 days—and claims that, the refusal not being the result of failure to pay moneys due to the union, he should benefit from the provision against dismissal in such cases. The case he cites of a worker being refused membership because he did not join a legal strike, with the result that he could not be dismissed, cannot be assimilated to that of Mr. Hiner, because the refusal of membership was not due to failure to comply with the main provision in the agreement (and in the law) as to time-limits for applications. The real issue in Mr. Hiner's case would seem to be whether the refusal of membership to him was wrongful in terms of the union shop agreement and of the enactment permitting it to be made. This is an interpretational dispute which, it would appear from the provision in section 3 of the Railway Labor Act cited in paragraph 57 above, should be taken before the National Railroad Adjustment Board, with the possibility of subsequent action in the courts.

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\(^3\) Ibid., p. 468.
63. In these circumstances, the Committee considers that there is nothing in these various interpretational issues which should cause it to take any other view than that the case revolves around the operation of union security arrangements with which, for the reasons mentioned in paragraph 59 above, it has not thought it appropriate to deal in the present case, particularly since with respect to the outstanding issues in the case, appropriate national remedies would appear to exist.

64. In these circumstances, the Committee recommends the Governing Body to decide that the case does not call for further examination.

Case No. 115:
Complaint Presented by the Trade Union International of Transport, Port and Fishery Workers (W.F.T.U.) against the Government of Greece

ANALYSIS OF THE COMPLAINT

65. The complainant alleges that, despite his alarming state of health, Mr. Antonis Ambatielos, Secretary-General of the Federation of Greek Seamen, who is now serving a sentence of life imprisonment, has been transferred to the penitentiary at Corfu, the most humid of state penitentiaries.

ANALYSIS OF THE REPLY

66. In its reply dated 2 January 1955, the Government states that it pertains to the competent government services to decide on the transfer of any person who has been convicted under the Penal Code, and that this question has no connection whatsoever with the application of the principles of freedom of association. It states that, together with other persons, Mr. Ambatielos was condemned for having committed acts contrary to the interests of the State and falling in the domain of penal law, and that the Committee on Freedom of Association has decided that this matter does not come within the purview of freedom of association.

67. The Government nevertheless furnishes a copy of a letter addressed by the Ministry of Justice to the Ministry of Labour, from which it appears that Mr. Ambatielos was transferred from the Kalamoki penitentiary in Crete to the Corfu penitentiary by reason of repairs being done at the penitentiaries in Crete. It emphasises that Mr. Ambatielos himself had expressed a desire to this effect and it indicates that there exists in Corfu a general hospital in which several ailing convicts have been accommodated. The Government affirms that all facilities would be available to the convict if he were found in need of hospitalisation, since the present regulations are applied in the same manner to all the convicts and cases of hospitalisation are examined in a liberal spirit. In support of this affirmation, the Government states that in Athens there is a special hospital for convicts and that 40 of the 50 beds in it are now occupied by Communists who have been transferred from different state penitentiaries. The same treatment is reserved for Mr. Ambatielos if the need therefor arises.

CONCLUSIONS

68. In its Sixth Report, the Committee examined a number of allegations relating to the prosecution and conviction of trade union leaders, including Mr. Ambatielos, and, considering the observations made by the Government showing that the persons concerned were condemned by the military court of
Athens following a procedure held freely and publicly and after long deliberations, as a result of which it was established that they had conspired with a view to detaching a portion of Greek territory and had contributed towards the accomplishment of this project, it concluded that the allegations, being of an essentially political character, did not call for further examination. The Committee also took note with satisfaction of the measures of clemency taken by the Government, by virtue of which the death sentences were commuted in most cases to life imprisonment and in certain cases to temporary confinement.

69. In these circumstances, the Committee recommends the Governing Body to decide that this case does not call for further examination.

CONCLUSIONS CONCERNING THE CASES RELATING TO FRANCE-MOROCCO, THE UNION OF SOUTH AFRICA, THE UNITED KINGDOM-SOUTHERN RHODESIA, GUATEMALA AND PAKISTAN

Case No. 16:

Complaints Presented by the General Union of Confederated Trade Unions of Morocco, the World Federation of Trade Unions, the International Confederation of Free Trade Unions and Other Trade Union Organisations against the Government of France (Morocco)

70. At its 124th Session (Geneva, March 1954), the Governing Body, when adopting the Twelfth Report of the Committee on Freedom of Association, approved the recommendations submitted to it by the Committee with respect to several complaints presented by various trade union organisations against the Government of France with regard to the trade union situation in Morocco.

71. In accordance with these recommendations, the Governing Body decided that certain of the allegations formulated in these complaints did not, subject to the observations contained, in particular, in paragraphs 397, 398 and 406 of the Report, call for further examination. With regard to other allegations relating to the non-recognition of certain trade union rights of Moroccan workers, the Governing Body took note of the interim report of the Committee, it being understood that the Committee would report further on the matter when it had received information awaited from the French Government with respect to the introduction of a new trade union régime in Morocco.

72. In a letter dated 16 February 1955, the French Government transmitted the following information to the Director-General.

73. The study of the reform of trade union legislation in Morocco has been actively pursued. The granting of the right to organise to Moroccans is, in fact, one of the elements in the programme of reform which the French Government particularly desires to see applied in Morocco. However, developments in the situation in North Africa have obliged the Government temporarily to postpone the measures contemplated. But it should be remembered that, by reason of the tolerance which the French Government has asked the Resident-General to exercise, Moroccans are able in fact, if not in law, to join the trade unions at present established in Morocco in the same way as Frenchmen. The Government considers that, by being brought into contact with their French comrades in this way, Moroccans may, at the present time, gain experience of a trade union movement devoid of any spirit of xenophobia, pending the legal recognition of their right to organise in the near future.


74. In these circumstances, the Committee recommends the Governing Body:

(1) to draw the attention of the French Government to the need for promulgating in Morocco legislation ensuring the exercise of full trade union rights by the Moroccan workers, in conformity with the principles laid down in the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, including particularly that is, the right to form trade unions, national unions and national centres of their choice, and to elect freely their representatives on the governing bodies of these organisations;

(2) to note the information given by the Government with regard to the freedom accorded in fact to the Moroccan workers to join the trade unions at present established in Morocco and belonging to national centres in the metropolitan country;

(3) to recommend the Government, pending the promulgation of legislation on the question, to accord to Moroccan workers in fact freedom to form trade union organisations of their choice;

(4) to express the wish that it may be kept informed as to the results of the efforts being pursued by the Government with a view to ensuring that Moroccan workers will, as soon as possible, be accorded the right to organise in full freedom;

(5) to consider the question again when the Committee has received further information in this connection from the French Government.

Case No. 102:

Complaints Presented by the World Federation of Trade Unions and the International Confederation of Free Trade Unions against the Government of the Union of South Africa

ANALYSIS OF THE COMPLAINTS

Complaint Presented by the World Federation of Trade Unions

75. The complaint presented by the World Federation of Trade Unions is contained in a communication addressed on 20 March 1954 to the Secretary-General of the United Nations and transmitted by him to the Director-General of the I.L.O., and in a communication addressed to the Director-General on 24 July 1954 in further substantiation of the original complaint. The complainant makes the following allegations.

Allegations regarding the Suppression of Communism Act, 1950, as Amended in 1951.

76. The complainant declares that 53 trade union officers have so far been removed from their offices by the administrative authorities, 39 of them having been prohibited from attending public meetings or performing any office whatsoever in a trade union organisation. In particular, according to the complainant, seven trade union officers—Messrs. I. Wolfsen, R. Fleet, J. D. du Plessis, J. J. Marks, M. T. Gwala, I. E. Bhoola and M. A. Müller—have been the subject of orders similar to that made in the case of Mr. E. S. Sachs, General Secretary of the Garment Workers' Union, concerning whom the complainant has already protested on an earlier occasion, calling upon them to resign from their trade unions within 30 days, prohibiting them from attending any

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meetings other than religious, social or recreational assemblies, placing travel restrictions upon them and calling on them to resign from other organisations to which they belonged. The names are also given of 16 other trade union officials alleged to have been ordered to resign from their offices and to have been prohibited from attending any meeting for a period of two years. The South African Trades and Labour Council, especially, has suffered as a result of these measures.

Allegations regarding the Position of African Trade Unions and the Rights of African Workers under the Native Labour (Settlement of Disputes) Act, 1953.

77. The 1953 Act deprives African workers, under pain of severe penalties, of the right to strike or to participate in sympathetic strikes. The machinery for settling disputes set up under the Act excludes African trade unions established under the Act from all instances dealing with disputes and will aggravate disputes and cause hardship to African workers. This exclusion means the non-recognition of the legal status of the African trade unions and a deliberate abrogation of the right of association—a purpose alleged to have been confirmed in a speech made by the Minister of Labour, in which he is reported to have stated that “...if direct official recognition were to be accorded to Native unions, this would be regarded as a powerful encouragement...” In addition, African workers cannot bargain collectively. They were already excluded from deliberations held pursuant to the Industrial Conciliation Act, 1937, and under the 1953 Act, the Central Native Labour Board is created with power to recommend the revocation of industrial agreements and to fix rates of wages lower than those agreed between employers and workers. Native labour boards have to be convened by the industrial councils, which can therefore intervene in the negotiations, from which the African workers are excluded.

Allegations relating to the Infringement of the Rights of Workers Other than Africans by the Native Labour (Settlement of Disputes) Act, 1953.

78. The powers of the Minister under this Act enable him to apply orders made under it in the case of workers other than Africans. The Act, therefore, not only constitutes a refusal of the right of African workers to organise and to bargain, but legalises attacks on the trade union rights of other workers who enjoy certain freedoms under the Industrial Conciliation Act, 1937.

Allegations concerning Proposed Amendments to the Industrial Conciliation Act, 1937.

79. A proposed amendment to the Act will legalise trade union segregation and give the Minister of Labour the fullest powers to decide which occupations shall be followed by the different races inhabiting the Union of South Africa. The W.F.T.U. states that section 77 of the Bill provides—

Whenever it appears to the Minister that measures should be taken in order to safeguard the economic welfare of employees of any race, he may, by notice in the Government Gazette, make a determination that, as from a given date and in any area specified by him, employment in any undertaking, industry, trade or occupation shall be reserved for persons of a specified race. In defining the nature of the work to be performed by employees of a specified race, the Minister may have recourse to any method of differentiation or discrimination as may seem to him desirable.

This provision, in conjunction with the powers to extend the application of orders made under the Native Labour (Settlement of Disputes) Act, 1953, would enable the Minister to dictate the wages and conditions of employment of all workers.

Allegations regarding the South African Railways Administration.

80. It is alleged that the Railways Administration has established a trade union under its domination, has imposed a compulsory check-off in favour of this
organisation, has punished workers who have protested and has refused to have any dealings with the older South African Railways and Harbours (Non-European) Workers' Union. It is stated that several leaders and members of the latter union, including its National President and Vice-President and members of its national executive, were summarily dismissed during 1953, although some of them had worked on the railways for a great many years. In every case the dismissal was ordered by the Office of the Director-General in Johannesburg, the local directors never having recommended a dismissal or complained about the work of the persons concerned. It is contended that they were dismissed because of their trade union activities and in order to impede the functioning of their trade union organisation.

**Allegations concerning the Wolseley Fruit Canning Factory.**

81. Since 1951 the employers had dismissed workers who had tried to set up a trade union in the factory. In August 1953, however, a union was set up which sought to ensure the application in the undertaking of the collective agreement adopted for the industry as a whole. On 22 December 1953, the employers locked out the workers and dismissed three—Margreta Bastiaan, Rachel Williams and Anne McKenzie—who were active trade unionists. Over 300 workers, in protest, stopped work in January 1954. Three hundred and eighty workers, including women and children under 16 years of age, were arrested by the police, 284 still being in prison when the complaint was presented. It is contended that the Government, by police repression, helped the employers to destroy any trade union in the undertaking.

**Allegations concerning the Natal Spinners (Pty.), Ltd.**

82. Detailed wage statistics are given with respect to workers employed by the Natal Spinners (Pty.), Ltd., showing, it is alleged, that the Minister has already used his powers under the 1953 Act to reduce the wages of the African workers and to imprison those who went on strike in protest. It is alleged that workers were deported from Ladysmith, where their families lived, to a point close to the factory.

**Complaint Presented by the International Confederation of Free Trade Unions**

83. The complaint presented by the International Confederation of Free Trade Unions is contained in a communication addressed to the Director-General on 1 June 1954. The complainant makes the following allegations.

**Allegations regarding the Suppression of Communism Act, 1950, as Amended in 1951.**

84. Under this Act, more than 50 trade union leaders or officers have been banned from all trade union activity for having been, at some time or other, members of a "Communist organisation" or for having advocated, advised, defended or encouraged the achievement of any of the objects of communism or for having committed any act or omission calculated to further the achievement of any such object. The Minister of Justice alone is competent to determine whether a person is a Communist or not. No regular legal proceedings are provided for. Even if the Act can be considered a political measure, it allows the Government to interfere directly in the activities of trade unions, thus endangering their very existence. Provisions in the Act authorising the Government to declare trade union organisations unlawful and to deprive individuals of their right to become members of a trade union are contrary to the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, and, in particular, to Articles 2, 3 and 4 thereof. The fact that such decisions are taken by an arbitrary act of authority, without recourse to
regular legal proceedings, constitutes an aggravating circumstance. The complainant asks the Governing Body to recommend the Government to amend the Act in conformity with Convention No. 87, in particular, so that the Government can no longer declare any trade union organisation unlawful or order any trade union office-bearer or officer to resign his trade union office.

**Allegations regarding the Position of African Trade Unions and the Rights of African Workers under the Native Labour (Settlement of Disputes) Act, 1953.**

85. African workers are excluded from the scope of the Industrial Conciliation Act, 1937, which means that they cannot form and register unions under that Act so that they become legally recognised as agents for collective bargaining, and that they cannot become members of unions legally recognised under the Act. The industrial relations of African workers are governed by the Native Labour (Settlement of Disputes) Act, 1953. The procedure laid down in this Act for the settlement of disputes ignores the trade union rights of African workers. The fact that the 1937 Act does not apply to African workers is contrary to the I.L.O. Constitution and the Declaration of Philadelphia. All the provisions of the Native Labour (Settlement of Disputes) Act are contrary to the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, and especially to Articles 2, 3 and 4 thereof, and to the Right to Organise and Collective Bargaining Convention (No. 98), 1949, and especially to Article 4 thereof. The complainant asks the Governing Body to request the Government to consent to the case being referred to the Fact-Finding and Conciliation Commission and, as a secondary consideration, to recommend the Government to amend the Industrial Conciliation Act, 1937, so that its scope may extend to African workers, and to repeal *in toto* the Native Labour (Settlement of Disputes) Act, 1953.

**Allegations relating to the Infringement of the Rights of Workers Other than Africans by the Native Labour (Settlement of Disputes) Act, 1953.**

86. Orders made under this Act setting out working conditions for African workers can be extended to other workers covered by the Industrial Conciliation Act, 1937, and, in this way, can supersede the collective agreements negotiated by such other workers, thus constituting a clear violation of their collective bargaining rights.

**ANALYSIS OF THE REPLY**

87. In its reply dated 17 December 1954, the Government of the Union of South Africa presents the following observations.

**Question as to Competence**

88. The Government refers to its earlier statements to the effect that, in setting up the Fact-Finding and Conciliation Commission on Freedom of Association to consider allegations of infringements of trade union rights, the Governing Body and the International Labour Conference exceeded their competence. The Government maintains that the I.L.O. has set up machinery for the implementation of obligations which do not legally exist. Such obligations could only come into being by means of an international Convention, and even then the obligations would be limited to those States which ratified such a Convention. If additional machinery for the protection of trade union rights is considered essential, such machinery should be established by a constitution-

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ally adopted amendment to the Constitution of the I.L.O. The Government then recalls that it has already referred to the support given to its contention by the Permanent Court of International Justice and the Working Group of the Commission on the Implementation of the Human Rights Covenant.¹

89. The Government declares that a new constitutional aspect has been introduced by the fact that the International Confederation of Free Trade Unions alleges that all the provisions of the Native Labour (Settlement of Disputes) Act, 1953, are contrary to the principles contained in the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948 (in particular, Articles 2, 3 and 4) and the Right to Organise and Collective Bargaining Convention (No. 98), 1949 (in particular, Article 4). Under the I.L.O. Constitution, states the Government, member States are entirely free to ratify or not to ratify Conventions. If a member State has ratified a Convention and fails to carry out the obligations undertaken, the situation is to be dealt with according to Articles 23 to 34 of the Constitution, but a member State which has not ratified a particular Convention is free to decide for itself whether it would be in the interests of its peoples to bring its legislation into line with the provisions of the Convention. As the Union of South Africa has not ratified Conventions Nos. 87 and 98, the Government regards allegations made against it on the basis of the provisions of those Conventions as irrelevant.

90. Although it does not consider itself under any obligation to comply with the fact-finding and conciliation procedure, the Government, without deviating from the attitude which it has adopted, desires, in the interests of clarity, to record certain observations on the allegations made.

Allegations regarding the Suppression of Communism Act, 1950, as Amended in 1951

91. The Government states that it has already commented on the scope and operation of this Act in a previous case, that the question has already been dealt with by the Committee in its Twelfth Report ² and that it therefore considers it unnecessary to make further comments.

Position of African Trade Unions

92. Legislation in the Union does not bar the formation of trade unions by Native workers, nor are Native workers barred from negotiating private agreements with their employers. Experience has shown, however, that Native trade unions do not operate satisfactorily. Other means had therefore to be devised to ensure fair wages and conditions of employment to Native workers, and this led to the passing of the Native Labour (Settlement of Disputes) Act, 1953.

Native Labour (Settlement of Disputes) Act, 1953

93. The Industrial Conciliation Act, 1937, provided for the formation of industrial councils to negotiate agreements for a given undertaking, industry, trade or occupation. An employer or group of employers, a registered employers' organisation, a group of one or more employers and one or more registered employers' organisations could, together with any registered trade union or a group of registered trade unions, form an industrial council.

94. The purpose of the above-mentioned provisions of the Industrial Conciliation Act, 1937, was to permit of one agreement being negotiated to cover all the workers in an industry, even if some of them were not directly represented on


² Ibid., paragraphs 257-276, pp. 244-252.
the industrial council. In practice, the workers belonging to trade unions therefore negotiated (through their trade unions on the council) conditions of employment applicable also to other workers (including Native workers) not belonging to trade unions.

95. In order to ensure that the interests of these "non-represented" workers were not overlooked, section 27 (9) of the Act provided that an inspector (a government official) could attend the meetings of an industrial council and take part in the proceedings whenever the interests of workers not directly represented were discussed.

96. The system outlined above was not considered entirely satisfactory. The inspector could, for example, be regarded as merely a mouthpiece of the Government. Furthermore, he could not, apart from representations, influence the final decision. If the agreement finally negotiated did not, in the opinion of the authorities, give reasonable protection to the unrepresented workers, the only action that could be taken was to decline to give the force of law to the negotiated agreement.

97. It will be seen from the above that the trade unions which negotiated these agreements firstly negotiated on behalf of their own members (European, Coloured and Asiatic) and, secondly, included in their collective agreements conditions for workers not represented, save through a government inspector.

98. In order to improve the position of the non-represented workers, the Native Labour (Settlement of Disputes) Act was passed in 1953.

99. The passing of this Act did not change the primary function of the trade unions, i.e. the negotiation of collective agreements on behalf of their own members. It did, however, change the position regarding negotiation on behalf of non-represented members, i.e. Native workers.

100. Section 7 of the Act requires the employer to notify the labour officer—a government official—should his Native workers wish to form a works committee. The labour officer then assists the Native workers in the calling and holding of a meeting to elect a works committee from the ranks of these workers. The works committee, through its office-bearers, who are all Natives, manages its own affairs and becomes the mouthpiece of the workers. It is through this committee that the other organs set up under the Act, and to which reference is made in the succeeding paragraphs, ascertain the wishes of the Native workers.

101. The Act further provides for the appointment of regional committees, each consisting of a European chairman and not less than three Natives appointed by the Minister of Labour to represent the interests of Native workers.

102. The Act also provides for the establishment of a Central Native Labour Board under a chairman appointed by the Minister. The remaining members are appointed by the Minister after consultation with the regional committees. These persons must, in the opinion of the Minister, be competent to represent the interests of the employees.

103. The purpose of the regional committees is to assist in solving disputes. A regional committee is required to consult any works committee that may be involved in such a dispute. If the regional committee fails to settle the dispute, the matter is referred to the Central Native Labour Board.

104. If the Central Native Labour Board also fails to find a solution, the dispute may be referred to the Wage Board, a standing body representing neither employers nor employees. The Minister is obliged, under the Act, to make an order in terms of the Wage Board's recommendation.

105. The Native Labour (Settlement of Disputes) Act does not interfere with the right of industrial councils to negotiate agreements covering all workers
in a particular industry. It does, however, improve the position as far as non-represented workers (Native workers) are concerned.

106. Under the existing arrangements, the Central Native Labour Board (which keeps in touch with the regional committees concerned) may attend meetings of an industrial council and take part in the proceedings in so far as they affect Native workers. If, in the opinion of the Board, an agreement negotiated for an entire industry contains satisfactory conditions for the non-represented workers, the agreement is published and is given the force of law as heretofore. If the Board is not satisfied with the conditions, the agreement can still be published, but the conditions affecting the non-represented workers are referred to the Wage Board, which can recommend to the Minister fair and reasonable conditions, which would then be applied to the non-represented workers. The Wage Board cannot, however, alter the conditions which the industrial council has negotiated on behalf of the members of the trade unions. It must be emphasised, therefore, that the Native Labour (Settlement of Disputes) Act, 1953, does not in any way affect the right of trade unions to bargain in respect of their own members. The Act merely introduces a safeguard as to what conditions the industrial council can include in respect of workers who are not members of trade unions.

107. Through the new machinery provided by the Act it has become possible to ascertain with a greater degree of accuracy the wishes of the Native workers.

108. In the foregoing paragraphs, the scope and operation of the Native Labour (Settlement of Disputes) Act have been outlined. The W.F.T.U. appears, however, to have based some of its allegations on the wording of a draft Bill, which differs in some instances from the Act as finally passed.

109. As regards the general nature of the Act, the W.F.T.U. alleges that it discriminates against Native workers in so far as the right to strike is concerned. It should be emphasised, however, that strikes have for many years been prohibited in certain essential services, and this prohibition applies to all employees, Europeans and non-Europeans alike. In lieu thereof, these workers enjoy the benefits of compulsory arbitration. Since Native workers, especially the lower-paid categories, could readily be replaced from the large reservoir of available Native labour, it is unlikely that any real benefit would accrue to these workers from the right to strike.

110. It has been publicly stated that the Native Labour (Settlement of Disputes) Act is in the nature of an experiment. Experience may show that it requires some revision. It has only recently come into operation, and the Central Native Labour Board has dealt with the first dispute involving a large number of Native workers. Its intervention has resulted in an agreement being reached between the large body of Native workers and the employers concerned with benefit to the workers involved.

111. It is quite possible that unscrupulous agitators will endeavour to cause unrest by attacking and misrepresenting this legislation, but it is hoped that responsible persons will view it objectively and realise its true merit.

Allegations concerning Proposed Amendments to the Industrial Conciliation Act, 1937

112. The proposed amendments are still the subject of consideration and, until they become law in their present or a revised form, the Government considers that no comments can be offered.

Allegations regarding the South African Railways Administration

113. Prior to 1944 there existed a number of bodies purporting to represent the same groups of non-European staff of the Railways Administration. This
resulted in overlapping and in divergent representations being received by the Administration from the various unions and organisations. In order to overcome this unsatisfactory position, an investigator was appointed to inquire into and report upon the best form of staff representation for the non-European employees of the Administration. After consideration of the report of the investigator, meetings were arranged between the Minister of Transport and representatives of non-European railway workers throughout the Union and South-West Africa. The outcome was that the existing organisations grouped themselves into associations, which were then recognised as the only bodies competent to negotiate with the Administration on behalf of the respective groups which they represented. There are at present ten staff associations, representative of each of the nine railway system areas in the Union and South-West Africa and of the catering department. These associations can freely submit grievances and put forward claims on behalf of the staff.

114. Each association drew up its own constitution, which was subsequently accepted by the Railways Administration.

115. Each constitution provides for the establishment of branch committees at centres where there are more than 25 members. Each committee elects a chairman, vice-chairman, honorary secretary and six other members. Each association has a congress, consisting of delegates sent by the branch committees. The congress is the supreme authority of the association, and decides what action should be taken in pursuit of the aims and purposes set out in the association's constitution. When congress is not in session, an executive committee, elected by congress, sits on its behalf. The executive committee appoints a full-time general secretary and organiser, who is directly responsible to the committee.

116. The activities of the different associations are co-ordinated by a joint committee, on which each association is represented by two delegates and its secretary-general. This joint committee meets once a year, when matters of general interest are discussed.

117. In order to assist staff associations in the collection of monthly subscriptions, stop-order facilities, through pay-sheets, are granted. No subscriptions are deducted from workers' wages unless such workers have voluntarily signed stop orders indicating that they have applied for membership of one of the staff associations. The general secretary of each staff association is responsible for the enrolment of new members and the stop orders signed by members are countersigned by two witnesses. The Administration is not aware of any dissatisfaction on the part of the staff with this system of collecting the monthly subscriptions.

118. As the staff associations are the only bodies recognised as competent to negotiate on behalf of the personnel, the Administration cannot consider representations made by any other body. Consistent with this policy, the Administration refuses to have any dealings with the South African Railways and Harbours (Non-European) Workers' Union.

119. In regard to the representations in connection with the dismissal of certain leaders and members of the South African Railway and Harbours (Non-European) Workers' Union, it was established that the non-Europeans concerned took active part in undesirable activities. The Administration, as their employer, was not prepared to countenance their action, and their services were therefore terminated after they had been given the legal notice of such termination of services.

Allegations concerning the Wolseley Fruit Canning Factory

120. The facts in this case, states the Government, are completely at variance with the impression which the allegations seek to convey.
121. In terms of the Industrial Conciliation Act, all strikes are prohibited until the conciliation machinery provided for in the Act has first been used in an attempt to settle whatever dispute has arisen between workers and employers. The workers at this factory were well aware of the position. Their trade union had for some time been negotiating with their employer and, on reaching a deadlock, had applied to the Minister of Labour for the appointment of a conciliation board to consider and, if possible, to settle the matters in dispute. This is the normal procedure for negotiating a collective agreement with a view to its ultimate publication and enforcement by the Department of Labour, and had frequently been used by this trade union in the past with very satisfactory results.

122. On 16 October 1953, the Minister approved the appointment of a conciliation board. The negotiations subsequently initiated by the board resulted in the conclusion of an agreement between the trade union and the employer on 19 February 1954. On 14 December 1953, while the board was in session and the negotiations still proceeding, approximately 442 of the 860 employees in the factory staged a strike. Some of their trade union officials, however, arrived at the factory and persuaded the employees to return to work. The trade union made some vague allegation that this occurrence constituted a lockout, but never attempted to substantiate this allegation. As nothing unusual happened at the factory on 22 December 1953, it is assumed that the allegation about a lockout on 22 December refers to the incident which occurred on 14 December.

123. The canning industry is a seasonal one, and the canning of apricots came to an end shortly after the incident referred to above. As a seasonal measure, the services of a substantial proportion of the workers had to be terminated. Together with those of a large number of other workers, Margreta Bastiaan's services were terminated on 27 December 1953, and Rachel Williams' employment ceased on 5 January 1954. On 8 January 1954, Anne McKenzie was dismissed with a week's notice for neglect of duty.

124. At the commencement of the peach-canning season shortly afterwards, the employer refused to re-engage the first two named workers. This refusal and the dismissal of Anne McKenzie apparently caused the strike on 19 January 1954. On this occasion, 265 employees stayed away, while 386 remained at work. Although it was pointed out to the strikers that their action was illegal, they persisted in their refusal to return to work, and on 20 January 1954 the employer exercised his legal rights and formally dismissed all the strikers. On 21 January, in spite of warnings, they returned to the employer's premises in company with other persons, refused to leave when called upon to do so, and were eventually arrested and charged with trespassing. The number arrested was 380, as stated in the Federation's complaint, but it is not known how many of the original 265 strikers were included in this number. It is clear, however, that many of those arrested and charged with trespassing were sympathisers and not employees of the Wolseley Fruit Canning Factory. No children under 16 years of age were arrested, and by 4.30 p.m. on the same afternoon 96 females, the majority of whom were under 19 years of age, had been released on bail. The remaining 284 were detained at Kluitjeskraal, but by 7 p.m. on the following day, i.e. 22 January 1954, they had all been released. Any action subsequently taken against these persons for trespassing was in the ordinary course of law.

Allegations concerning the Natal Spinners (Pty.), Ltd.

125. The present proprietor of this concern only acquired the business on 1 February 1954, and as the whereabouts of the previous proprietor are not known, it is impossible to obtain full particulars about the conditions of employment which were in force before this date. It has, however, been ascertained
that there is no truth in the allegation that workers were deported from Lady-smith and put to work at the factory in Pinetown.

126. The present employer found it economically impossible to continue paying the same wages as his predecessor, and eventually terminated the services of all the employees in the spinning department. The discharged employees were offered new contracts, which were accepted by the majority. The re-engaged employees, however, soon demanded wage increases. Some of these demands were acceded to, with a resulting increase in the cost structure. As the factory was again running at a loss, the owner informed the employees that he would not be able to grant any further increases in wages unless there was an increase in production. The employees thereupon went on strike in contravention of the law. Legal action was therefore taken against them. On the day appointed for the trial, the attorney for the defence failed to appear and, as a result, the defendants had to find bail. Those who could not offer bail had to be detained. Six were detained for one day, ten for two days and 22 for three days. It must be emphasised, however, that the inconvenience caused to the defendants was a direct result of the failure of their attorney to appear in court on the appointed day.

127. It will be seen from the foregoing that only the employer and his employees were involved in the dispute. The workers placed themselves in the wrong by not availing themselves of the machinery for the settlement of disputes provided under the Native Labour (Settlement of Disputes) Act, 1953. By making use of the established machinery, they have every chance of obtaining conditions of service which are fair and equitable to all concerned.

CONCLUSIONS

*Question as to Competence*

128. With respect to the issue raised on the question of the competence of the I.L.O. to establish the fact-finding and conciliation procedure, the Committee reaffirms the statement it made in an earlier case relating to the Argentine Republic (Case No. 12)¹ and repeated in the previous case relating to the Union of South Africa (Case No. 63)² that, in view of the decision taken on this matter by the International Labour Conference at its 33rd Session in 1950, it considers that it is not called upon to examine further the question of the competence of the I.L.O. to establish this procedure.

129. The Government contends that a new constitutional issue is raised by the fact that the I.C.F.T.U. bases certain of its allegations on a number of the provisions of Conventions Nos. 87 and 98, the Government not having ratified these Conventions and not therefore being legally bound by their provisions. For these reasons the Government considers the allegations to be irrelevant.

130. The Committee considers it appropriate to point out that the Declaration of Philadelphia, which now constitutes an integral part of the Constitution of the International Labour Organisation and in which the aims and purposes set forth are among those for the promotion of which the Organisation exists in virtue of Article 1 of the Constitution, as amended in 1946, recognises "... the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve ... the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the


collaboration of workers and employers in the preparation and application of social and economic measures". The Declaration affirms that the principles set forth therein "...are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples which are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world".

131. In these circumstances, the Committee considers it appropriate that it should, in discharging the responsibility to promote these principles which has been entrusted to it, be guided in its task, among other things, by the provisions relating thereto approved by the Conference and embodied in the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, and the Right to Organise and Collective Bargaining Convention (No. 98), 1949, which afford a standard of comparison when examining particular allegations, more particularly as Members of the Organisation have an obligation under Article 19 (5) (e) of the Constitution to report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in unratified Conventions, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Conventions. The Government of the Union of South Africa is one of the governments which have complied with this obligation at the request of the Governing Body in respect of the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948. The Committee therefore considers that, while recognising that the provisions of the Conventions are not binding upon the Union of South Africa, it should examine the allegations relating to these Conventions made in the present case with a view to ascertaining the facts and reporting them to the Governing Body.

132. The Committee notes with satisfaction that the Government, while maintaining its express reservations as to the competence of the Committee, has nevertheless seen fit to present its observations on the substance of the complaints.

**Allegations relating to the Suppression of Communism Act, 1950, as Amended in 1951**

133. Both complainants declare that over 50 trade union leaders have been banned from all trade union activity. The I.C.F.T.U. refers to the fact that such decisions are taken by administrative authority without due process of law and states that, even if the Act can be regarded as a political measure, it allows the Government to interfere directly in the activities of trade unions. In particular, the I.C.F.T.U. criticises the provisions allowing the Government to declare trade union organisations unlawful and to deprive individuals of their membership rights as being contrary, especially, to Articles 2, 3 and 4 of the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, and asks the Governing Body to recommend the Government to delete these provisions. The W.F.T.U., in its complaint, names various persons among those alleged to have been called upon to resign from their trade union offices. These include Messrs. J. J. Marks, I. Wolfsen, R. Fleet and J. D. du Plessis, whose names were also quoted in the previous case (Case No. 63) presented by the W.F.T.U. against the Government of the Union of South Africa.¹

134. The Government states that it has nothing to add to the comments which it made when the question of the operation of the Suppression of Communism Act was previously considered by the Committee.

135. The Committee considers that, while the complaint of the W.F.T.U., in particular, gives the names of further persons affected by the exercise of the Government's powers under the Suppression of Communism Act, the allegations now made are substantially similar to those considered in Case No. 63.

136. In that case, recalling the principles which it had expressed in two earlier cases in connection with the application of measures which, though of a political nature and not intended to restrict trade union rights as such, might nevertheless affect the exercise of trade union rights, the Committee concluded—

In so far as the South African Act of 1950 was enacted, as the Government contends, purely for a political reason, namely that of barring Communists in general, as citizens, from all public life, the Committee considers that the matter is one of internal national policy with which it is not competent to deal and on which it should therefore refrain from expressing any view. However, in view of the fact that measures of a political nature may have an indirect effect on the exercise of trade union rights, the Committee wishes to draw the attention of the South African Government to the views which it has expressed in the above cases with regard, first, to the principle that workers, without distinction whatsoever, should have the right to join organisations of their own choosing and, secondly, to the importance of due process in cases in which measures of a political nature may indirectly affect the exercise of trade union rights. Consequently, the Committee recommends the Governing Body to communicate the above conclusions to the Government of the Union of South Africa.

137. In these circumstances the Committee reaffirms in the present case the conclusions which it reached in connection with similar allegations in Case No. 63 and recommends the Governing Body once again to draw the attention of the Government of the Union of South Africa to those conclusions.

Allegations regarding the Position of African Trade Unions and the Rights of African Workers under the Native Labour (Settlement of Disputes) Act, 1953

138. The complainants contend in the first place that African workers are denied the right to form and register trade unions under the Industrial Conciliation Act, 1937, so that they may be legally recognised as collective bargaining agents, and that they cannot join unions registered under that Act. This should be remedied, in the view of the I.C.F.T.U., by amending the 1937 Act to extend its coverage to African workers.

139. The Government states that legislation does not prohibit Africans from forming trade unions or negotiating private agreements with employers, but that, in practice, such unions have not operated well. The position under the 1937 Act, according to the Government, is that registered organisations of employers and employees can form industrial councils to negotiate agreements, which might cover a whole industry, trade, occupation or undertaking and so apply not only to their own members but to non-represented workers, including Africans. The Government considers that the provision in the Act enabling a government inspector to attend meetings of an industrial council


when the interests of non-represented workers were discussed did not, in practice, afford them sufficient protection; this provision ceased to be valid after the adoption of the Native Labour (Settlement of Disputes) Act, 1953, which brought new arrangements into effect (see below).

140. The definition of an "employee" contained in section 1 of the Industrial Conciliation Act, 1937\(^1\), as amended by section 36 of the Native Labour (Settlement of Disputes) Act, 1953\(^2\), is as follows:

"Employee" means any person employed by, or working for any employer and receiving, or being entitled to receive, any remuneration, and any other person whatsoever who in any manner assists in the carrying on or conducting of the business of an employer, but does not include a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa; and "employed" and "employment" have corresponding meanings.

The definition of "trade union" in section 1 of the Industrial Conciliation Act, 1937, is as follows:

"Trade union" means any number of employees in any particular undertaking, industry, trade or occupation associated together primarily for the purpose of—

(a) regulating relations between themselves or some of them and their respective employers; or

(b) protecting or furthering the interests of the employees or some of the employees,

in that undertaking, industry, trade or occupation.

Section 4 (1) of the above Act provides—

Every trade union or employers' organisation which has been established before the commencement of this Act but which at that commencement is not registered under the Industrial Conciliation Act, 1924 (Act No. 11 of 1924)\(^3\), as amended, and which the registrar has not refused to register under that Act shall, within three months from the commencement of this Act, and every trade union or employers' organisation which is established after the commencement of this Act shall, within three months from the date on which it is established, apply to the registrar, in the form prescribed by regulation, for registration and transmit to him three copies of its constitution, duly authenticated by signature of the chairman and secretary, and shall also furnish him with any further information which he may require.

Section 8 (1) provides—

No trade union or employers' organisation shall be registered otherwise than under this Act.

Section 18 (1) provides—

Any—

(a) employer (if the Minister approves); or

(b) group of employers (if the Minister approves); or

(c) registered employers' organisation; or

(d) group of registered employers' organisations; or

(e) group of one employer and one or more registered employers' organisations (if the Minister approves); or

(f) group of employers and one or more registered employers' organisations (if the Minister approves),

together with any—

(i) registered trade union; or

(ii) group of registered trade unions,

may form an industrial council by signing the constitution agreed to by them for the government of the council, or causing it to be signed on their behalf, and obtain-

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1 I.L.O. Legislative Series, 1937 (S.A.3).
2 Act No. 48 of 1953 (Statutes of the Union of South Africa, 1953, pp. 276-326).
3 I.L.O. Legislative Series, 1924 (S.A.1).
ing the registration of the council under this Act: Provided that the Minister shall not approve under paragraphs (a), (b), (e) or (f) if the employer or the individual employers comprising the group of employers concerned are eligible for membership of an employers' organisation which is a party to the council.

Section 23 provides—

An industrial council shall, within the undertaking, industry, trade or occupation, and in the area, in respect of which it has been registered, endeavour by the negotiation of agreements or otherwise to prevent disputes from arising, and to settle disputes that have arisen or may arise between employers or employers' organisations and employees or trade unions or between employers or employers' organisations and persons upon whom all or any of the provisions of any agreement or award have been made binding under subsection (4) of section forty-eight or under that subsection read with subsection (3) of section forty-nine, and take such steps as it may think expedient to bring about the regulation or settlement of matters of mutual interest to employers or employers' organisations and employees or trade unions.

141. It therefore appears that Africans are excluded from the operation of the Industrial Conciliation Act, 1937, by reason of the definition of an "employee" contained in section 1 thereof, and that, as a result, although the Government states that they are not barred from forming trade unions or from negotiating private agreements, they cannot form trade unions which can register under section 4 and participate in the industrial councils which may be set under section 18 (1) for the purpose of negotiating agreements and settling disputes as provided in section 23. In these respects there appears to be discrimination with regard to the rights of African workers which is inconsistent with the principle accepted in the majority of countries and embodied in the Convention adopted by the International Labour Conference that workers without distinction whatsoever should have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation, and the principle that all workers' organisations should enjoy the right of collective bargaining.

142. The I.C.F.T.U. further states that the procedure for the settlement of disputes laid down in the Native Labour (Settlement of Disputes) Act, 1953, ignores the trade union rights of the African workers and asks the Governing Body to recommend the Government to repeal this Act in toto, because all its provisions are contrary to the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948 (especially Articles 2, 3 and 4) and the Right to Organise and Collective Bargaining Convention (No. 98), 1949 (especially Article 4). The W.F.T.U. states that African trade unions are excluded from all instances dealing with disputes under the Act—this non-recognition of the legal status of such unions constituting an abrogation of the right of association—that their right to bargain is also refused, the Central Native Labour Board set up under this Act having power to recommend the revocation of industrial agreements and to fix rates of wages lower than those agreed between employers and workers, and the Native labour boards having the right to take part in deliberations of industrial councils (under the 1937 Act), where African workers' conditions are affected although these workers are excluded from such deliberations, and, finally, that African workers are denied the right to strike.

143. As already mentioned, the Government states that the fact that Native unions have not operated well and the fact that the interests of Native workers were not adequately safeguarded by the provision (now repealed) enabling government inspectors to attend meetings of industrial councils when matters affecting Native workers were discussed, were the main considerations which led to the enactment of the Native Labour (Settlement of Disputes) Act, 1953.

144. The main purpose and effect of the Native Labour (Settlement of Disputes) Act, 1953, states the Government, was therefore to improve the
position regarding negotiation on behalf of non-represented workers, including Africans. Native workers have the right under this Act to set up works committees, whose function it is to make the wishes of these workers known to the regional committees set up under this Act for the purpose of settling disputes. Disputes which are not settled by the regional committee concerned are referred to a Central Native Labour Board (whose members representing employees are appointed after consultation with the regional committees) and then, if necessary, to a neutral Wage Board, on whose recommendation the Minister must make an order.

145. So far as negotiations affecting non-represented workers under the Industrial Conciliation Act, 1937, are concerned, states the Government, their interests are represented at the meetings of the industrial council by the Central Native Labour Board. An agreement negotiated in the industrial council may be allowed to apply to the Native workers in the industry concerned, or they may be excluded from it where this Board refers the question to the Wage Board and the latter makes recommendations for separate conditions to be applied to the Native workers.

146. In the view of the Government, all this makes it possible to ascertain more accurately the wishes of the Native workers.

147. Section 1 of the Native Labour (Settlement of Disputes) Act, 1953, contains the following definitions for the purposes of that Act:

"Employee" means an employee who is a Native;
"Native" means a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa.

Section 3 of the Act deals with the establishment of a Central Native Labour Board. Sections 3 (1) and (2) read as follows:

(1) As from a date to be fixed by the Governor-General by proclamation in the Gazette, there shall be established a body to be known as the Central Native Labour Board to perform the duties and functions assigned to it under this Act and to advise the Minister on any matter which the Minister may refer to it or on which, in the opinion of the board, advice should be submitted to the Minister in the interests of Natives employed in any trade.

(2) The board shall consist of so many members as the Minister may determine from time to time, of whom—
   (a) one shall be a European appointed by the Minister to be chairman of the board;
   and
   (b) the remaining members shall be appointed by the Minister after consultation with the regional committees and shall be Europeans who, in the opinion of the Minister, are competent to represent the interests of employees.

Section 4 of the Act, dealing with the establishment of regional Native labour committees, reads as follows:

(1) The Minister may by notice in the Gazette establish a regional Native labour committee in respect of any area, and may in like manner withdraw or amend any such notice.

(2) A regional committee shall consist of so many members, not being less than four, as the Minister may from time to time determine, of whom—
   (a) one shall be a Native labour officer appointed by the Minister to be chairman of the committee;
   and
   (b) the remaining members shall be Natives appointed by the Minister to represent the interests of employees in the area in respect of which the committee has been established.

(4) A regional committee may for the purpose of dealing with any matter affecting employees in any trade, co-opt as members of such committee one or more Natives to represent the interests of employees in such trade at meetings of the committee at which such matter is to be considered, and any member so co-opted shall for the purpose of such meetings be deemed to be a member of the committee.
Section 6 of the Act defines the duties and functions of regional committees as follows:

(1) A regional committee shall, in the area in respect of which it has been established, endeavour to further the interests of Natives in relation to their employment, and for that purpose shall—

(a) maintain contact with employees with a view to keeping itself informed as to the conditions of employment of employees in its area generally and in particular trades;

(b) from time to time submit reports to the inspector defined by regulation in regard to any labour disputes which may exist or are in the opinion of the committee likely to arise;

(c) in accordance with the provisions of subsection (2) of section ten, assist in the settlement of labour disputes; and

(d) from time to time submit to the board reports in regard to such matters as may be referred to it by the board.

(2) Any such committee may for the purpose of carrying out its functions receive such representations from employers and employees and make such inquiries in regard to any matter within its purview as it may deem necessary.

(3) Whenever in respect of any area no regional committee is in existence or any such committee established in respect of any area is for any reason unable to carry out its functions, the functions of a regional committee in that area shall be performed by the inspector defined by regulation.

Section 7 of the Act deals with the election and functions of works committees and reads as follows:

(1) Whenever in any establishment there are employed not less than twenty employees and such employees advise their employer that they are desirous of electing a works committee, the employer shall forthwith notify the inspector defined by regulation accordingly and such inspector shall thereupon direct the Native labour officer for the area in which the establishment is situated to convene as soon as practicable a meeting of the employees concerned to be held under the chairmanship of that officer.

(2) At any meeting convened in terms of subsection (1) the employees concerned may elect from amongst their number a works committee consisting of not less than three and not more than five members.

(3) A works committee so elected may in the presence of the Native labour officer concerned appoint one of its members (hereinafter referred to as a "liaison member") to maintain contact with any regional committee established for the area in question or where no such regional committee is in existence, with the inspector defined by regulation.

(4) If a vacancy occurs on a works committee or any liaison member ceases to act as such, the vacancy shall be filled in the manner prescribed in subsection (2) or (3) whichever may be applicable.

(5) The Native labour officer shall notify the regional committee for the area affected of the election of any such works committee and of any liaison member and any change in the membership of such committee and any new appointment of a liaison member.

(6) Whenever a labour dispute occurs in any establishment in respect of which a works committee has been elected, the regional committee, or the inspector defined by regulation, as the case may be, shall consult such works committee in regard to such dispute.

(7) Any employer who fails to comply with the requirements of subsection (1) shall be guilty of an offence.

Section 8 of the Act deals with the appointment and duties of Native labour officers and reads as follows:

(1) The Minister may appoint any European officer as a Native labour officer in respect of any area.

1 Meaning the Central Native Labour Board.
(2) Any such officer shall—
(a) acquaint himself with the wishes, aspirations and requirements of employees in the area in respect of which he has been appointed;
(b) maintain close contact with Native commissioners and the inspector defined by regulation and keep them advised of any developments in that area in regard to Native labour matters;
(c) in collaboration with Native commissioners, act as an intermediary between employees in that area and their employers;
(d) keep the inspector defined by regulation and the regional committee concerned informed of any labour dispute which exists or may arise in that area and in collaboration with the said inspector endeavour to settle any such dispute;
(e) act as chairman of a regional committee if so appointed in terms of this Act; and
(f) perform such other functions as the Minister may from time to time assign to him.

Section 9 of the Act deals with the question of the participation of a representative of the Central Native Labour Board in meetings of industrial councils when the interests of Native workers may be affected, and reads as follows:

(1) Whenever any industrial council proposes to determine conditions of employment to be incorporated in any agreement under the Industrial Conciliation Act in respect of an undertaking, industry, trade or occupation in which Natives are employed in the area in which such agreement is intended to apply, the secretary of that council shall send to the board and any regional committee established in respect of the area or any portion of the area in which the agreement in question is intended to apply, a notice in the prescribed form of every meeting of the industrial council at which the matter is to be considered.

(2) The board may nominate one or more of its members, and the Secretary for Labour may at the request of the board designate an officer, to attend any meeting of an industrial council of which notice is required to be given in terms of subsection (1), and the chairman of any regional committee established in respect of the area or any portion of the area in which the agreement in question is intended to apply, or, if there is more than one committee, the chairmen of such of those committees as may be designated by the board, may likewise attend any such meeting.

(3) Any person who attends a meeting by virtue of the provisions of subsection (2) may take part in the proceedings at that meeting in so far as those proceedings may affect the interests of employees to whom the provisions of this Act apply, but shall not have the right to vote at any such meeting.

(4) As soon as possible after the industrial council has reached a decision on conditions of employment such as are referred to in subsection (1) which are to be applied to persons engaged in occupations in which Natives are employed, the chairman of the board shall submit to the Minister a report stating whether the board is in agreement with the industrial council's decision or whether, in its opinion, a recommendation should be obtained from the Wage Board in connection with any of the matters which formed the subject of the industrial council's decision.

Section 10 of this Act deals with the question of the settlement of disputes and reads as follows:

(1) Whenever a Native labour officer has reason to believe that in the area in respect of which he has been appointed or any portion of that area a labour dispute exists or may arise in any trade, he shall forthwith report thereon to the regional committee concerned, to the inspector defined by regulation and, where an industrial council has been registered under the Industrial Conciliation Act in respect of that trade and that area or any portion of that area, also to such industrial council.

(2) The Native labour officer shall, with the assistance of the regional committee and in collaboration with the inspector referred to in subsection (1), endeavour to effect a settlement of the matters which form or might form the subject of any such labour dispute, and shall, failing such a settlement, refer the matter to the board, which shall thereupon endeavour in collaboration with such officer and such inspector to effect a settlement.
Whenever a settlement cannot be effected under subsection (2), the board shall report accordingly to the Minister and indicate whether in its opinion the matter should be referred to the Wage Board for a recommendation as to the conditions in accordance with which a settlement should be effected.

Section 11 of the Act deals with references to the Wage Board and the making of Ministerial orders and reads as follows:

Upon the receipt of a report from the board in terms of subsection (4) of section nine or subsection (3) of section ten, the Minister shall, if the board so recommends, request the Wage Board to submit to him a recommendation, in the case of a report under subsection (4) of section nine, on such matters as in the opinion of the board should be determined, and, in the case of a report under subsection (3) of section ten, on all matters which form or might form the subject matter of the labour dispute referred to in that report; Provided that any request made to the Wage Board in pursuance of a report under subsection (4) of section nine may be withdrawn by the Minister if, before the Wage Board has submitted to him a recommendation in connection with any matter forming the subject of that request, he is advised in writing by the chairman of the board that it agrees with any revised decision arrived at by the industrial council concerned in regard to that matter after the date of the decision to which the report relates.

Every request to the Wage Board for a recommendation under this section and every withdrawal of such a request, either wholly or in part, shall be notified in the Gazette by the Secretary for Labour.

The Wage Board shall, as soon as possible after the receipt of a request under subsection (1), and after consultation with such persons or bodies, including employers or employees or representatives of any regional committee or the board, as in its opinion ought to be consulted and, where an industrial council has been registered under the Industrial Conciliation Act in respect of the trade and area or any portion of the trade or area to which such request relates, also with that industrial council, submit to the Minister a recommendation.

The Minister may after consideration of any such recommendation make an order in accordance therewith or refer it back to the Wage Board for reconsideration in such respects as he may indicate.

The Wage Board shall after reconsideration of any recommendation which has been referred back to it under subsection (4), reaffirm and resubmit that recommendation to the Minister or amend it in such respects as the Wage Board may deem fit and submit it to the Minister as so amended, and the Minister shall thereupon make an order in accordance with the reaffirmed or amended recommendation.

After making an order under subsection (4) or (5), the Minister shall cause to be published in the Gazette a notice setting forth the provisions of that order and specifying the area in which it shall apply, as determined by the Minister, and the period, as so determined, but not exceeding a period of three years, for which those provisions shall be binding upon the persons affected thereby, and the said provisions shall thereafter bind upon those persons within that area for the period so specified.

It would appear from these provisions that, by virtue of section 1 of the Native Labour (Settlement of Disputes) Act, 1953, the Act applies exclusively to African workers; that, while section 7 provides for the appointment of works committees, it does not make provision for the recognition of African trade unions; that, while section 4 of the Act provides for the establishment of regional committees, the function of which is to further the interests of Africans in relation to their employment and also, by virtue of section 10, to assist in the conciliation of disputes, the African members of such committees are appointed by the competent Minister and that no provision is made for consultation with respect to such appointment either of works committees or of any African trade unions which may exist; that with respect to the conciliation of disputes, no African organisation has any participation in the procedure outlined in section 10 for the conciliation of disputes other than what may result from the provision in section 6 (2), under which regional committees, for the purpose of carrying out their functions, may receive such representations from employers and employees as it deems necessary, and from the provision in section 6 (1) (a), under which the committees are to maintain contact with employees with a
view to keeping themselves informed as to the conditions of employment of employees in their areas; that with respect to the further conciliation of disputes by the Central Native Labour Board under section 10 (2) and the final settlement of unresolved disputes by recommendation of the Wage Board and Ministerial order under section 10 (3) and section 11, no provision is made for the participation or consultation of works committees or any African trade unions which may exist; that section 9 of the Act provides for the representation of African interests by a representative of the Central Native Labour Board, who may be accompanied by a representative, but not an African representative, of a regional committee when an industrial council is negotiating an agreement affecting African interests, but that no provision is made for the representation of African interests before industrial councils by any Africans or African trade unions or works committees, or for consultation of Africans with respect to the negotiation of agreements beyond what may result from the contact between regional committees and works committees referred to above; and that, while provision is made for the determination of conditions of employment either through conciliation agreements reached in regional committees or before the Central Native Labour Board, or through Ministerial orders made on the recommendations of the Wage Board, or through an industrial council agreement being applied in the case of Africans, no provision is made for the negotiation of wages and conditions by works committees or such African trade unions as may exist.

149. Finally, it is alleged that African workers are denied the right to strike. The Government states that, in view of the large reservoir of Native labour, it is unlikely that the right to strike would be of benefit to African workers, and replies to the allegation that they are discriminated against in this respect by referring to the fact that workers of all races are already prohibited from striking in essential services, their disputes being subject to compulsory arbitration.

150. With respect to the question of the right to strike of African workers, section 18 (1) of the Native Labour (Settlement of Disputes) Act, 1953, provides—

18. (1) No employee or other person shall instigate or take part in a strike or in the continuation of a strike and no employer or other person shall instigate or take part in a lockout of employees or in the continuation of any such lockout.

151. With respect to the question of the right to strike of employees covered by the Industrial Conciliation Act, 1937, section 65 of that Act provides—

(1) No employee or other person shall take part in a strike or in the continuation of a strike, and no employer or other person shall take part in a lockout or in the continuation of any lockout—

(a) during the period of the currency of any agreement or award which, in terms of section forty-eight or forty-nine, is binding upon the employee, employer or other person concerned, and any provision of which deals with the matter giving occasion for the strike or lockout; or

(b) if the employees concerned are engaged upon the services referred to in section forty-six or are employees in respect of whom the Minister has in terms of subsection (10) of that section applied the provisions of subsections (1) to (6) of that section; or

(c) when neither paragraph (a) nor paragraph (b) applies—

(i) if there is an industrial council having jurisdiction, unless the matter giving occasion for the strike or lockout has been considered by that council and until—

(aa) the council has reported thereon to the Minister in writing; or

(bb) a period of 30 days reckoned from the date on which the matter was submitted to the council, or such longer period as the council may fix has expired,
whichever event occurs first; or

(ii) if there is no such council, unless application has been made under section thirty-five or sixty-four for the establishment of a conciliation board for the consideration of the said matter, and until—

(aa) any board that may be established has reported thereon to the Minister in writing; or

(bb) the period of 30 days reckoned from the date on which the Minister has approved of the establishment of a board or such longer period as the board may fix has expired; or

(cc) the Minister has refused to approve of the establishment of a board; or

(dd) if the Minister has not within a period of 21 days reckoned from the date on which the application was lodged, approved or refused to approve of the establishment of a board, the expiration of that period,

whichever event occurs first; or

(iii) if it has been decided in terms of section forty-five to refer the matter to arbitration, pending the making of an award.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence.

152. The services referred to in section 65 (1) (b) above are those mentioned in section 46 (1) of the Act, that is those of employees of local authorities engaged in "work connected with the supply of light, power or water or with sanitation, passenger transportation or with the extinguishing of fires". The reference in section 65 (1) (b) to subsection (10) of section 46 is to the provision in section 46 (10) to the effect that the Minister may place other categories of employees of local authorities on the same basis as those concerned in section 46 (1) "whenever any registered trade union, in which membership is by its constitution restricted to employees of any local authority or local authorities," requests the Minister so to act.

153. It would appear that, while temporary restrictions are placed on the right to strike of employees covered by the Industrial Conciliation Act, 1937, i.e. during the currency of a binding agreement or award or pending the utilisation of the procedures for settlement laid down in section 65 (c) of the Act, and a complete prohibition is placed on strikes by local government employees within that Act who are engaged in certain essential services or who apply to be treated in the same manner, section 18 (1) of the Native Labour (Settlement of Disputes) Act, 1953, places a total prohibition on strikes by, or lockouts of, African workers, irrespective of the nature of their occupation.

154. While considering that it is not called upon to give an opinion on the question as to how far the right to strike in general—a right which is not specifically dealt with in the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, or in the Right to Organise and Collective Bargaining Convention (No. 98), 1949—should be regarded as constituting a trade union right, the Committee has observed that the right to strike is generally accorded to workers and their organisations as an integral part of their right to defend their collective interests. The Committee considers that, where the right to strike is thus accorded to workers and their organisations, there should be no racial discrimination with respect to those to whom it is accorded.

155. In these circumstances, the Committee, while noting that the Government has stated that the labour supply is such that no benefit would accrue to African workers from the right to strike and that the Native Labour (Settlement of Disputes) Act, 1953, does provide procedures whereby all disputes affecting Africans are settled by conciliation or, in the last result, by the making of a binding order, considers that it is its duty to draw attention to the existence of discrimination as between African workers and other workers with respect to the prohibitions placed on the right to strike.

Allegations relating to the Infringement of the Rights of Workers Other than Africans by the Native Labour (Settlement of Disputes) Act, 1953

156. The complainants contend that this Act allows the Minister to attack the trade union rights of other workers (apart from African workers) at present covered by the Industrial Conciliation Act, 1937, by giving him power to apply orders made under the 1953 Act to such other workers also. The Government makes no comment on this contention.

157. Ministerial orders fixing terms of employment for African workers are provided for in section 11 of the Native Labour (Settlement of Disputes) Act, 1953 (see paragraph 147 above).

158. The question of the extension of the application of orders is dealt with in section 14 of the Act, which reads as follows:

1. If, in the opinion of the Minister, any object of an order is likely to be defeated by the employment in occupations in which Natives are employed in the undertaking, industry, trade or occupation to which the order relates at rates of remuneration and under conditions of employment other than those specified in the order of persons not included in the definition of “employee” contained in section one, he may in any notice published by him under subsection (6) of section eleven or by a further notice in the Gazette, declare that as from a date and for a period specified in the notice, all the provisions of the order or such provisions thereof as he may specify, shall mutatis mutandis apply in respect of persons who are employees as defined in the Industrial Conciliation Act, and thereupon the provisions of the order or the provisions so specified shall be binding upon every employer (as so defined) of any such person and upon all such persons.

2. Whenever any of the provisions of a wage regulating measure are inconsistent with any provision of an order, or any provision thereof which has by notice under subsection (1) been declared to be applicable to persons who are employees as defined in the Industrial Conciliation Act, that wage regulating measure shall, in so far as it is in operation in the area or any portion of the area in which such order applies, and so long as such order or such notice, as the case may be, remains in operation, be applied as if the said provision of the order had been inserted in that wage regulating measure in the stead of such inconsistent provision thereof.

3. The Minister may, by notice in the Gazette, from time to time suspend the application of any order or of any specified provisions thereof to persons bound by a specified wage regulating measure which the Minister considers to be not less favourable to the employees concerned than the said order or the said provisions, as the case may be.

159. The Committee therefore considers that, under section 14, orders made with respect to African workers under section 11 may, in certain circumstances, be extended so as to apply to employees as defined in the Industrial Conciliation Act, 1937, i.e. any employees other than Africans (see paragraph 140 above), and, if so extended to apply to workers other than Africans in such circumstances as to supersede conditions which they have laid down in collective agreements or as to prevent them from negotiating such conditions as they wish in future collective agreements, would infringe the right of the persons concerned to bargain collectively through their trade unions.
Allegations concerning Proposed Amendments to the Industrial Conciliation Act, 1937

160. The W.F.T.U. contends that under section 77 of the proposed amendment to the Industrial Conciliation Act, 1937, the Minister of Labour will have power to decide which occupations shall be followed by the different races inhabiting the Union of South Africa and that this power, in conjunction with the power under section 14 of the Native Labour (Settlement of Disputes) Act, 1953 (see paragraph 158 above) would enable the Minister to dictate the wages and conditions of employment of all workers. The Government does not wish to comment on the Bill, as it is still under consideration, until it becomes law either in its present form or in a revised form.

161. Section 77 of the Bill to amend the 1937 Act is cited by the complainant as follows:

Whenever it appears to the Minister that measures should be taken in order to safeguard the economic welfare of employees of any race, he may, by notice in the Government Gazette, make a determination that, as from a given date and in any area specified by him, employment in any undertaking, industry, trade or occupation shall be reserved for persons of a specified race. In defining the nature of the work to be performed by employees of a specified race, the Minister may have recourse to any method of differentiation or discrimination as may seem to him desirable.

162. In Case No. 105 (Greece)\(^1\), the Committee considered that, when it has before it precise and detailed allegations concerning a proposed enactment submitted to the Legislature by the Government, the fact that the allegations relate to a text which does not have the force of law should not of itself prevent the Committee from expressing its opinion on the merits of the allegations made. The Committee then expressed the opinion that in such circumstances it is desirable that the Government and the complainant should be made aware of its point of view with regard to a proposed Bill before it is enacted, in view of the fact that it is open to the Government, on whose initiative such a matter depends, to make any amendments which may seem desirable. In the present case, although the Government declines to comment at this stage, the complainant quotes the alleged text of section 77 of the Bill in question as introduced to Parliament. In these circumstances, the Committee considers that it is desirable for its point of view to be made known before the Bill becomes law.

163. The text as quoted would empower the Minister to make determinations that employment in any undertaking, industry, trade or occupation, in any specified area, shall be reserved for persons of a specified race.

164. The Committee, while recognising that it is not called upon to consider the question of access to particular employments except in so far as the determination of such access may affect the exercise of trade union rights, may consider that it is a generally accepted principle in the majority of countries that trade unions should have the right, through collective bargaining or other lawful means, to seek to improve the living and working conditions of those whom the trade unions represent, and that the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof.

165. While it is still uncertain whether the Bill will be enacted in its present form or in a revised form, the Committee considers that, if section 77 were to be enacted in the terms cited by the complainant and to be applied in such a way as to prevent the negotiation by collective agreement of better terms and conditions, including terms and conditions governing access to particular employments,

it would tend, in the case of the trade unions of workers affected, to infringe the right to bargain collectively and to promote and improve the living and working conditions and defend the social interests of their members.

Allegations regarding the South African Railways Administration

166. The W.F.T.U. maintains that a compulsory check-off, contrary to the wishes of the workers, has been instituted in favour of a railway union established by the Railways Administration under its own domination, that workers who have objected to this have been punished, that the Administration refuses to recognise or bargain with the older South African Railways and Harbours (Non-European) Workers' Union and that various leaders and members of the latter organisation have been dismissed on the ground of their trade union activities and in order to impede the functioning of their trade union organisation.

167. The Government states that prior to 1944 not one but many organisations represented the railway workers, and that confusion arose as to the groups of persons represented. From the details given, it would appear that the Government intervened to have the situation investigated and then to arrange meetings between the Minister of Transport and representatives of non-European railway workers, following which the existing organisations grouped themselves into a number of staff associations, each exclusively competent to present demands on behalf of one section of the industry. An account is given as to the provisions of the constitutions of these associations, which, the Government states, were drawn up freely by the associations themselves and accepted by the Railways Administration. The Government states that union contributions are deducted from wages only where the worker has voluntarily signed a stop order indicating that he has applied for membership of one of the new associations. The Administration recognises only these associations and therefore refuses to bargain with the South African Railways and Harbours (Non-European) Workers' Union. The Government adds that certain persons belonging to the latter union were dismissed because they "took active part in undesirable activities".

168. It would appear from the Government's reply that there are now representative staff associations in each section of the railways, to which employees can belong, and that it was owing to an initiative taken by the Government that meetings were held between the Minister of Transport and representatives of non-European railway workers, which led to "the existing organisations" grouping themselves into associations, with constitutions which they themselves drew up, but which were "accepted" by the Railways Administration. It is alleged that these associations were set up by and are dominated by the Railways Administration.

169. The Committee considers that the principle is accepted in the majority of countries that workers' and employees' organisations should have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes, and that the public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof, and that the steps taken by the authorities in this particular case require to be considered in the light of this established principle. In a previous case of alleged government intervention with respect, in particular, to the exercise of the right to elect representatives, the Committee took the view that the crux of the matter would appear to be whether the intervention was or could reasonably have been regarded by the workers concerned as being a threat to their freedom in exercising their rights, which, in turn, would appear to depend

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on the circumstances and traditions of the country concerned and upon the safeguards which exist there for civic liberties and political freedom. In the present case, it appears to the Committee, having regard to the ill-defined demarcation lines between the representational spheres of the previously existing trade unions, that no sufficient evidence has been offered to show that the initiative taken by the Government in arranging meetings led to the organisations concerned being coerced into grouping in associations, that their freedom to draw up their constitutions was restrained or that they operate under the domination of the Railways Administration.

170. The present situation is that the Railways Administration recognises only the new staff associations and refuses to bargain or have dealings with the South African Railways and Harbours (Non-European) Workers' Union. In fact, it would seem that a system of union security has been established, operating in favour of the new associations. As part of this development, a check-off has been instituted—a check-off, according to the Government, which operates only when a worker has voluntarily signed a stop order indicating that he has applied for membership of one of the associations.

171. The Committee decided in a previous case\(^1\) that it was not called upon to express an opinion on union security arrangements. The Committee was guided, in reaching this conclusion, by the fact that the International Labour Conference Committee on Industrial Relations in 1949 expressed in its report\(^2\) to the 32nd Session of the Conference the view—accepted by the International Labour Conference when it adopted that report—that the Right to Organise and Collective Bargaining Convention (No. 98), 1949, "could in no way be interpreted as authorising or prohibiting union security arrangements, such questions being matters for regulation in accordance with national practice".\(^3\)

172. The Committee considers that the arrangement complained of falls under the definition of union security arrangements and, for the reasons mentioned in the preceding paragraph, has not thought it appropriate to deal with this question in the present case.

173. It is also alleged that a number of the principal officers and members of the union and of its branches have been dismissed because of their trade union activities and in order to impede the functioning of their trade union organisation. The Government confines itself to a statement that certain persons belonging to this union were dismissed because they "took active part in undesirable activities".

174. The Committee considers that there might be an infringement of freedom of association if the persons in question were, in fact, made subject to an act of anti-union discrimination in respect of their employment by reason of having been dismissed because of their union membership or because of their participation in trade union activities, but that, on the evidence before it, it is not in a position to conclude whether or not the persons referred to by the complainant were dismissed on these grounds.

**Allegations concerning the Wolseley Fruit Canning Factory**

175. The W.F.T.U. declares that, because a union was set up in this undertaking and sought to ensure the application therein of an agreement adopted for the industry concerned as a whole, the employer locked out the workers and dismissed three active trade unionists among their members, that later, when

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3 Ibid., p. 468.
a strike was called, a considerable number of workers were arrested in January 1954, and that 284 of them were still in prison when the complaint was presented (20 March 1954).

176. From the account given by the Government, it would appear that what the W.F.T.U. refers to as a lockout and what the Government refers to as a strike took place on 14 December 1953 while an agreement for the undertaking was being negotiated. In any event, this particular incident appears to have lasted less than one day. It is common ground that a strike took place in January 1954, while negotiations were still in progress which resulted in the signing of an agreement on 19 February 1954, and that a considerable number of persons were arrested. While the complainant declares that the police acted in order to help the employers to destroy the trade union, the Government states that, while the strike itself was illegal because conciliation under the Industrial Conciliation Act, 1937, was pending, the arrests were actually made on the ground of criminal trespass when workers refused to leave the factory premises.

177. Sections 35 ff. of the Industrial Conciliation Act, 1937, provide that where no industrial council is registered in respect of an undertaking in which a dispute arises, application may be made for the establishment of a conciliation board, which must endeavour to bring about an agreed settlement. In certain cases the board may refer a dispute which it cannot settle to arbitration. Under section 65, strikes are illegal if called without application for a conciliation board having been made or within 30 days from the date on which application for a board has been made or such longer period as may be fixed by the board (see paragraph 151 above).

178. In the present case a lockout, according to the complainants, or a strike, according to the Government, took place on 14 December 1953, when a conciliation board was sitting. This incident appears to have terminated on the same day. The more serious incident arose on 19 January 1954. A large number of workers, including two active trade unionists, were laid off at the end of the apricot canning season, shortly after the incident of 14 December, and the refusal of the employer to re-engage these two persons, together with the dismissal of a third trade unionist, caused a strike to be called on 19 January 1954. As the conciliation board was still sitting (it brought about an agreement on 19 February 1954), this strike would appear to have been illegal under the Industrial Conciliation Act. According to the Government, however, the arrests made on 21 January 1954 were not made because of participation in an illegal strike but for trespass committed during that strike.

179. The two charges made by the complainant, therefore, are that persons were arrested for striking and that three persons were subjected to acts of anti-union discrimination with respect to their employment.

180. The Committee has considered the question of strikes in a number of previous cases. In Case No. 5 (India)¹ the Committee thought it appropriate to point out that “in most countries strikes are recognised as a legitimate weapon of trade unions in furtherance of their members' interests so long as they are exercised peacefully and with due regard to temporary restrictions placed thereon (for example, cessation of strikes during conciliation and arbitration procedures, refraining from strikes in breach of collective agreement)”. In Case No. 50 (Turkey)² the Committee expressed a similar reservation recognising that partial and temporary restrictions are frequently placed on strikes “pending recourse to established conciliation and arbitration procedures”. In the present case, it would appear that the strike was illegal, in that it contravened the provisions of

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the Industrial Conciliation Act, 1937, placing temporary restrictions on strikes pending the utilisation of the conciliation procedure, although the actual arrests would seem to have been made on the ground of trespass during the strike rather than for the act of striking itself. In these circumstances, the Committee considers that the complainant has not offered sufficient evidence to show that the incidents which took place in connection with the strike in this case constituted an infringement of trade union rights and therefore recommends the Governing Body to decide that this aspect of the matter does not call for further examination.

181. While the complainant contends that three trade unionists lost their employment because of their trade union activities, the Government declares that one was dismissed for neglect of duty and that the employer refused to engage the other two for the new canning season. The Committee considers that in the absence of further details the complainant has not offered sufficient evidence to show that the dismissal and failure to re-engage were in fact occasioned by the trade union activities of the three persons concerned and, therefore, while emphasising the importance which it attaches to the principle that workers should enjoy adequate protection against acts calculated to cause their dismissal or otherwise prejudice them with respect to their employment by reason of union membership or because of participation in union activities, recommends the Governing Body to decide that this allegation does not call for further examination.

Allegations concerning the Natal Spinners (Pty.), Ltd.

182. The complainant gives detailed wage statistics with respect to workers employed by this company, showing, it is alleged, that the Minister has already used his powers under the Native Labour (Settlement of Disputes) Act, 1953, to reduce the wages of the African workers and to imprison those who went on strike in protest. It is alleged that workers were deported from Ladysmith, where their families lived, to a point close to the factory.

183. The Government states that the business in question changed hands on 1 February 1954. The new employer could not maintain existing wage rates, terminated the contracts of all the employees of the spinning department and then offered them new contracts, which the majority accepted. Further demands were made, some of which were conceded. The factory then ran at a loss once more and the employer stated that any further wage increases would depend on increased production. The employees called an illegal strike and legal proceedings were instituted against them. The attorney for the defence failed to appear at the court, and those who could not find bail were detained—six for one day, ten for two days and 22 for three days. The workers placed themselves in the wrong by not availing themselves of the machinery for the settlement of disputes provided under the Native Labour (Settlement of Disputes) Act, 1953, by the use of which they have every chance of obtaining fair and equitable conditions of service. The Government denies that any persons were deported from Ladysmith.

184. These allegations, in fact, refer to the application, in a particular case, of two legal provisions which the Committee has examined above—the regulation of conditions of employment of African workers by means of Ministerial orders (see paragraph 147 above) and the prohibition of strikes of African workers (see paragraphs 149-154 above). In view of the conclusion which it has already reached on these matters, the Committee considers that it is not called upon to re-examine the application of the legal provisions concerned with respect to this particular aspect of the case.

185. In these circumstances, the Committee, while recognising that the Government of the Union of South Africa is faced with a situation which may present special difficulties, especially by reason of the different stages of social and economic development reached by the various peoples inhabiting its territory,
considers, after making full allowance for such difficulties and taking into account the position in other territories with analogous conditions which the Committee has had occasion to consider in a number of cases, that a number of fundamental principles are at issue in this case and accordingly recommends the Governing Body——

(1) to reaffirm the conclusions regarding the Suppression of Communism Act, 1950, as amended in 1951, set forth in paragraphs 268 to 276 of its Twelfth Report;

(2) to note that the provisions of the Industrial Conciliation Act, 1937, involve discrimination against African workers which is inconsistent with the principles that workers without distinction whatsoever should have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation and that all workers' organisations should enjoy the right of collective bargaining;

(3) to note that, while the Native Labour (Settlement of Disputes) Act, 1953, may have been intended by the Government to ensure fair wages and conditions of employment, it makes no provision for the recognition of African trade unions, but provides for a system based on a Central Native Labour Board and regional committees, both of which are bodies appointed by the Minister; and that while these bodies may receive representations from elected works committees and are required to consult such committees in regard to labour disputes in certain circumstances, no other provision appears to be made for the negotiation of wages and conditions by works committees or by any African trade unions which may exist;

(4) to note that the existence of such racial discrimination in respect of trade union rights is further confirmed by the fact that the nature and extent of the limitations placed on the right to strike differ widely as between employees covered by the Industrial Conciliation Act, 1937, and African workers;

(5) to note that section 14 of the Native Labour (Settlement of Disputes) Act, 1953, could be so applied to workers other than Africans as to supersede conditions laid down in collective agreements or as to prevent them from negotiating such conditions as they wish in future collective agreements, and if so applied would infringe the right of the persons concerned to bargain collectively through their trade unions;

(6) to note that the enactment of section 77 of the proposed amendments to the Industrial Conciliation Act, 1937, in the terms cited by the complainant would tend to prevent the negotiation by collective agreement of better terms and conditions, including terms and conditions governing access to particular employments, and thereby to infringe the rights of the workers concerned to bargain collectively and to promote and improve their living and working conditions, which are generally regarded as essential elements of freedom of association;

(7) to communicate these findings to the Government of the Union of South Africa and, taking into account the experience of other countries and territories with analogous problems, to express the hope that the Government will give further consideration to its policy in these respects with a view to ensuring that African workers will, as soon as possible, be accorded the right to organise and, consequently, the right to bargain collectively in full freedom;

(8) to decide that, subject to the observations made in paragraphs 174 and 181 above, the allegations concerning the South African Railways Administration, the Wolseley Fruit Canning Factory, and the Natal Spinners (Pty.), Ltd. do not call for further examination.
Case No. 103:
Complaint Presented by the World Federation of Trade Unions against the Government of the United Kingdom (Southern Rhodesia)

ANALYSIS OF THE COMPLAINT

186. In a communication addressed to the Secretary-General of the United Nations on 20 March 1954 and transmitted by him to the International Labour Organisation, the World Federation of Trade Unions makes the following allegations.

187. On 1 February 1954, 9,000 African miners and other workers at Wankie went on strike in support of a demand for a cash indemnity instead of the foodstuffs in kind which were given to them. The Minister of Mines, pursuant to the masters and servants laws, declared the strike illegal.

188. Police and military forces were sent to the Wankie coalfields. The police dispersed strike pickets, occupied the region and took control of the mines. Powers were given to the police to search all premises and make preventive arrests, to expel from the region for 30 days any person suspected of trying to "persuade other persons to act in such a manner as to impede production and the effective carrying on of essential services" and to imprison for one year any person "committing an act or making a declaration calculated to provoke the stoppage or hindrance of essential services". Public meetings were subjected to official authorisation and, under the laws for the maintenance of public order, the giving out of any information with respect to the strike was prohibited. The complainant demands that the right of meeting and of expression of the workers should be restored and that the police powers of search and arrest should be withdrawn.

189. The Government forcibly denied legitimate rights to the African workers in order to guarantee the Wankie coalfields specific profit margins in the years 1953-1958 inclusive.

190. The complainant demands that measures be taken to ensure to African workers in Southern Rhodesia the full right to organise in officially recognised trade unions and the right to put forward the legitimate demands of the workers and to bargain collectively.

ANALYSIS OF THE REPLY

191. In a communication dated 20 January 1955, submitted on behalf of the Governments of the Federation of Rhodesia and Nyasaland and of Southern Rhodesia, the Government of the United Kingdom makes the following observations.

192. The stoppage took place without warning and brought the whole Southern Rhodesian coal-mining industry to a standstill. This created a serious situation and, having regard to the large numbers of men involved, their lack of trade union organisation and discipline and the remoteness of the site, precautionary measures had to be taken in order to make it possible to preserve law and order and prevent acts of violence. The police were reinforced, and a small military force was sent to the area, to aid the civil power if needed, but took no action at any time; neither police nor military took control of the mines and their relations with the strikers remained wholly friendly. The
police had emergency powers to arrest and detain in order to prevent persons endangering public safety or disturbing peace and order and obstructing the maintenance of essential services; the only time these powers were exercised was on the first day of the strike, when some strikers who obstructed the entrance to one of the collieries and tried to prevent workers going to their work were arrested, informed of the regulations and then released. The police had no power to imprison anyone, such powers being exercisable only by the courts. In the interests of public order, public meetings were subjected to official authorisation, but the giving out of information about the strike was not prohibited and the press reported developments daily.

193. The Government then explains the measures which it took to bring about a settlement. So far as could be ascertained at the time, the strikers' demands were of a general nature for improved conditions of employment; but although a general feeling of dissatisfaction spread throughout the mines and culminated in a widespread stoppage of work, there was no organisation behind the strike. There were no leaders or spokesmen enjoying the confidence of the strikers who were willing to express specific demands. There was no trade union organisation among the employees of the Wankie colliery nor were the circumstances at Wankie, where labour is almost wholly migratory and drawn from many different tribes lacking common bonds of language, propitious for the formation of such organisations. In these circumstances, negotiations between the company and the workers did not prove possible, and action by the Government became necessary to restore essential services on which the welfare of Southern Rhodesia and all its people and the livelihood of many largely depended. The Minister for Native Affairs and the Native Commissioner were at Wankie, but all conciliation efforts failed and the strikers were offered the choice of leaving their employment with their wages paid up to the date of the strike or of returning to work while their conditions of employment were investigated by a Native labour board under the Native Labour Boards Act, 1947. The large majority returned to work. A board was then immediately constituted and it recommended the setting up of joint committees comprising representatives of management and African employees, installation of a public address system, commencement of an energetic housing programme, posting of notices giving rates of pay and other conditions of service, increased rates of pay, a specific statement as to hours of work, shifts and overtime—all of which recommendations have been put into effect—and that the African employees should be informed in future before changes in conditions of service are instituted—which will be complied with as occasion arises.

194. The Government rejects the allegation that its action was designed to ensure profit margins to the colliery as being devoid of all substance. Its action was at no time concerned with the financial situation of the colliery.

195. The Government regards the absence of negotiating machinery as a major cause of the strike and hopes that the establishment of joint committees will enable the workers in future to give coherent expression to their views and so permit of orderly negotiation. A Bill to give specific authorisation to African trade unions is at present before the Parliament of Southern Rhodesia.

CONCLUSIONS

196. The Right of Association (Non-Metropolitan Territories) Convention (No. 84), 1947, is in force in respect of Southern Rhodesia.

Allegation that the Strike at the Wankie Coalfields Was Declared to Be Illegal

197. It is alleged that the strike at the Wankie coalfields in February 1954 was declared illegal pursuant to the masters and servants laws. The Government has not made any specific comment on this allegation.
198. Section 47 of the Southern Rhodesian Masters and Servants Act, 1901, provides for the imposition of penal sanctions on any servant or apprentice "who, without leave or other lawful cause, absents himself from his master's house or premises or other place proper and appointed for the performance of his work". While questions relating to penal sanctions as such fall outside the scope of the present procedure, such a provision would appear to have the effect of making any strike by workers under contract illegal.

199. In Case No. 50 (Turkey)\(^1\), the Committee, while recognising that the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, does not deal with the right to strike, considered that this right "is generally accorded to workers and their organisations as an integral part of their right to defend their collective economic and social interests, although partial and temporary restrictions are frequently placed on its exercise pending recourse to established conciliation and arbitration procedures, to which the organisations are parties at all stages". The Committee has, in a number of cases\(^2\), acknowledged that special restrictions on the right to strike in essential services may be legitimate; it also recognises that a situation in which there is no trade union organisation and in which the almost wholly migratory character of labour drawn from many different tribes lacking common bonds of language is not propitious for the formation of such organisations, creates problems of a special character. It wishes, however, to draw attention to the importance which it attaches in such cases, as in cases in which strikes are prohibited in essential occupations, to ensuring adequate guarantees to safeguard to the full the interests of workers who may be deprived of an essential means of defending occupational interests.\(^3\)

200. Subject to these observations, which the Committee considers should be drawn to the attention of the Government of Southern Rhodesia in connection with the legislation specifically authorising African trade unions which is pending, the Committee, having regard to the fact that the strike in this case appears to have been called without warning and before any attempt at settlement had been made, and that the strikers appear to have been neither prosecuted nor dismissed but to have been offered the choice between terminating their contracts at the date of the strike or returning to work, the dispute subsequently being settled, recommends the Governing Body to decide that this aspect of the matter does not call for further examination.

**Allegations relating to the Measures Taken to Deal with the Strike Situation**

201. The complainant declares that police and military were sent to the area, that the police dispersed strike pickets and took control of the mines and that the police were given powers to search premises, make preventive arrests, expel persons trying to persuade others to act so as to impede production and the maintenance of essential services, and imprison for one year persons committing acts or making statements calculated to provoke the stoppage or hindrance of essential services, while all public meetings were subjected to official authorisation and the dissemination of information relating to the

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strike was prohibited. The Government deals with each point in turn, stating that police reinforcements and a small military force were sent to the area, that the military were never used but, on the contrary, were on wholly friendly terms with the strikers, that the only time the police used their emergency powers (which did not include the power to imprison anyone) was when they arrested certain persons on the first day of the strike, for a short time only, because they tried to prevent workers entering a colliery, and that, while public meetings were made subject to authorisation, no restriction was placed on the issuing of information or on reports on the situation in the daily press. The Government emphasises that the measures taken were purely precautionary, one of the main considerations being that the workers were unorganised and that, consequently, there was a lack of any trade union discipline in the area.

202. The Committee notes that the measures taken by the Government were purely precautionary measures to deal with any threat to public order which might arise. Apart from the incident which occurred on the first day of the strike, the police never appear to have used their emergency powers. While measures had to be taken to deal with a situation of emergency, the Government, recognising that one considerable factor which gave rise to this situation was the lack of any trade union organisation which might have made it possible to conciliate the dispute, hastened to set up a board of inquiry and declares that its recommendations, including increased rates of pay, the posting of notices specifying rates of pay and hours of work and the setting up of joint committees of employers and workers, have been implemented and, finally, that it has introduced legislation to guarantee specifically the right to organise.

203. In these circumstances, the Committee recommends the Governing Body to decide that these allegations do not call for further examination.

Allegation as to the Government's Intention to Favour the Employers

204. It is alleged that the Government forcibly denied the legitimate rights of the African workers in order to ensure specified profit margins to the colliery. The Government declares that this allegation is devoid of all substance and that it was never concerned with the financial situation of the colliery.

205. In these circumstances, the Committee considers that this allegation, which is a general statement unsupported by any specific evidence, does not call for further examination.

Allegations relating to the Right to Organise and to Bargain Collectively

206. The complainant demands in general terms that measures should be taken to ensure to African workers in Southern Rhodesia the full right to organise in officially recognised trade unions and the right to put forward the legitimate demands of the workers and to bargain collectively, implying that these rights are denied.

207. Article 2 of the Right of Association (Non-Metropolitan Territories) Convention (No. 84), 1947, which is in force in Southern Rhodesia, reads as follows:

The rights of employers and employed alike to associate for all lawful purposes shall be guaranteed by appropriate measures.

Article 3 of the Convention reads as follows:

All practicable measures shall be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organisations.

208. The Government states that legislation has been introduced to give specific authorisation to African trade unions.
209. The main sections dealing with the right to associate and the right to conclude collective agreements in the Bill introduced to the Legislature of Southern Rhodesia "to make provision for the enrolment and registration of Native industrial workers' unions and for other matters connected therewith and incidental thereto", which must clearly be considered in the light of the present stage of development of trade unionism in Southern Rhodesia, are the following:

5. (1) Subject to the provisions of this Act, Native workers employed in any particular industry in any particular area may form a Native industrial workers' union for the purpose of—
   (a) regulating relations between themselves or some of them and their respective employers; or
   (b) protecting or furthering the interests of the Native workers employed or some of the Native workers employed in that industry in that area;
and may apply to the Registrar for the enrolment of such union and its constitution under this Act.

   (2) Every such application shall be made in the form prescribed and shall be accompanied by three copies of the constitution certified by the secretary to the union.

   (3) The secretary shall furnish such other information in regard to the union as the Registrar may require.

6. (1) The Registrar may enrol an applicant union for any particular industry in any particular area if he is satisfied that—
   (a) such union is sufficiently representative of the Native workers in that industry in that area;
   (b) no other union is enrolled or registered for that industry in that area;
   (c) the constitution is consistent with this Act and does not contain provisions which are contrary to the provisions of any law or are calculated to hinder the attainment of the objects of any law or are not in the interests of the effective functioning of the union concerned or are contrary to the public interest;
   (d) the constitution does not contain any provision whereby a member of the union is required to subscribe to the funds of any political party or political organization or whereby the funds of the unions may be used for furthering the interests of any political party or political organization; and
   (e) the union has not been formed for the purpose of evading the provisions of any law or organizing opposition to or undermining the Constitution of the Colony or of the Federation.

   (2) On enrolment the Registrar shall issue a certificate of enrolment in the form prescribed to the union concerned.

7. The functions of an enrolled union shall be—
   (a) to enrol workers in the industry and area in respect of which it is enrolled;
   (b) to make representations with respect to the conditions of employment in the industry and area in respect of which it is enrolled;
   (c) to bring to the notice of a labour officer any alleged contravention of any law relating to wages or conditions of employment generally;
   (d) in association with an officer of the Department of Native Labour, to negotiate with an employer or group of employers in regard to the conditions of employment in the industry and in the area concerned;
   (e) to apply for an investigation by a Native labour board into the conditions of employment of Native workers in the industry and area in respect of which it is enrolled.

9. (1) Any enrolled union may at any time make application to the Registrar for the registration of such union and its constitution.
(2) Every such application shall be made in the form prescribed and shall be accompanied by three copies of the constitution certified by the secretary to the union.

(3) The secretary shall furnish such other information in regard to the union as the Registrar may require.

10. (1) The Registrar may register an enrolled union after making inquiries in regard to and considering the following matters—

(a) whether the affairs of the applicant union since enrolment have been conducted in an orderly manner;

(b) whether the books of account, vouchers, register of members, minutes of meetings and other documents have been properly kept and maintained;

(c) whether the office-bearers and officials are sufficiently educated, have a proper sense of responsibility and have the ability and qualities of leadership to manage and conduct the union on lines which are suitable and proper for the attainment of its objects;

(d) whether the members are able to take an intelligent part in the affairs of the union;

(e) whether the officials and office-bearers are persons of good character;

(f) whether the union is sufficiently representative of all Native interests in the industry and area concerned;

(g) the nature and scope of the industry concerned and the extent to which the Native labour in the industry is migrant or seasonal.

(2) On registration the Registrar shall issue a certificate of registration in the form prescribed and containing such particulars as may be prescribed.

13. The functions of a registered union, in addition to the functions mentioned in section seven, shall be—

(a) to submit proposals on behalf of its members and to negotiate with employers in regard to the conditions of employment in the industry and in the area for which it is registered;

(b) to apply to the Minister for recognition of the existence of a dispute in the industry and area in respect of which it is registered and to make representations on behalf of its members to any Native labour board appointed to investigate the conditions of employment of Natives in such industry in such area;

(c) to submit a panel of names to the Minister from which he may select one or more persons to represent Native workers on the Native labour board established for the industry in respect of which it is registered;

and such other functions as may from time to time be prescribed.

14. At no time shall more than one union be enrolled or registered under this Act in respect of any particular industry in any particular area.

24. (1) Any employer who, except for good cause, the onus of proving which shall be upon him, dismisses any Native worker from his employment or injures him in his employment or alters his position to his prejudice when such worker has given information with regard to matters under this Act to the Registrar or any other officer or to a Native labour board shall be guilty of an offence.

(2) The court which tries any such offence may also, in addition to any sentence which it may impose, order an employer convicted under this section to reinstate any Native worker discharged by him or may award to such Native worker damages not exceeding fifty pounds proved to have been suffered by such Native worker or may order both such reinstatement and payment of such damages or, failing such reinstatement and payment of such damages or, failing such reinstatement or such payment, may sentence such convicted employer to imprisonment for a period not exceeding three months in addition to any other penalty which it has imposed on him.

25. (1) No employer shall make it a condition of employment of any Native worker that that Native worker shall be or become or shall not be or become a member of a union and any such condition in any contract of employment entered into before or after the commencement of this Act shall be void.
(2) Save as is provided in this Act, nothing contained in any law shall prohibit any Native worker from being or becoming a member of any union or subject him to any penalty by reason of his membership of any union.

(3) Any employer who contravenes the provisions of subsection (1) of this section shall be guilty of an offence.

210. In an earlier case in which it was called upon to examine the text of a proposed Bill, the Committee considered it desirable that in such cases the Government and the complainant should be made aware of its point of view with regard to the Bill before it is enacted, in view of the fact that it is open to the Government, on whose initiative such a matter depends, to make any amendments which may seem desirable.

211. The Committee notes with interest that section 5 of the proposed enactment, together with the provisions prohibiting anti-union discrimination contained in sections 24 and 25, would appear to guarantee the right of the Native industrial workers to associate for all lawful purposes and that a union registered in accordance with sections 9 and 10 is intended, under section 13, to have the function, among other functions, of negotiating with employers in regard to conditions of employment.

212. The Committee has noted, however, that certain provisions in the Bill and, in particular, that contained in section 6 (1) (b), under which "the Registrar may enrol an applicant union for any particular industry in any particular area if he is satisfied that no other union is enrolled or registered for that industry in that area ", are inconsistent with the principle that workers, without distinction whatsoever, should have the right to join freely organisations of their own choosing and suggests that this point might be further considered by the Government.

213. In all the circumstances, the Committee recommends the Governing Body—

(1) to decide that, subject to the reservations made in paragraphs 199 and 200 above, the allegations concerning the strike at the Wankie coalfields and the measures taken by the Government to deal with the strike situation and concerning the Government's intention to favour the employers do not call for further examination ;

(2) to take note of the Government's intention to legislate to give specific authorisation to African trade unions, and to communicate to the Government the observation made in paragraph 212 and the hope that legislation on the subject according to African workers the right to organise and to bargain collectively will shortly be enacted ; and

(3) to express the desire to be kept informed as to the results of the efforts being made in this connection by the Government.

Case No. 109:

Complaints Presented by the Burma Trade Union Congress, the Panayprian Federation of Labour and the General Netherlands Seafarers' Union against the Government of Guatemala

ANALYSIS OF THE COMPLAINTS

214. Three complaints have been presented: the first consists of a copy of a protest addressed to the President of the Military Junta of the Government of Guatemala by the Burma Trade Union Congress, this copy having been transmitted to the I.L.O. on 13 August 1954 ; the second is a complaint dated

17 September 1954 from the Pancyprian Federation of Labour transmitted to the I.L.O. by the United Nations; the third, dated 18 October 1954, from the General Netherlands Seafarers' Union, was also transmitted to the I.L.O. by the United Nations.

215. These complaints, having a similar purpose, may be analysed together. They contain the following principal allegations:

(a) Forty-five trade union leaders of the United Fruit Co. who were directing a strike of the workers in the banana plantations were illegally arrested and shot, together with other workers; among them was Felix Moreno, General Secretary of the United Fruit Co. Workers' Union.

(b) Thousands of democratic workers have been arbitrarily arrested and cast into prison by the Military Junta.

(c) The General Confederation of Labour and the Confederation of Peasants of Guatemala have been illegally prohibited.

216. In accordance with the procedure in force, the complainants were informed that any further information which they might wish to present in substantiation of their complaints should be addressed to the Director-General within one month; none of them has forwarded any such further information.

ANALYSIS OF THE REPLY

217. By a letter dated 2 February 1955 the Government of Guatemala communicates the following observations to the Director-General.

218. The complainants give an absolutely false interpretation of the facts, because, while it is true that in July 1954, before the victory of the movement for national liberation, battles took place in the course of which both parties inevitably suffered losses, the casualties were combatants and not trade union leaders. Since the victory of the movement for national liberation no one has been shot. If in the future any person should be executed, this could occur only in the circumstances prescribed by law, pursuant to sentence pronounced by the competent court under penal legislation in accordance with the procedure in force, which lays down many conditions which must be fulfilled before a sentence can be carried out.

219. According to a statement sent to our Ministry by the Department of Labour Administration, which maintains the public register of trade unions, Mr. Felix Moreno is not and never has been a leader of the United Fruit Co. Workers' Union; at present, Mr. Felix Moreno is actually alive and is living at Llano Chapulco, a municipal district of Los Amades, in the Province of Izabal, as is proved by an attestation sent to our Ministry by the Governor of the Province in question.

220. The allegations contained in the complaint presented by the General Netherlands Seafarers' Union with reference to the detention in the prisons of Guatemala of more than 15,000 persons and to the persecution of trade union leaders are absolutely contrary to the truth. The labour laws are still in force and prohibit any discrimination against persons exercising trade union rights.

221. Accordingly, the complaints in question are without any foundation and have been presented for the sole purpose of infringing the honour of the Government of Guatemala.

CONCLUSIONS

Allegations relating to the Arrest and Execution of 45 Trade Union Leaders and to the Detention of Thousands of Democratic Workers

223. In several earlier cases, in which it has had before it allegations relating to the prosecution and sentencing of trade union leaders, the Committee has taken the view that the only question to be decided was the real reason for the measures complained of being taken, and that only if these measures were taken by reason of legitimate trade union activities could there be any infringement of freedom of association. In several of these cases the Committee has taken the view that it must examine the allegations presented having regard to the exceptional circumstances which may subsist as a result of a situation of internal crisis or of hostilities.2

224. In the present case, while the complainant alleges that the arrests, executions and measures of internment in question constitute infringements of freedom of association, the Government affirms that the persons who died in July 1954 were killed in the course of a civil war which inevitably occasioned loss of human life on both sides. It declares that, since the victory of the movement for national liberation, no person has been shot and that the carrying out of a death sentence is now possible only in accordance with conditions prescribed by penal legislation and pursuant to a judgment of the competent court and in accordance with a procedure attended by numerous conditions.

225. The Government also observes that the complainant gives no detailed support to the allegations, beyond mentioning the name of Mr. Felix Moreno, General Secretary of the United Fruit Co. Workers’ Union, as having been among the victims. But the Government states, firstly, that Mr. Felix Moreno has never been a leader of this trade union and, secondly, that he is still alive and at present living in a locality the name of which is given.

226. In these circumstances, the Committee considers that, having regard to the troubled situation prevailing in Guatemala at the period when the events complained about took place, it is impossible to determine to what extent the arrests, executions and measures of internment which took place at this period were connected with trade union activities or the course of the civil war and, in view of the highly political character of the events in question, recommends the Governing Body to decide that it appears undesirable to pursue this aspect of the case further.

Allegation relating to the Prohibition of the General Confederation of Labour and of the Confederation of Peasants of Guatemala

227. The complaint presented by the Burma Trade Union Congress alleges that the General Confederation of Labour and the Confederation of Peasants of Guatemala have been illegally prohibited.

228. In its reply, the Government has refrained from making any observations on this point.


229. The allegation made referring by its very nature to the exercise of freedom of association, the Committee has requested the Director-General to ask the Government of Guatemala to furnish its observations on this matter.

230. The Committee recommends the Governing Body—

(1) to decide that the first series of allegations do not, for the reasons indicated in paragraphs 224-226, call for further examination;

(2) to take note of the present interim report of the Committee with respect to the allegation concerning the prohibition of the General Confederation of Labour and of the Confederation of Peasants of Guatemala, it being understood that the Committee will report further to the Governing Body on this question when it has received further observations from the Government of Guatemala.

Case No. 110:
Complaints Presented by the Burma Trade Union Congress and the Trade Union International of Workers in the Textile and Clothing Industries (Warsaw) against the Government of Pakistan

ANALYSIS OF THE COMPLAINTS

231. The Burma Trade Union Congress presented its complaint by transmitting to the I.L.O. on 12 August 1954 a copy of a communication it had addressed to the Prime Minister of Pakistan on 4 August 1954 and a copy of a resolution of protest adopted by a conference of trade union representatives for the Rangoon-Insein districts on 1 August 1954, which had accompanied the communication. The complainant makes the following allegations:

(a) The workers at the Narayanganj jute mills staged a strike against their employers, who had refused to accede to their wage demands last May, but in spite of the fact that the workers had the right to strike against their employer, the Pakistani authorities, after creating riots among the workers, ordered the army and the police to shoot down the workers, 600 of whom were killed.

(b) Soon after the conclusion of the United States-Pakistan mutual defence pact, the Pakistani authorities proceeded to suppress elementary trade union rights and democratic liberties; trade union organisations were disbanded and hundreds of trade union leaders and democrats were unjustly and arbitrarily put in jail.

232. In a telegram dated 10 September 1954 and addressed to the I.L.O., the Trade Union International of Workers in the Textile and Clothing Industries (Warsaw) protested against the arrest of Mirza Mohammed Ibrahim, Mohammed Afzal [Afghal], Mohammed Ghayoor and other trade union leaders, against the massacre and imprisonment of workers and against the suppression of trade union rights and democratic liberties in Pakistan, and requested the I.L.O. to intervene and seek the release of imprisoned trade union leaders and workers, the punishment of those responsible for the Narayanganj killings and the restoration of trade union rights in Pakistan. In a further communication dated 12 November 1954, this complainant gave the following additional information:

(a) During the month of June 1954, Pakistani trade unions were dissolved by the Government of East Pakistan at the same time that martial law was instituted in the country. The repression of the workers' movement was particularly sanguinary in the town of Narayanganj, where troops opened fire on jute workers, killing hundreds of them.

(b) Mohammed Ghayoor, who was arrested on 7 July 1954, is the General Secretary of the Karachi Textile Workers' Federation; Mirza Mohammed
Ibrahim and Mohammed Afzal, who were arrested on 24 July 1954, are respectively the President and Secretary-General of the Pakistani Federation of Trade Unions. A number of other trade union leaders and workers were imprisoned during the same period. Active trade union organisations have been placed outside the pale of the law.

ANALYSIS OF THE REPLY

233. The Government has sent a reply dated 6 November 1954 which refers to the complaint of the Burma Trade Union Congress and to the telegram of the Trade Union International of Workers in the Textile and Clothing Industries, dated 10 September 1954. In this reply, the Government makes the following observations:

(a) The allegation that the Pakistani authorities, after creating riots among the workers, ordered the army and the police to shoot down the workers at the Narayanganj jute mills is a gross mis-statement based on wrong and misleading information. The riots at the jute mills were in fact a fight between two parties of the workers themselves and the Government did not resort to any firing during the riots. Before the situation could be brought under control, the two parties had inflicted heavy casualties on each other. The situation could not be controlled before the riots resulted in many casualties because—

(1) the trouble flared up suddenly and gave the Government little time to nip it in the bud;

(2) the riots were not confined to a small area but took place in widely dispersed spots; and

(3) the Government had to face transport difficulties due to the fact that East Bengal is a riverine country.

(b) Mirza Mohammed Ibrahim, Mohammed Afzal and Mohammed Ghayoor were arrested for subversive activities and not because of genuine trade union activities. Legitimate trade union activities are not being suppressed in Pakistan and the allegation that the Government of Pakistan took repressive measures against legitimate trade union organisations is false. The Government is anxious to promote healthy trade union activities so that labour problems can be solved with the co-operation of labour, but where agitators take inspiration from foreign countries and exploit labour grievances to strike at the roots of peace and progress, action has to be taken against them.

CONCLUSIONS

234. The Committee notes that there are two main allegations in this case, the first relating to the riots and killing of workers at the Narayanganj jute mills and the second to the disbandment or forced dissolution of trade unions and the arrest of trade union leaders and workers.

Allegation concerning the Riots and Killing of Workers at the Narayanganj Jute Mills

235. The allegation is that the Pakistani authorities, after creating riots among the workers at the Narayanganj jute mills, who had gone on strike, ordered the army and the police to fire on the workers. The Government states that this allegation is based on misleading information, the real facts being that the riots were actually a fight between two factions of the workers themselves, that they inflicted heavy casualties upon each other before the situation could be brought under control, and that there had not been any resort to firing during the riots. The Government explains its inability to
control the situation before the fighting resulted in many casualties by pointing to the fact that the riots flared up suddenly over widely dispersed spots and to the fact that the Government had to face transportation difficulties due to the riverine character of East Bengal.

236. In view of the imprecise nature of the information furnished both in the complaint and in the Government's reply and of the different points of view expressed as to the origin of the riots, the Committee, while recognising that it is impossible, on the basis of the information before it, to determine accurately whether the exercise of trade union rights has actually been violated, nevertheless considers that it should emphasise, as it has done in various earlier cases, that the institution, by the action of the government concerned, of an independent inquiry is a particularly appropriate method of ascertaining the facts and attributing responsibility when disturbances of such importance have occurred and involved loss of human life.

**Allegation concerning the Disbanding or Dissolution of Trade Unions and the Arrest of Trade Union Leaders and Workers**

237. The allegation is that, soon after the conclusion of the United States-Pakistan defence pact, the Government started to suppress trade union rights and democratic liberties in Pakistan, particularly through the disbandment or dissolution of trade unions and the arrest of trade union leaders and workers, including Mirza Mohammed Ibrahim, Mohammed Afzal and Mohammed Ghayoor. The Government denies that legitimate trade union activities are being suppressed in Pakistan or that it has taken repressive measures against legitimate trade union organisations. The Government admits that Mirza Mohammed Ibrahim, Mohammed Afzal and Mohammed Ghayoor were arrested, but for subversive activities and not for genuine trade union activities.

238. The Committee considers that the part of this allegation which relates the acts complained of to the United States-Pakistan defence pact is so obviously political in character as not to require any consideration. With respect to the part of the allegation relating to the arrest of unspecified trade union leaders and workers and to the dissolution of trade unions, without specific evidence having been given of any trade union which was forced to disband or dissolve as a result of governmental action, the Committee, recalling the rule it has followed in previous cases where similar, unsupported allegations have been made, concludes that this part of the allegation does not call for an examination on its merits.

239. The remaining part of this allegation relates to the arrest of Mirza Mohammed Ibrahim, Mohammed Afzal and Mohammed Ghayoor, also referred to by the Trade Union International of Workers in the Textile and Clothing Industries in its telegram dated 10 September 1954. This complainant has

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2 For example, in Case No. 5 (India), where it was alleged that thousands of workers were arrested and many unions forced to cease activities (see, in the *Seventh Report of the I.L.O. to the United Nations*, Fourth Report of the Committee on Freedom of Association, paragraphs 28, 35 and 46, pp. 182-183, 184 and 187); in Case No. 49 (Pakistan), where it was alleged that the Government had ordered the arrest of key workers engaged in ordinary trade union activities (ibid., Sixth Report of the Committee on Freedom of Association, paragraphs 773 and 802, pp. 347-348 and 352); and in Case No. 60 (Japan), where it was alleged that trade union rights had been denied to trade unions opposed to government policy (see, in the *Eighth Report of the I.L.O. to the United Nations*, Twelfth Report of the Committee on Freedom of Association, paragraphs 28-29, pp. 206-207). Where the allegations were not supported by specific evidence of the acts complained of, the Committee concluded that the matter did not call for further examination.
given additional information concerning the dates of their arrests and their trade union positions in its letter dated 12 November 1954, which was communicated to the Government by a letter dated 3 December 1954, to which the Government has not so far replied.

240. In this connection, the Committee has noted that, on the basis of the above-mentioned telegram, the Government has made some observations concerning the arrests of these trade union leaders. It has, however, limited itself to the statement that Mirza Mohammed Ibrahim, Mohammed Afzal and Mohammed Ghayoor were arrested not for genuine trade union activities but for subversive activities.

241. In a number of previous cases where the complainants alleged that trade union leaders or workers had been arrested for trade union activities, and the Government's replies amounted to a general denial of the allegation or were simply to the effect that the arrests were made for subversive activities, for reasons of internal security or for common law crimes, the Committee has followed the rule that the governments concerned should be requested to submit further and as precise information as possible concerning the arrests, particularly in connection with the legal or judicial proceedings instituted as a result thereof and the result of such proceedings, in order to be able to make a proper examination of the allegation.1 The Committee therefore considers that the Government should be requested to submit similar information regarding the arrest of the above-named trade union leaders.

242. Accordingly, the Committee has postponed its consideration of this part of the allegation pending the receipt of further information from the Government.

243. In all the circumstances, the Committee recommends the Governing Body—

(1) to draw the attention of the Government to the observations made in paragraph 236 relating to the incidents at the Narayanganj jute mills ;
(2) to take note of the present interim report with regard to the allegations relating to the disbanding or dissolution of trade unions and the arrest of Mirza Mohammed Ibrahim, Mohammed Afzal and Mohammed Ghayoor, it being understood that the Committee will make a report on this matter when it has received more detailed information from the Government.


(Signed) Roberto Ago,
Chairman.

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Sixteenth Report of the Committee on Freedom of Association

INTRODUCTION

1. The Committee on Freedom of Association set up by the Governing Body at its 117th Session (Geneva, November 1951) met at the International Labour Office, Geneva, on 23 May 1955, under the chairmanship of Mr. Paul Ramadier, former Chairman of the Governing Body and former Prime Minister of France.

2. In accordance with the terms of reference of the Committee, as defined by the Governing Body, members of the Committee disqualified from participating in the consideration of particular cases by reason of their nationality or official position did not participate in the consideration of such cases. During the Committee's examination of the cases relating to France-Morocco (Case No. 16), France-Tunisia (Case No. 61), France (Case No. 69) and France (Case No. 118), Mr. González Barros, representative of the Government of Colombia, occupied the Chair.

3. The Committee had before it three cases, relating to Iran (Case No. 116), France (Case No. 118) and the Union of South Africa (Case No. 119), which were submitted to it for an opinion prior to being communicated to the Governments concerned, and 16 cases in which the complaints had already been communicated to the Governments concerned for their observations, namely those relating to France-Morocco (Case No. 16), France-Tunisia (Case No. 61), France (Case No. 69), Venezuela (Case No. 72), the United Kingdom-British Honduras (Case No. 73), Peru (Case No. 92), India (Case No. 97), El Salvador (Case No. 100), Iran (Case No. 104), Greece (Case No. 105), Burma (Case No. 107), Guatemala (Case No. 109), Pakistan (Case No. 110), the Union of Soviet Socialist Republics (Case No. 111), Greece (Case No. 112) and the Argentine Republic (Case No. 117).

4. The Committee adjourned until its next session its further examination of the cases relating to France-Morocco (Case No. 16), France (Case No. 69), Venezuela (Case No. 72), Peru (Case No. 92), India (Case No. 97), El Salvador (Case No. 100), Iran (Case No. 104), Greece (Case No. 105), Burma (Case No. 107), Guatemala (Case No. 109), Pakistan (Case No. 110) and the Union of Soviet Socialist Republics (Case No. 111), in which it had not received the observations requested from the Governments concerned.

5. With regard to the cases relating to the United Kingdom-British Honduras (Case No. 73) and Guatemala (Case No. 109), the Committee received the observations of the Governments concerned too late to enable them to be examined at its present session and decided, therefore, to adjourn its examination of these cases until its next session.

6. With regard to the case relating to France-Tunisia (Case No. 61), concerning which the Committee has already made an interim report to the Governing Body in its Twelfth Report, the Committee, noting the assurances given by the French Government that any further information which may become available concerning the death of Ferhat Hached will be supplied to it, considers that there is nothing to be gained by its dealing with the matter further unless such information becomes available.

1 See note 1, p. 1 above.
2 The Sixteenth Report of the Committee on Freedom of Association was approved by the Governing Body nem. con., with one abstention, on 28 May 1955.
7. In the present report the Committee submits for the approval of the Governing Body the conclusions which it has reached concerning the seven remaining cases it had before it. These conclusions may be briefly summarised as follows:

(a) The Committee recommends that, for the reasons indicated in paragraphs 9 to 32 of this report, the complaints relating to Iran (Case No. 116), France (Case No. 118) and the Union of South Africa (Case No. 119), which were submitted to it for an opinion, should be dismissed without being communicated to the Governments concerned.

(b) The Committee recommends that, for the reasons indicated in paragraphs 33 to 109 of this report, the cases relating to Greece (Case No. 105), Burma (Case No. 107), Greece (Case No. 112) and the Argentine Republic (Case No. 117) should, subject to the observations contained in those paragraphs, be dismissed as not calling for further examination.

8. The Committee ventures to draw attention to the fact that it has now submitted unanimous reports on 108, and unanimous interim reports on a further five of the 119 cases which have been submitted to it since its first meeting in January 1952.

COMPLAINTS WHICH THE COMMITTEE RECOMMENDS SHOULD BE DISMISSED WITHOUT BEING COMMUNICATED TO THE GOVERNMENTS CONCERNED

Case No. 116:
Complaints Presented by the Central Council of the Unified Trade Unions of Iran and Other Organisations against the Government of Iran

ANALYSIS OF THE CASE

9. By a letter dated 20 January 1955, the Secretary-General of the United Nations transmitted to the I.L.O. a communication dated 20 December 1954 from the Central Council of the Unified Trade Unions of Iran alleging, mainly, that the law nationalising the petroleum industry had been violated and also, but in general terms, that there had been infringements of the exercise of trade union rights in Iran. Further, by a letter dated 10 February 1955, the Secretary-General of the United Nations transmitted to the I.L.O. a communication dated 22 December 1954 from the Federation of Free Trade Unions of the Democratic Republic of Germany, also containing allegations of violations of trade union rights in Iran.

10. In accordance with the existing procedure for the examination of complaints alleging infringements of the exercise of trade union rights (as outlined in paragraph 23 (a)\(^1\) of the Ninth Report of the Committee on Freedom of Association), the Director-General acknowledged the receipt of the original complaint presented by the Central Council of the Unified Trade Unions of Iran by a letter dated 1 February 1955 and informed the complaining organisation that any further information which it might wish to furnish in substantiation of its complaint should be forwarded to him within one month. No further information, however, has been received by the Director-General in response to this letter.

11. According to paragraph 23 (c)\(^1\) of the Ninth Report of the Committee, adopted by the Governing Body at its 123rd Session (Geneva, November 1953), which relates to complaints which are not sufficiently substantiated, it is for the Committee to decide whether any further action in the matter is appropriate.

where a complainant has not sufficiently substantiated a complaint within a period of one month from the date of the Director-General's acknowledgement of the receipt of the complaint.

12. Having regard to this provision, the Director-General, considering that in the present case both the complaint presented by the Central Council of the Unified Trade Unions of Iran and that presented by the Federation of Free Trade Unions of the Democratic Republic of Germany did not furnish sufficient details to justify their being communicated to the Government of Iran for its observations, and having noted that the authors of the original complaint had refrained from presenting further information, decided to submit the complaints directly to the Committee for its opinion.

13. Further, by a letter dated 11 March 1955, the Secretary-General of the United Nations transmitted to the I.L.O. a copy of a communication addressed by the Petroleum Workmen's Union, Bombay, on 17 December 1954 to the Ambassador of Iran in India, alleging infringements of the exercise of freedom of association in Iran. The Secretary-General himself had received only a copy of this communication. In the letter by which he transmitted this complaint, the Secretary-General of the United Nations raised a question of principle as to whether the normal procedure established jointly by the United Nations and the I.L.O. in resolution 474 A (XV) of the Economic and Social Council should apply in the case of communications of which only a copy is received by the United Nations. In his reply to the Secretary-General of the United Nations, the Director-General stated that he would submit this question to the Committee on Freedom of Association for its opinion.

CONCLUSIONS

14. With regard to the first two communications, emanating respectively from the Central Council of the Unified Trade Unions of Iran and the Federation of Free Trade Unions of the Democratic Republic of Germany, the Committee notes, firstly, that the complaint of the former organisation concerns to a large extent matters not related to respect for freedom of association (violation of the law nationalising the petroleum industry, agreements signed with the international consortium) and which, as such, are clearly outside its competence, and, secondly, recalls that it already has before it a case concerning the Government of Iran and dealing with the general trade union situation in that country. Finally, the Committee observes that such of the allegations in the new complaints as relate to freedom of association are extremely vague, have not been substantiated by the complainant although it was given an opportunity to do so, and do not, moreover, contain any really new elements when compared with the allegations in the case which is already before the Committee. In these circumstances, the Committee recommends the Governing Body to decide that the complaints in question do not call for any action to be taken.

15. With regard to the third communication, emanating from the Petroleum Workmen's Union, Bombay, and addressed to the Ambassador of Iran in India, the Committee, noting that it has received, through the intermediary of the United Nations, only a copy of a communication from a trade union organisation to a third party, recommends the Governing Body to decide that it does not call for any action to be taken.

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Case No. 118:
Complaint Presented by the Trade Union International of Transport, Port and Fishery Workers (W.F.T.U.) against the Government of France

ANALYSIS OF THE CASE

16. By a letter dated 17 February 1955, the Secretary-General of the United Nations transmitted to the I.L.O. a communication dated 8 February 1955 from the Trade Union International of Transport, Port and Fishery Workers (W.F.T.U.), in which it is alleged that certain employees have been transferred to new duties without any justifiable reason, which, in the view of the complainant, constitutes a violation of the trade union rights of such employees.

17. In accordance with the existing procedure for the examination of complaints alleging infringements of the exercise of trade union rights (as outlined in paragraph 23 (a) of the Ninth Report of the Committee on Freedom of Association), the Director-General acknowledged the receipt of the complaint by a letter dated 8 March 1955 and informed the complaining organisation that any further information which it might wish to furnish in substantiation of its complaint should be addressed to him within a period of one month. No further information, however, has been received by the Director-General in response to this letter.

18. According to paragraph 23 (c) of the Ninth Report of the Committee, adopted by the Governing Body at its 123rd Session (Geneva, November 1953), which relates to complaints which are not sufficiently substantiated, it is for the Committee to decide whether any further action in the matter is appropriate where a complainant has not sufficiently substantiated a complaint within a period of one month from the date of the Director-General's acknowledgement of the receipt of the complaint.

19. Having regard to this provision, the Director-General, considering that in the present case the original complaint did not furnish sufficient details to justify its being communicated to the French Government for its observations, and having noted that the complaining organisation had refrained from presenting further information, decided to submit the complaint directly to the Committee for its opinion.

CONCLUSIONS

20. It is alleged that Mr. André Martinez, a workshop employee at Perrégaux (Algeria), was informed that, in the interests of the service, he was transferred to the depot at Sidi Mabrouk. The Algerian Railway Workers' Union having intervened to draw the attention of the manager of the Algerian Railways to a measure which it regarded as irregular, he replied, it is alleged, that the transfer of Mr. Martinez had been ordered by the Algerian Administration, which considered his presence at Perrégaux to be "undesirable". In the view of the complainant, the intervention of the Governor-General in this affair was contrary to the provisions of article 9 of the Decree of 31 December 1938 relative to the administrative and financial organisation of the Algerian Railways, which specifically place upon the manager of the Algerian Railways the responsibility for making appointments, promotions and transfers of personnel and for taking disciplinary measures, where necessary, with respect to members of the personnel. The complainants see in the transfer of Mr. Martinez a return to methods of coercion incompatible with constitutional freedom.

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1 See note 1, p. 56 above.
21. However, the complainant offers no proof to show that the transfer of Mr. Martinez was the consequence of trade union activities carried on by him or of his trade union membership; in fact, the complainant does not even state whether or not Mr. Martinez is a member of a union. In its present form, the complaint leaves it quite impossible to determine whether there was any connection whatsoever between the transfer of Mr. Martinez and his exercise of trade union rights.

22. The Committee also notes that the complaining organisation, although duly informed that any further information which it might wish to present in substantiation of the complaint should be transmitted to the Director-General within a period of one month, has not seen fit to submit any further information to the Committee.

23. In these circumstances, the Committee recommends the Governing Body to decide that the complaint does not call for any action to be taken.

Case No. 119:
Complaints Presented by the World Federation of Trade Unions against the Government of the Union of South Africa

ANALYSIS OF THE CASE

24. The Secretary-General of the United Nations transmitted to the Director-General two communications from the World Federation of Trade Unions to the United Nations, dated 22 March and 1 April 1955 respectively, containing allegations against the Government of the Union of South Africa. Subsequently a communication identical with that dated 1 April 1955 was addressed to the Director-General.

25. In accordance with paragraphs 21 and 24 of the Ninth Report of the Committee, which the Governing Body approved, as amended, at its 123rd Session (Geneva, November 1953), the Director-General decided to submit these complaints to the Committee for an opinion, because it appeared to him that the communication dated 1 April 1955 consists, in part, of allegations which do not relate specifically to infringements of freedom of association and that the rest of the communication and the whole of that dated 22 March 1955 consist of allegations which raise questions with respect to which the Committee has already made recommendations which have been approved by the Governing Body.

26. The communication from the complainant dated 1 April 1955 transmits the text of a declaration issued by the World Federation of Trade Unions with respect to "repression and discrimination in the Union of South Africa". It contains allegations which may be divided into two groups, as indicated in paragraph 25 above.

27. The first series of allegations contend that the African population in the Union is the subject of racial persecution and arbitrary repression. In support of this contention, the complainant cites curfew laws, laws concerning permits to travel, the penalties for breach of contracts of services prescribed by the Masters and Servants Act, legislation concerning mines and quarries, the exclusion of the majority of Africans from the application of unemployment insurance legislation, racial discrimination in every aspect of social life, the use of prisoners for forced labour, and segregation legislation, such as that pursuant to which African families in Johannesburg were forced, in January and February 1955, to leave their homes and reside in a new quarter.

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The complainant also refers to the prohibition of certain newspapers, such as *The Guardian* and *Advance*, but does not allege that these publications are in any respect trade union publications.

28. In the second series of allegations relating to trade union rights it is contended that: (a) the Suppression of Communism Act, 1950, is directed against the functioning and democratic life of the trade unions, many trade union leaders having been prohibited under it from carrying on trade union and public activities; (b) the Native Labour (Settlement of Disputes) Act, 1953, punishes strikes by African workers and allows the Government to annul collective agreements and to force European workers to work for the same low wages as are paid to Africans; (c) the Bill to amend the Industrial Conciliation Act, 1937, will organise the workers of different races in separate trade unions and reserve specific kinds of employment for the different races; (d) the whole purpose of racial discrimination and the suppression of trade union rights and democratic freedoms is to ensure the complete submission to exploitation of the workers of all races.

29. The communication dated 22 March 1955 is also related to this second series of allegations, as it concerns the application of the Suppression of Communism Act, 1950; it embodies the text of a notice alleged to have been addressed by the Minister of Justice, under that Act, to Mr. V. J. Syvret, a member of the executive of the Amalgamated Engineering Union, prohibiting him from attending meetings anywhere in South Africa and ordering him to resign from his trade union and to refrain in the future from becoming a member or official of any union or taking part in trade union activities.

CONCLUSIONS

30. In a number of previous cases and, in particular, in Case No. 94 (Cuba), where the complaints before the Committee contained both allegations concerning the exercise of trade union rights and allegations concerning the exercise of rights other than trade union rights, the Committee has taken the view that, where the allegations relate to the exercise of rights which do not bring into question the exercise of freedom of association, the examination of such allegations is outside its competence. In present case, also, the Committee considers that the various matters cited by the complainant in the communication dated 1 April 1955 as examples of racial discrimination in respect of the matters other than freedom of association mentioned in paragraph 27 above are not appropriate for consideration by the Committee on Freedom of Association.

31. With respect to the second series of allegations referred to in paragraphs 28 and 29 above, the Committee recalls that in two previous cases relating to the Union of South Africa, it was called upon to examine allegations of a far more detailed nature than those made in the present case, concerning

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3 Ibid., Case No. 63 (Union of South Africa), paragraphs 257-276, pp. 244-245; see also Fifteenth Report of the Committee on Freedom of Association, Case No. 102 (Union of South Africa), paragraphs 75-185, pp. 15-41 above.
the effect of the Suppression of Communism Act, 1950, on the exercise of trade union rights, the position of African workers and other workers under the provisions of the Native Labour (Settlement of Disputes) Act, 1953, and the question of the reservation of different employments for specific races raised by the proposal to enact an amendment to the Industrial Conciliation Act, 1937, and that it reached certain findings in those cases which the Governing Body decided should be communicated to the Government of the Union of South Africa. As the allegations made in the present case do not appear to add any new element to the allegations raised in Cases Nos. 63 and 102, beyond the addition of the name of Mr. V. J. Syvret to the list of those already alleged to have been removed from trade union life under the Suppression of Communism Act, the Committee considers that they do not call for any further action to be taken.

32. As the first series of allegations relate to measures of racial discrimination which do not involve the exercise of trade union rights, the Committee considers that the examination of such allegations is outside its competence. With regard to the second series of allegations, the Committee considers that the measure complained against involves the same questions of principle as those with respect to which it submitted recommendations to the Governing Body in its Twelfth and Fifteenth Reports, which the Governing Body has approved. The Committee recommends the Governing Body to take note of these conclusions.

CASES WHICH THE COMMITTEE RECOMMENDS SHOULD BE DISMISSED

33. The Committee now proceeds to indicate the grounds on which it recommends that four of the cases submitted to it should be dismissed. If the Governing Body approves of these recommendations, the complaining organisation and the Government concerned will in each case be informed of the conclusions reached.

Case No. 105:

Complaints Presented by the Unified Trade Union Movement of Greece and the Greek General Confederation of Labour against the Government of Greece

HISTORY OF THE CASE

34. At its 127th Session (Rome, November 1954), the Governing Body, when adopting the Fourteenth Report of the Committee on Freedom of Association, approved the recommendations submitted to it by the Committee with regard to two complaints presented by the Unified Trade Union Movement of Greece and the Greek General Confederation of Labour against the Government of Greece in two communications dated respectively 10 June and 17 June 1954.  

35. In accordance with these recommendations, the Governing Body decided that certain of the allegations formulated in these complaints did not call for further examination. With regard to a further allegation relating to a Bill concerning certain questions affecting bank employees, the Governing Body communicated certain observations to the Government. Further, the Governing Body also noted that the Greek Government would be invited to furnish further information with regard to the consultation of trade union organisations with

2 Ibid., paragraphs 145 (a), (c) and (d), p. 160.
respect to the appointment of workers' representatives on various bodies dealing with questions affecting the working class.

36. By two letters dated 10 February 1955 and 30 April 1955, the Greek Government transmitted to the Director-General information relating to the last two points. This information is analysed separately with respect to each point.

Allegations relating to the Exercise of Trade Union Rights by Bank Employees

37. Among several allegations relating to the abolition of certain legislative provisions protecting the leaders of bank employees' trade unions against dismissal, the Committee had to examine the provisions of a Bill providing that members of a trade union executive would automatically forfeit their office on ceasing to carry on the occupation represented by them. The Committee observed that when this provision in the proposed Bill was considered in conjunction with the provisions of Decree No. 2510 of 1953, which abrogated, in the case of certain banks, the legislative provisions protecting the leaders of bank employees' trade unions against dismissal, the result, in the event of the Bill being adopted, would be that a member of a trade union executive who was dismissed by the management of one of the banks concerned would be deprived not only of his employment but also of his right to participate in the administration of his trade union. On the recommendation of the Committee, the Governing Body drew the attention of the Greek Government to the fact that, if the Bill in question should become law, it would enable the managements of certain banks to interfere with the right of the workers to elect their representatives in full freedom, a right which constitutes one of the essential aspects of freedom of association.

38. By a letter dated 10 February 1955, the Greek Government informed the Committee that the provision, which had been in the draft stage when the complaint was presented, had been embodied in Legislative Decree No. 3072 of 1954 and had been published in the official gazette on 9 October 1954, that is to say prior to the decision taken by the Governing Body. It added that the provision would be re-examined by the Government.

39. In its second letter dated 30 April 1955, the Government declares that it has decided to amend the said provision in the near future and that it proposes to forward, at an early date, the new legislative text to be adopted with regard to this matter.

40. The Committee notes with satisfaction the information furnished by the Greek Government with regard to the pending modification of the provision to which it drew the Government's attention in paragraph 145 (b)1 of its Fourteenth Report.

Allegations relating to the Arbitrary Appointment of Workers' Representatives on Various Bodies concerned with Questions affecting the Working Class

Request for Further Information.

41. The complainant alleged in general terms that the Ministry of Labour had ceased almost entirely to consult the trade union organisations when appointing workers' representatives on the different bodies dealing with questions affecting the working class and that, in particular, article 1 of the Unemployment Insurance Bill provided that the representative of the working class should be named by the Minister. The Government's reply having dealt only with the question of the appointment of workers' representatives on social insurance bodies, the Committee invited the Greek Government to furnish

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further information with regard to the consultation of trade union organisations with respect to the appointment of workers' representatives on bodies—other than those connected with social security—dealing with questions affecting the working class.

Analysis of the Supplementary Information.

42. In its letter dated 30 April 1955, the Government furnished the following information on these points.

43. Attached to the Ministry of Labour are, firstly, a Labour Council, which is consulted with regard to all decrees or Ministerial decisions relating to the regulation of conditions of employment and which, by virtue of a Royal Decree of 18 March-14 April 1953, includes two representatives of the Greek General Confederation of Labour nominated by that organisation and, secondly, a Council responsible for the technical training of apprentices (Law No. 1542 of 1950), on which two seats are also reserved for representatives of the Greek General Confederation of Labour.

44. The Council of the Greek Productivity Centre is, by virtue of a Royal Decree of 16 March 1955, composed of various competent persons, including two representatives of the Greek General Confederation of Labour nominated by that organisation.

45. A Bill at present being discussed in the Chamber of Deputies provides that the workers' representatives on the Employment and Unemployment Council will henceforth be nominated by the Greek General Confederation of Labour.

46. Finally, a further proposed enactment, which has just been approved by the Chamber, provides for the institution of a National Advisory Council on Social Policy, which will have to be consulted on all questions entering into the domain of social policy. The composition of this Council is to be tripartite, and the Greek General Confederation of Labour will be asked to nominate representatives. The Government states that the Greek General Confederation of Labour has publicly expressed its satisfaction at the institution of this Council.

CONCLUSIONS

47. In view of the precise information furnished by the Government, the Committee considers that the allegations relating to the arbitrary appointment of workers' representatives on bodies concerned with questions affecting the working class would appear, in the light of the present practice being followed in this connection by the Government, to be without foundation, and therefore recommends the Governing Body to decide that these allegations do not call for further examination.

Case No. 107 :
Complaint Presented by the Burma Trade Union Congress against the Government of the Union of Burma

ANALYSIS OF THE COMPLAINT

48. The complaint is embodied in a resolution which the Burma Trade Union Congress presented to the Secretary-General of the United Nations by a communication dated 24 June 1954 and was transmitted by the Secretary-General of the United Nations to the I.L.O. It alleges that the trade union of workers employed by the Oxygen Acetylene Company in Rangoon made demands
upon the Company concerning the payment of certain allowances and the reinstatement of a certain worker, the reason for the termination of his employment not being stated; that the Company not only refused to consider the demands but also wrecked the government-organised mediation board by its unco-operativeness; that the workers were obliged as a last resort to go on strike, and that the company threatened to dismiss them if they did not return to work by 26 June.

49. The complaining organisation was informed by the Director-General, in a communication dated 17 August 1954, that any further information that it might wish to furnish in substantiation of the complaint should be communicated within a period of one month. No further communication was received from the complainant.

ANALYSIS OF THE REPLY

50. In its reply dated 11 February 1955, the Government states that nothing in the allegations is in any way against the Government; the allegations are made against private employers and it therefore might appear unnecessary to answer or refute the charges, which, moreover, are so lacking in clarity as to make it difficult to understand what exactly is the cause of the complaint. However, the Government states that the Company did order the workers under penalty of dismissal to return to work by a certain date; this was not then contrary to law, but the law has since been amended to make it so. In fact, however, the Company’s threat to dismiss the workers was not carried out and the parties were able to reach an agreement mainly owing to the Government’s conciliation machinery. The agreement shows that the workers have not suffered as a result.

51. The text of the amendment and an English translation of the agreement referred to above were forwarded with the Government’s reply. The agreement is dated 25 June 1954.

CONCLUSIONS

52. The Government contends that, as the allegations are made against employers and not against the Government, it might appear unnecessary for the Government to reply to them. In this connection, the Committee recalls that its practice in cases which have come before it in the past has been not to make a distinction between allegations levelled against governments as such and allegations levelled against employers, but to consider whether or not, in each particular case, a government has ensured in its territory the exercise of trade union rights whose exercise it has been the government’s duty to ensure. In accordance with this principle, the Committee considers that it is competent to consider the allegations made in the present case.

53. The two contentions raised by the complainant are, firstly, that the employers concerned in this case refused to consider the workers’ demands and were so “unco-operative” that they wrecked the attempt to conciliate the dispute through a government-organised mediation board and, secondly, that when the workers went on strike in support of their demands, the employers threatened to dismiss them if they did not resume work by a certain date. The Government declares that, in fact, a satisfactory agreement was reached, largely through the aid of the mediation offered by the Government, that the employers’ threat to dismiss the workers was never carried out and that, though not illegal at the time of the dispute in question, such action on the part of employers in future disputes would be illegal by virtue of an amendment which has since been made to the Burma Trade Disputes Act.
54. With regard to the first contention as to the unco-operative attitude of the employers with respect to the conciliation of the dispute, the Committee notes that the demands made by the workers were concerned with the payment of certain allowances and the reinstatement of a worker whose employment had been terminated, the reason for such termination not being indicated by the complainant, so that no allegation is made in this case that the exercise of freedom of association or the question of union recognition was an issue in the dispute. The Committee considers that, in the case of a dispute over such issues as appear to have formed the subject of the dispute in the present case, the question as to whether one party adopts an amenable attitude or an uncompromising attitude towards the demands of the other party is a matter for negotiation between the parties within the law of the land, and that insufficient proof has been offered to show that the alleged "unco-operativeness" of the employers involved any infringement of trade union rights.

55. With regard to the employers' threat to dismiss the workers who went on strike, which constituted a threat of direct action by one party in retaliation against direct action taken by the other party in support of its demands, the Committee considers that, as the threat was never carried out and the Government has indicated that a similar act would be illegal if committed in the future by a reason of changes which have since been made in the law, it is unnecessary to pursue this allegation further.

56. The Committee therefore recommends the Governing Body to decide that the case does not call for further examination.

Case No. 112:

Complaints Presented by the Trade Union International of Workers in the Building, Wood and Building Materials Industries, the World Federation of Trade Unions and the Unified Trade Union Movement of Greece against the Government of Greece

ANALYSIS OF THE COMPLAINTS

57. The Committee had three complaints before it: the first, dated 4 June 1954, addressed to the United Nations by the Trade Union International of Workers in the Building, Wood and Building Materials Industries; the second, dated 31 May 1954, addressed to the United Nations by the World Federation of Trade Unions; and the third, dated 10 June 1954, addressed to the Director-General by the Unified Trade Union Movement of Greece (E.S.K.E.).

58. It is alleged in the first complaint that 49 workers of both sexes were deported in May 1953 for having taken part in a workers' meeting. Although recently acquitted by the court, they were again sent to the island of Agios Efstratios. The second complaint refers to precisely the same matter. The third complaint, the main part of which is dealt with in Case No. 105¹, contains an allegation relating to the exile for the last seven years of hundreds of trade union officers and to the recent deportation of eight trade unionists because of their trade union activities.

59. In accordance with paragraph 23² of the Ninth Report of the Committee on Freedom of Association, the Director-General informed the complaining organisations that any further information which they might wish to furnish in substantiation of their complaints should be communicated to him within one month. None of them has so far forwarded any further information.

² See note 1, p. 56 above.
ANALYSIS OF THE REPLIES

Analysis of the First Observations
(Letters Dated 2 and 6 October 1954)

60. The Greek Government transmitted its observations on the complaints communicated to it by two letters dated 2 and 6 October 1954.


61. In reply to the allegations made by the Trade Union International of Workers in the Building, Wood and Building Materials Industries, the Government presents the following observations.

62. It is true that on 1 May 19531 the police authorities in Athens and Piraeus arrested a number of persons, but these arrests and the ensuing deportations had no connection with trade union activities. They were occasioned by the fact that the persons in question tried to disturb the peaceful celebration of May Day and to transform the meeting held on that day into a Communist demonstration; acting pursuant to orders given by the Greek Communist Party, they hoisted placards bearing Communist slogans and distributed Communist pamphlets of an anti-national and provocative character. Disturbances broke out and led to several non-Communists being injured. Forty-nine persons were arrested and brought before the courts pursuant to articles 189 and 192 of the Penal Code. At the same time, the security department proposed the deportation of 47 persons who were endeavouring to re-establish the illegal machinery of the Greek Communist Party and, to this end, were spreading propaganda in the trade unions. These persons were sentenced to be deported for one year pursuant to Decision No. 35 of 2 May 1953 of the Public Security Committee for the Attica Area. The Government denies that this case has anything to do with the exercise of trade union rights, which is a right enjoyed by all Greek citizens.

Letter Dated 6 October 1954.

63. In reply to the allegations made by the Unified Trade Union Movement of Greece (E.S.K.E.), the Government observes 2 that the Secretary-General and almost all the members of the complaining organisation belong to the Greek Communist Party or are known to be pro-Communists endeavouring to promote the interests of the Party. The Government considers that the complaint is based on information which is cited in bad faith and is contrary to the truth. It declares that, if there have been cases of trade unionists being exiled, the measures taken have been in accordance with the penal law, which, in every democratic country, punishes citizens who break the laws or act against the interests of the nation.

First Request for Further Information

64. At its Tenth Session (Rome, November 1954), the Committee noted that, at its Seventh Session (Geneva, November 1953), when examining Case No. 66, it had had before it a complaint presented by the Union of Employees of Athens and Suburbs Restaurants protesting, in particular, against the arrest

1 The Government's letter states "1 June 1953", but it is clear from the context that "1 May 1953" is intended.
2 The present analysis covers only that part of the Government's reply which relates to the E.S.K.E.'s allegation concerning the deportation of trade unionists. The remainder of the Government's reply was analysed in the Fourteenth Report of the Committee on Freedom of Association, Case No. 105 (Greece), paragraphs 117-145 (see Official Bulletin, Vol. XXXVII, No. 4, 30 Nov. 1954, pp. 153-160).
of certain members of that union on the occasion of the May Day celebrations in 1953. The Committee also had before it a reply from the Government dated 9 September 1953 stating that the persons concerned had created a disturbance, that judicial proceedings had been taken against them for contravention of the Penal Code and that, having been considered dangerous to the maintenance of public order, they had been summoned before the Public Security Committee for the Attica Area and sentenced by it to be deported for one year. The Committee took the view that, before it expressed its opinion on the merits of the allegations made, it should request the Greek Government to furnish further information bearing, in particular, on the result of the judicial proceedings instituted charging contraventions of the Penal Code following the incidents on 1 May.

65. At its Eighth Session (Geneva, March 1954), the Committee had before it a further letter from the Greek Government, dated 15 January 1954, in which it was stated that all the persons arrested on May Day 1953 were officials of the Greek Communist Party who were endeavouring to further its ends by violence and were working unceasingly to re-establish secret organisations; they had tried to transform the celebrations on 1 May into a political demonstration by distributing pamphlets of an anarchical and anti-national character. In view of the repeated affirmations of the Government that the measures complained of had no connection with the exercise of freedom of association, were motivated only by reasons of public order and affected only people carrying on illegal and secret activity, the Committee considered that the allegations were of so political a nature that it was not desirable to pursue the case and that, in those circumstances, they did not call for further examination.

66. The Committee's recommendation was approved by the Governing Body at its 124th Session (Geneva, March 1954).

67. The specific allegations concerning the deportation of certain trade unionists which were before the Committee at its Tenth Session (Rome, November 1954) also related to the events on May Day 1953 and contended that a number of workers were deported on that occasion. The tenor of the observations presented by the Government in its reply dated 2 October 1954 was the same as that of its replies dated 9 September 1953 and 15 January 1954.

68. However, the Committee noted that the complaint dated 4 June 1954, submitted by the Trade Union International of Workers in the Building, Wood and Building Materials Industries, and that dated 31 May 1954, submitted by the World Federation of Trade Unions, alleged that the persons who had been arrested on the occasion of 1 May 1953 and who had again been sent to the island of Agios Efstratios, had been sent there "although acquitted by the court a few days before". The Government's reply dated 2 October 1954 merely stated that judicial proceedings had been taken against the persons arrested pursuant to articles 189 and 192 of the Penal Code, but gave no indication as to the results of the proceedings. Moreover, the Government stated that, at the same time, the security department had proposed the deportation of 47 persons who were endeavouring to re-establish the illegal machinery of the Greek Communist Party and, to this end, were spreading propaganda in the trade unions.

69. In these circumstances, the Committee considered that it should request the Greek Government to furnish information as to the results of the judicial

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2 Ibid., paragraph 144, p. 225.
3 Ibid., paragraph 146, pp. 225-226.
4 Ibid., paragraph 149, p. 226.
5 Ibid., paragraph 155, p. 227.
proceedings taken against the persons arrested on the occasion of 1 May 1953. Further, having regard to the importance which it has always attached in its earlier recommendations to the principle that all accused persons should enjoy the guarantees afforded by due legal process, the Committee considered that it should also request the Greek Government to indicate what legal guarantees are applicable in the case of persons summoned before a public security committee.

Analysis of Further Information
(Letter Dated 2 January 1955)

70. In its letter dated 2 January 1955, in response to the Committee's first request for further information, the Government states that the arrests effected by the police authorities on 1 May 1953 did not have any connection with the exercise of trade union rights, these being freely enjoyed by all Greek workers. In its view the only question for the Committee to determine is whether the acts upon which the allegations are based constitute an infringement of trade union rights and, if such is not the case, it should stop its inquiry.

71. The Government then states that, by a decision (No. 8744) rendered on 12 May 1954, the Athens Correctional Court condemned five of the 49 persons who appeared before it to two months' imprisonment and that these persons, having paid the penalty, have been released.

72. But there exists in Greece, along with penal proceedings, another system of prosecution involving "the deportation of any person suspected of having assisted brigands, persons in contumacy, contrabandists or any person who has committed acts contrary to the public order or to the peace and security of the State". Deportation is thus a special penalty imposed by virtue of a special procedure; according to the law, it cannot exceed a period of one year. Cases of deportation are decided upon by special public security committees established in each area, and composed of the prefect, and the president and prosecutor of the court of first instance, with the chief of police or the director of the police, in big cities, as reporter. The law has established within each court of appeal a public security committee of second instance, composed of the prefect, and the president and prosecutor of the court of appeal, to which every person concerned may have recourse within three days following notification of the decision of the committee of first instance. In these proceedings, the persons concerned may designate an attorney. The role of the prosecutor is of primary importance, since he assembles the material for investigation.

73. The Government emphasises that, in its view, this procedure lies within the domain of penal procedure and is a question absolutely distinct from the question of determining whether or not there has been an infringement of trade union rights.

Second Request for Further Information

74. At its 11th Session (Geneva, February 1955), the Committee noted that the Government did not indicate clearly whether any of the 49 persons who appeared before the Athens Correctional Court were deported under this special procedure, but that it did not deny it either.

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75. Whether the five persons who were condemned by the Athens Correctional Court were deported or not, the Committee considered that, as these persons were found guilty of violations of the Penal Code, it was not competent to examine the penal action taken for such violations.

76. However, with respect to the other 44 persons arrested during the demonstration on 1 May 1953, and who were prosecuted for violations of the Penal Code but were alleged to have been acquitted by the Athens Correctional Court, the Committee wished to be informed as to whether they had been subjected to deportation and, if so, as to the precise reasons for which, despite their acquittal, they were deported. The Committee emphasised that this information was necessary in order that it might be able to feel certain that the deportations were not due to the participation of the persons concerned in an occupational demonstration.

Analysis of Further Information
(Letter Dated 23 April 1955)

77. In its letter dated 23 April 1955, the Government repeats the observations already made in its earlier communications with respect to the disturbance of the May Day celebrations by Communist agitators. It emphasises, in particular, that these persons sought to endow a peaceful demonstration with a revolutionary character and carried placards bearing slogans which had no connection with the purposes of the meeting ("Down with the Government", "Amnesty", "Peace in Korea", "Out with the Americans").

78. Of the 49 persons arrested, five were sentenced to terms of two months' imprisonment by the Athens Correctional Court, pursuant to articles 189 and 192 of the Penal Code. The others were brought before the Public Security Committee for the Attica Area, which ordered their deportation because they had sought to endow a workers' demonstration with a revolutionary character, had persisted fanatically in anarchist ideas prejudicial to the national interest and had spread propaganda for the Greek Communist Party which, following its well-known armed activities, had ceased to be regarded as a political party and had been outlawed and declared to be a revolutionary organisation acting solely against the national interest. The Government states that the reference of the cases to the Public Security Committee was made pursuant to the penal procedure in force with respect to the deportation of persons regarded as dangerous for having given aid to brigands or committed acts contrary to public peace or public order or to the safety of the State (Legislative Decrees of 10 April 1924 and 4 May 1946). The Government refers to its previous reply with respect to the composition and functioning of public security committees.

CONCLUSIONS

79. At its 11th Session (Geneva, February 1955), the Committee considered that, in order to enable it to assure itself that the deportation measures were not occasioned by the participation of the persons concerned in a demonstration of an occupational nature, it was indispensable that it should obtain certain detailed information from the Greek Government. In particular, it asked whether, in fact, the 44 persons who had been arrested in connection with the demonstration on 1 May 1953 and prosecuted for contraventions of the Penal Code but acquitted by the Athens Correctional Court had nevertheless been sentenced to deportation and, if so, on what precise grounds they had been deported.

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1 See paragraphs 62, 63 and 70-73 above.
2 See paragraph 72 above.
80. In requesting this information, the Committee was following the practice which it adopted in several earlier cases, in which it was only after receiving sufficiently precise and detailed information from the governments to show that the arrests complained against were in no way connected with the exercise of trade union rights that it was able to reach the conclusion that the allegations relating to such arrests did not call for further examination.

81. In reply to the Committee's request, the Government declares that 44 of the 49 persons arrested on the occasion of the demonstration on 1 May 1953 were found not guilty of committing acts of violence by the Athens Correctional Court but that they were brought before the Public Security Committee for the Attica Area, which ordered their deportation. The Government states that the reasons for the deportation of these persons were that they had sought to endow a workers' demonstration with a revolutionary character, had persisted fanatically in anarchist ideas prejudicial to the national interest and had spread propaganda for the Greek Communist Party, which, following its armed activities, had been outlawed and considered no longer to be a political party but to be a revolutionary organisation acting solely against the interests of the nation.

82. The Government emphasises that the measures complained against therefore have no connection whatsoever with the exercise of trade union rights and are of a purely political nature.

83. In its First Report, the Committee formulated certain principles with respect to the examination of complaints to which the government concerned ascribes a purely political character. In particular, following the general principle adopted by the Governing Body on the proposal of its Officers, the Committee decided that, even though cases may be political in origin or present political aspects, they should nevertheless be examined further if they raise questions directly affecting the exercise of trade union rights.

84. The Committee recalls that in several earlier cases it has had to consider the application of measures which, though of a political nature and not intended to restrict trade union rights as such, might nevertheless affect the exercise of trade union rights.

85. In the present case, the Committee considers that, in so far as the public security committees have been instituted for exclusively political purposes, it is not competent to express a view with respect either to their institution or to the procedure followed in cases before them, under which persons may be deported for having committed acts contrary to public peace or public order or to the safety of the State.

86. Noting, however, that 44 of the persons arrested for having disturbed the celebrations on 1 May 1953 were found not guilty of having committed acts of violence by the Athens Correctional Court, but were nevertheless sentenced to be deported by the application of an exceptional procedure, the Committee, while recognising that this procedure may have been set up because of the situation of crisis experienced by Greece at the time of the civil war—a situation to which it has had to have regard on several occasions—

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allegations which have previously come before it—draws attention to the desirability of this procedure being attended by all the safeguards necessary to ensure that it shall not be utilised for the purpose of infringing the free exercise of trade union rights and to the importance which it attaches to the trade unions being able to carry on their activities freely in the defence of occupational interests. Subject to these observations, the Committee recommends the Governing Body to decide that the matter does not call for further examination.

Case No. 117:

Complaints Presented by Various Trade Union Organisations
against the Government of the Argentine Republic

ANALYSIS OF THE COMPLAINTS

87. The following complaints were before the Committee: a communication from the World Federation of Trade Unions, dated 28 December 1954, together with a supplementary letter dated 15 February 1955; a communication from the Metal Trades Workers' Federation (C.G.T., France), dated 28 January 1955; and a communication dated 3 February 1955 from the Metal Trades Workers' Union of the Democratic Republic of Germany. These complaints were communicated to the Argentine Government. To these complaints must be added several other communications drawn up in similar terms, some, dated 19 and 26 February and 7 April 1955, emanating from the Free Trade Union Confederation of the Democratic Republic of Germany, and the rest, dated 14 March 1955, presented by the National Trade Union for the Metal Trades of Hungary. These communications, which added no new elements to the complaints previously mentioned, were accordingly not transmitted to the Argentine Government. As all these different complaints relate to identical or related questions, they may conveniently be examined together. The complainants make the following allegations.

88. A Spanish worker, Bautista Nuez, was expelled by the Argentine Government because of his political and occupational activities, and placed by force on a boat sailing to a Spanish port in order to be handed over to the authorities in that country. The World Federation of Trade Unions declared subsequently, however, that the person concerned had been put ashore in Brazil.

89. In the course of May and June 1954 the Argentine Government, with the aid of the police, repressed a strike of metal workers who were struggling for better living conditions, and made numerous arrests. In this way, the Argentine Government infringed the trade union rights of the workers.

ANALYSIS OF THE REPLY

90. In its communication dated 12 April 1955, the Government presented its observations with respect to the second allegation (paragraph 89 above), with the reservation that further supplementary information would be sent later.

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91. Not having ratified the Freedom of Association and Protection of the Right to Organise Convention (No. 87), 1948, or the Right to Organise and Collective Bargaining Convention (No. 98), 1949, the Argentine Government, referring to the opinion which it expressed in an earlier case ¹, makes express reservations with respect to the competence of the Committee on Freedom of Association to consider questions which are not dealt with in a Convention ratified by the Argentine Republic. Desiring, however, to clarify the matter, the Government does not press this question, considering the ratification or non-ratification of a Convention as a matter of pure form.

92. Before entering into the details of the matter, the Government declares that, while the State must guarantee the full exercise of trade union rights—a question which is no longer a matter for discussion in Argentina—and ensure that the decisions of a trade union organisation, adopted by a majority in accordance with its constitution and rules, shall be respected, it must also protect the community against any act by an organisation which is contrary to public order or to law.

93. The Government then explains the facts which are the subject of the complaints. During April 1954 negotiations took place at the Ministry of Labour and Social Welfare between the Metal Trade Workers' Union and the Argentine Metal Industries Federation. These negotiations failed, and the employees of the undertakings in the metal industry started a go-slow strike. On 28 April 1954, the union formally decided to call a strike, which was to develop progressively. By 21 May, the strike was general throughout the metal trades industry. On 31 May, a collective agreement was signed before the labour authority and submitted for approval to an extraordinary congress of delegates from the various sections of the union. On 1 June 1954, the matter was discussed by the assembly, but a section of those present opposed the ratification of the collective agreement and the discussions had to be suspended on several occasions. On 3 June, the general secretary of the union announced to the delegates that several sections had resumed work. On 4 June, on the occasion of a further meeting of the delegates, demonstrators tried to enter the room and, in the disturbance which followed, several persons were injured. When the meeting actually became riotous, the police were called in. When calm was restored, the general secretary announced that a decision had been taken to raise the strike as from 7 June. This decision was approved by the majority of the assembly. Those who opposed, however, demonstrated in the street, convened meetings and appointed a strike committee. These demonstrations continued for several days, but the police did not actively intervene, but simply limited themselves to maintaining order. But on 7 June, the day fixed for the resumption of work, a serious incident occurred when a group of workers forcibly attempted to prevent other workers from entering a factory. Two people were killed and several injured. Similar incidents took place at other spots. After these occurrences, the police arrested 32 persons, including elements who were not employed in the trade in question. Those detained were handed over to justice on charges of homicide and committing bodily harm, in accordance with articles 79 and 89 of the Penal Code. Order was quickly restored and normal work was resumed in all the undertakings of the Argentine metal trades. The Government concludes that these facts show clearly that the workers were freely able to make use of their rights and that, while the police arrested a number of persons, who, moreover, did not belong to the industry concerned in the dispute, it was not in order to break the strike but to protect the life of citizens. Accordingly, declares the Government, it cannot admit that these measures should be the subject of an examination, as the Government alone has sovereign responsibility to apply general legislation in its territory.

CONCLUSIONS

General Observations

94. The Committee recalls that, at its meeting in November 1954, it was called upon to consider a complaint from the Trade Union International of Metal and Engineering Industries (Vienna, W.F.T.U.), which, in a telegram dated 18 June 1954, alleged that 57 Argentine workers had been arrested, that some of them had been murdered and that they had also been subjected to "provocation" in the legitimate exercise of their right to strike. In view of the imprecise nature of these allegations, the Governing Body, on the recommendation of the Committee on Freedom of Association, decided that the complaint did not call for any action to be taken.¹

95. The Committee observes that the allegations presented in the present case are more precise than those presented in the earlier case. The complainants indicate that a number of workers in the Argentine metal trades were arrested on the occasion of a strike called during May and June 1954 and that one particular person, Mr. Bautista Nuez, was expelled from Argentine territory. In these circumstances, the Director-General communicated the complaints to the Argentine Government, which presented its observations. The Committee has taken the view that it should submit these new complaints to a preliminary examination in accordance with the provisions of the existing procedure.

96. Referring to the opinion expressed in Case No. 12, the Argentine Government, which has not ratified Conventions Nos. 87 and 98, makes reservations with respect to the competence of the Committee on Freedom of Association. The Committee took the view, when examining Case No. 12, that it was not called upon to examine further the question of competence, as this problem had already been the subject of full discussion at the 33rd Session of the International Labour Conference in 1950, at which session the Conference decided to approve the decisions of the Governing Body and of the Economic and Social Council of the United Nations concerning the establishment of a procedure of fact-finding and conciliation in matters of freedom of association.² Having confirmed this point of view on several occasions, the Committee considers that in the present case there is no occasion for it to depart from the precedents which it has already laid down.

97. The Committee, however, notes with satisfaction that the Argentine Government, while making its reservations, has nevertheless seen fit to present its observations in order to collaborate with the I.L.O. in clarifying the facts.

Allegation concerning the Expulsion of Mr. Bautista Nuez

98. According to the complainants, a Spanish worker, Bautista Nuez, was expelled from Argentine territory and forcibly placed by the Argentine Government on a boat bound for Spain; however, he is stated to have been put ashore in Brazil.

99. With regard to this allegation, the Argentine Government has not yet presented any observations, but the Committee considers that, in view of the very nature of the allegation, there is no need to postpone examining it. In several earlier cases, the Committee has emphasised that it is not called upon to deal

² See note 1, p. 72 above.
with the general question of the status of aliens unless it has direct repercussions on the exercise of trade union rights.¹ The Committee also recalls that, in a similar case which the Director-General submitted to it for opinion before communicating the complaint to the government concerned, and which related to an Argentine law concerning the expulsion of aliens, it took the view that the question at issue was not within its competence and, without submitting the complaint to the government for its observations, it recommended the Governing Body to dismiss the case.²

100. In the present case, the Committee has noted, firstly, that it does not appear from the complaint that Mr. Nuez was expelled for specifically trade union reasons and, secondly, that the person concerned was not returned to Spain but was put ashore in Brazil, as the complainant expressly recognises.

101. In these circumstances, the Committee considers that, although the Government has not yet presented any observations thereon, there is no ground for pursuing the examination of this aspect of the complaint.

Allegation concerning the Arrest of Several Workers

102. According to the complainants, the Argentine Government forcibly intervened to put down a strike called for purely occupational reasons by workers in the metal trades in May and June 1954. In particular, the police are stated to have made many arrests.

103. According to the Government's statement, the Metal Trade Workers' Union organised a strike in May 1954 when negotiations with the employers had failed. The strike is said to have started without incidents and to have developed progressively from 17 to 31 May 1954. On the latter date, a collective agreement was signed, but the approval of the agreement gave rise to animated discussions in the union which continued for several days. On 4 June, when there was a further meeting of delegates, groups of demonstrators attempted, according to the Government, to force an entrance into the hall; the police were called in to restore order and, when calm was restored, the majority of the assembly adopted the collective agreement and decided in favour of a resumption of work on 7 June 1954. However, the demonstrations continued, and on 7 June disturbances took place at several places involving workers who desired to resume work and demonstrators who desired to prevent them from doing so. Following these incidents, in the course of which two workers were killed and several others injured, the police arrested a total of 32 persons and brought them before the competent courts on charges of homicide and committing bodily harm.

104. It appears from the details given by the Government that the workers in the metal trades were able to make full use of the right to strike without intervention by the Government, and that the police intervened only when disturbances had been provoked on the occasion of a meeting of the union by demonstrators who had nothing to do with the meeting and later when, a resumption of work having been decided upon by the union, several persons were killed or injured when workers returning to work met other workers who were maintaining the strike. In these circumstances, the Committee considers that the complainants have not offered sufficient proof in support of their


allegation that the Argentine Government infringed trade union rights by prohibiting and repressing a strike.

105. The Government points out that the police arrested 32 persons in all and brought them before the competent courts charged with certain common law offences. The Government adds, however, that it is opposed to any examination of these measures, in view of the fact that it is sovereign with respect to the application of general legislation in the national territory.

106. In this connection, the Committee recalls that, in carrying out its mandate, it has always considered it its duty to reassure itself that, in cases of detention, the persons concerned actually benefit from judicial guarantees, a point of view confirmed by the Governing Body when adopting these recommendations.1

107. The Committee wishes to draw the attention of the Argentine Government to the fact that governments desiring to co-operate with the Committee—a desire also expressed in its reply by the Argentine Government itself, as the Committee has noted with satisfaction—have furnished, either spontaneously or in accordance with a request from the Committee, the necessary information to enable the Committee to examine the allegations made in full knowledge of all the circumstances.2

108. In the present case, however, the Government has not confined itself to a mere statement that arrests took place because of the commission of common law offences, but has specified that the 32 persons detained were charged with particular offences, namely homicide or committing bodily harm (articles 79 and 89 of the Argentine Penal Code) and that they have, in actual fact, been brought before the competent courts. In these circumstances, the Committee considers that there is no ground for it to pursue the matter further.

109. Having regard to all the circumstances, the Committee recommends the Governing Body to decide that, subject to the observations contained in paragraphs 106 and 107 above, the case as a whole does not call for further examination.


(Signed) Paul Ramadier,
Chairman.


Guide for Labour Inspectors

Studies and Reports, New Series, No. 41

This guide, based largely on the provisions of the Labour Inspection Convention adopted by the International Labour Conference in 1947, gives in broad outline the essential principles of inspection and indicates methods and procedures of enforcement, advice and inquiry.

The protective labour laws assumed in this guide to be enforceable by inspectors are those dealing with hours of work and related questions (e.g. meal and rest breaks, overtime and night work), wages, the prohibition of child labour, the various regulated aspects of the conditions under which women and young workers are employed, and industrial safety, health and welfare—in short, the laws and regulations concerning conditions of work and the protection of workers while they are engaged in their work.

Although the protection of the safety and health of workers requires the technical skill of competent specialists, these duties are sometimes assigned to general labour inspectors. For this reason, the guide includes a section dealing mainly with general problems of industrial safety and health; and, to assist inspectors who may wish to obtain more specific guidance on the most common safety and health risks, a selected bibliography of publications dealing with such problems is appended.

The study is divided into two parts. The first part deals briefly with standards for organising a system of labour inspection; its purpose is to promote a fuller understanding of the principles underlying the organisation, staffing and procedure of the service. Part II deals more particularly with the techniques and procedures to be applied by inspectors in their work of supervising compliance with protective labour legislation.
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(Geneva, 24 January-5 February 1955)

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First European Regional Conference of the International Labour Organisation

(Geneva, 24 January-5 February 1955)

Convocation of the Conference

On 4 December 1954 the letter of convocation reproduced below was sent to the governments of the States Members concerned.¹

Geneva, 4 December 1954.

Sir,

I have the honour to inform you that the Governing Body of the International Labour Office decided at its 127th Session (Rome, November 1954) that the First European Regional Conference of the International Labour Organisation should be held at Geneva from Monday, 24 January to Saturday, 5 February 1955.

The agenda of the Conference, as determined by the Governing Body at its 123rd Session (Geneva, November 1953), is given below, together with certain particulars concerning the composition and procedure of the Conference.

1. Agenda of the Conference.

The agenda of the Conference is as follows:

I. Report of the Director-General.

II. The role of employers and workers in programmes to raise productivity in Europe.

III. Methods of financing social security benefits.

IV. The age of retirement.

¹ See point 2 of the letter: Composition of the Conference.

In addition, under article II of the Agreement between the United Nations and the International Labour Organisation, the United Nations was invited by letter dated 7 December 1954 to be represented at the Conference. Similar invitations were sent to the following intergovernmental organisations: Food and Agriculture Organisation of the United Nations, United Nations Educational, Scientific and Cultural Organisation, World Health Organisation, International Civil Aviation Organisation, Council of Europe, European Coal and Steel Community, Organisation for European Economic Co-operation, Intergovernmental Committee for European Migration.

In accordance with the decisions of the Governing Body concerning the establishment of consultative relationships with international non-governmental organisations, the following organisations were invited to be represented at the Conference on a consultative basis: International Confederation of Free Trade Unions, International Co-operative Alliance, International Federation of Agricultural Producers, International Federation of Christian Trade Unions, International Organisation of Employers, World Federation of Trade Unions.

Finally, the International Social Security Association and the International Committee of Scientific Management were invited to send observers to the Conference.
The Report of the Director-General, in addition to describing the background of the economic and social situation in Europe, draws particular attention to the problems arising out of differences in labour standards and social charges between European countries. The report also deals with the role of the I.L.O. in Europe and its relation to European organisations.

2. Composition of the Conference.

The Governing Body at its 123rd Session decided that all the States in Europe which are Members of the International Labour Organisation at the time of the Conference 1 should be invited to be represented by tripartite delegations consisting of two Government delegates, one Employers' delegate and one Workers' delegate, assisted by such advisers as are considered necessary.

In accordance with this decision, I have the honour to invite your country to take part in this Conference.

I should add that the Governing Body, at its 119th Session, when considering the report of the Fifth Regional Conference of American States Members of the I.L.O., instructed me to request the governments invited to participate in regional conferences not to spare any effort to ensure the tripartite character of their delegations which constitutes the basic characteristic of the structure of international labour conferences.

3. Travelling Expenses and Subsistence Allowances.

The travelling expenses and subsistence allowances of the delegates and their advisers will be borne by the governments.


The procedure of the Conference will be governed by the Rules concerning Regional Conferences convened by the International Labour Organisation, as adopted by the International Labour Conference at its 31st Session (San Francisco, June-July 1948) and amended by the International Labour Conference at its 34th Session (Geneva, June 1951), 36th Session (Geneva, June 1953) and 37th Session (Geneva, June 1954).

The Rules concerning Regional Conferences provide that Ministers from States represented at the Conference who are not delegates or advisers may address the Conference. The Conference will undoubtedly welcome very cordially the presence of any Minister who may find it possible to attend.

5. Reports.

The reports on the technical items on the agenda of the Conference have already been forwarded to governments. The Report of the Director-General is in process of being despatched.


The conclusions reached by the Conference will be in the form of resolutions or reports addressed to the Governing Body of the International Labour Office, which will consider the appropriate action to be taken upon them.

7. Place of Meeting.

The Conference will meet at the International Labour Office, Geneva. The opening sitting of the Conference will be held at 10 a.m. on Monday, 24 January 1955.

I have the honour to be, etc.,

(Signed) David A. Morse,
Director-General.

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1 Albania, Austria, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Sweden, Switzerland, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom and Yugoslavia.
The First European Regional Conference was held in Geneva from 24 January to 5 February 1955 under the presidency of Mr. R. Rubattel, former President of the Swiss Confederation (Government delegate, Switzerland). The Conference elected as Vice-Presidents Mr. L. Chajn (Government delegate, Poland), Sir Richard Snedden (Employers' delegate, United Kingdom) and Mr. E. Nielsen (Workers' delegate, Denmark).

With the exception of Albania and Iceland, all the European States Members of the International Labour Organisation were represented at the Conference, and had sent tripartite delegations.

The Governing Body of the International Labour Office was represented by a delegation composed of its Chairman, Mr. R. Ago, and Mr. R. L. Harrry, for the Government group; Mr. J. O'Brien and Mr. J. B. Pons for the Employers' group; and Sir Alfred Roberts and Mr. A. Vermeulen for the Workers' group.

Representatives of the United Nations, the Food and Agriculture Organisation of the United Nations, the World Health Organisation, the Council of Europe, the European Coal and Steel Community, the Organisation for European Economic Co-operation and the Intergovernmental Committee for European Migration were present at the Conference. The following non-governmental organisations having consultative status were represented by observers: International Confederation of Free Trade Unions, International Co-operative Alliance, International Federation of Christian Trade Unions, International Organisation of Employers, World Federation of Trade Unions. The International Social Security Organisation and the International Committee of Scientific Management also sent observers to the Conference.

The text of the resolutions and conclusions adopted by the Conference is reproduced below.2

RESOLUTIONS AND CONCLUSIONS ADOPTED BY THE CONFERENCE

I. Resolution concerning the Role of Employers and Workers in Programmes to Raise Productivity3

The First European Regional Conference of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour Office,

1 See footnote, p. 78.
2 A record of the proceedings of the Conference will be published in due course (in French only); it will contain a list of members of delegations and of committees, Officers of the Conference and members of the Secretariat, a record of the discussions and, as appendices, the reports of the Conference committees and the text of the resolutions adopted by the Conference.
4 Accepted on 4 February 1955 by 47 votes to 37, with 4 abstentions.
Having met at Geneva from 24 January to 5 February 1955,

Recognising that a substantial increase in standards of living and in human welfare in Europe depends to a large extent upon the achievement of higher productivity and an equitable distribution of the benefits resulting therefrom and of the total national income;

Invites the Governing Body to draw attention to the following conclusions regarding the role of employers and workers and their organisations in programmes to raise productivity.

**General Considerations**

1. Higher productivity provides opportunities for raising the general standard of living, including opportunities for—
   (a) larger supplies both of consumer goods and of capital goods at lower costs and lower prices;
   (b) higher real earnings;
   (c) improvements in working and living conditions, including shorter hours of work; and
   (d) in general, a strengthening of the economic foundations of human well-being.

2. In order to ensure that higher productivity does in fact lead to higher standards of living, it is of the utmost importance—
   (a) that there should be a free and strong trade union movement within a régime which ensures fullest freedom for the exercise by it of collective bargaining rights on an equal footing with employers and/or their organisations;
   (b) that in programmes to raise productivity emphasis should be laid upon more effective work through the improvement of methods and not upon harder work; there should be no deterioration in conditions of work and no risk to the safety or health of workers;
   (c) that the demand for goods and services should be maintained at a sufficiently high level and that adequate measures should be taken to prevent higher productivity from leading to unemployment;
   (d) that the benefits of higher productivity should be equitably distributed among capital, labour and consumers.

3. The achievement of higher productivity calls for appropriate action on the part of governments, employers and workers. It also calls for the closest possible co-operation between, and effective consultation and participation of, all groups concerned.

4. Governments have a responsibility for creating conditions favourable to higher productivity by promoting economic expansion including a balanced programme of economic development; by promoting co-operation between employers and workers; by encouraging initiative in individual undertakings irrespective of ownership; and by adopting appropriate economic and social policies concerning such matters as foreign trade, capital formation, restrictive business practices, the reduction of costs of distribution, the assurance of adequate supplies of raw materials, monetary and fiscal conditions, the development of efficient employment services, health, housing, scientific and social research and training in the techniques of higher productivity. It is essential that in their educational arrangements suitable provision should be made by the authorities for scientific, technical and vocational training.

5. One of the urgent problems of raising productivity is the problem of increasing the efficiency of the less up-to-date undertakings in all sectors of the economy.
6. Since it is the function of management to plan, organise and control the operations of an undertaking, primary responsibility for action to raise productivity in individual undertakings rests with management. In discharging this responsibility, management must take into account problems of human relations and personnel policy, problems of a predominantly technical character and problems of organisation in which both human and technical factors are involved.

7. Employers’ organisations can contribute greatly to the growth of productivity by encouraging and assisting individual managements to find satisfactory solutions to the problems which arise in these various fields; by directing attention to arrangements for supervisory and vocational training or for the training of work-study or other technicians for the industries with which they are concerned; by arranging for or facilitating the exchange of experience between undertakings; by spreading knowledge of techniques which have been found to give good results; and by discussing and reaching agreement with trade unions regarding the general principles which should underlie measures to raise productivity and the safeguards to be applied when such measures are adopted.

Problems of Organisation

8. Defective organisation in an undertaking may impede the growth of productivity both directly by causing delays and confusion and indirectly by undermining good human relations and frustrating individual initiative. The raising of productivity requires an examination of the general organisation of the undertaking and a clear definition of the lines of authority and responsibility.

Problems of Human Relations and Personnel Policy

9. Management has a responsibility for creating and maintaining effective two-way channels of communication within the undertaking so as to ensure that workers are kept as fully informed as possible of the plans and policies of management, and that management is continuously aware of the views and opinions of workers. The fundamental aim of any such system of communications should be to unite all members of the undertaking into a team conscious of a common purpose and having a common interest in the well-being of the undertaking. The arrangements which will best serve this purpose will vary according to the nature and complexity of the undertaking. The full participation of workers’ representatives and their trade unions in the planning and application of measures to raise productivity is indispensable.

10. Management has a responsibility for looking ahead and taking all measures which are possible within the undertaking to ensure that higher productivity does not lead to unemployment, and for working out in advance, in co-operation with workers’ representatives, arrangements which will provide reasonable safeguards for the interests of workers affected by technological improvements or other changes which may be introduced with a view to raising productivity.

11. The achievement of an efficient organisation requires thorough training of the personnel at all levels in all relevant aspects of their work. For members of management, specialists and supervisors, training programmes should aim at providing (a) a thorough understanding of the implications of material change on human relationships, and (b) skill in applying such techniques for raising productivity as fall within their competence.

12. Such factors as the relations between the worker and his supervisor, recognition of the efforts made by workers, social relationships within the working group, the nature of the work itself and the satisfaction that the worker gets from it, are important factors affecting morale and productivity, and deserve careful study by management.
Technical Problems

13. The possibilities of increasing productivity by concentrating production on a narrower range of styles and models by improving plant layout, physical working conditions and the arrangement of work posts, and, in many plants, by increasing the degree of mechanisation, especially of materials-handling operations, deserve careful attention.

14. The Conference welcomes the attention that is being devoted by European managements to industrial engineering techniques, costing and budgetary control and production planning. Applied with appropriate safeguards, these techniques can contribute greatly to increased productivity. The Conference recommends that everything possible be done to spread knowledge of these techniques and to encourage a wider use of them. Work study, however, is not an exact science and can be no more than a technical method of assisting management and trade unions to find solutions for problems which are in essence human problems and not purely technical.

The Role of Trade Unions and Workers

15. It is recognised that the function of a trade union is to defend and promote the best interests of its members. Consequently the participation of trade unions in schemes to achieve higher productivity will be influenced by the acceptance by management of the principle that the techniques of modern management methods and industrial engineering are part and parcel of industrial negotiation. The skilled techniques of industrial engineering are only the skeleton which is clothed by good human relations and the principle of collective bargaining. Modern techniques mean not less but more bargaining in which the trade unions, through their own trained personnel, can negotiate the principles under which these techniques can operate.

16. In order to fulfil their task, trade unions should be provided with the fullest information and be given opportunities to participate effectively in the planning and application of measures to raise productivity, which will enable them to make invaluable contributions. For example—

(a) they can co-operate with managements in working out procedures which will provide safeguards for the interests of workers affected, by changes introduced with a view to raising productivity;

(b) in this way, and by education and persuasion, they can do a great deal to convince their members that technological improvements, provided they are accompanied by reasonable safeguards, are to be welcomed; trade unions thus have a vital and indispensable part to play in the creation and maintenance of conditions in which measures to raise productivity can be taken with the support and co-operation of the labour force as a whole;

(c) they may give a lead in encouraging their members to participate fully in suggestion schemes and in works committees or other joint machinery;

(d) they can provide, or participate in organising, training facilities for workers, shop stewards and trade union officials in business economics and in techniques of work study and industrial engineering, with a view to enabling them to participate, on the basis of adequate technical knowledge, in the application of work-study techniques and in dealing with problems and methods of raising productivity.

17. The equitable sharing of the results of higher productivity is of vital interest to trade unions and workers. Their interest embraces higher real earnings, lower costs and prices, shorter hours and the development of social provisions. The low living standards in some European countries require wise capital investment, as unemployment and poverty in one country threaten more prosperous countries.
18. Despite these broader considerations, however, it should be recognised that the workers in a particular undertaking cannot be expected to co-operate in measures for increasing productivity in that undertaking without the prospect of sharing, through an immediate improvement in their remuneration or conditions of work, the fruits of productivity increases. This again emphasises the need for negotiation, consultation in advance and agreement on the methods of sharing the fruits of higher productivity.

Role of the International Labour Organisation

19. Within the field of its competence, and in co-operation with other agencies concerned with productivity questions, the International Labour Organisation can contribute to the growth of productivity—

(a) by defining and seeking to extend the area of agreement between governments and the representatives of employers and workers, a task for which the tripartite structure of the International Labour Organisation gives it a special competence;

(b) by providing a forum for the exchange of views and experience;

(c) by undertaking continuous study, both in general and in particular industries, (i) of the aspects of the problem of raising productivity which are of special concern to it, and (ii) of the methods of ensuring that the benefits of higher productivity are fairly distributed;

(d) by making available through its publications the results of such studies together with information on the action being taken in the different countries to raise productivity;

(e) by providing or co-operating in the provision of technical assistance to governments which request such assistance in raising productivity.

The Conference hopes that the work thus far carried out by the International Labour Organisation in these various fields will be continued and expanded.

20. The Conference requests that the International Labour Organisation should, in its programme of studies and research, devote special attention to—

(a) obtaining from all countries detailed and, so far as possible, comparable statistics of employment, productivity and wages, which would facilitate international comparisons of the level and growth of productivity and of standards of living;

(b) those methods of raising productivity which utilise the techniques of industrial engineering, including method study and work measurement, or which have a direct impact on the attitudes of workers or supervisors or on other aspects of industrial relations;

(c) adaptation of vocational training in the light of the progress of productivity;

(d) the special problems of raising productivity in small undertakings;

(e) the relationship between the growth of productivity and workers' earnings;

(f) methods used by undertakings and industrial organisations to give workers a psychological and financial interest in the progress of productivity;

(g) the relationship between productivity and the security of employment;

(h) the promotion of constructive industrial relations;

(i) the measures taken in various countries to promote the geographical and occupational mobility of the working population.
21. The Conference has noted with interest the experience acquired by the International Labour Organisation in providing technical assistance in the raising of productivity to the governments of a number of countries outside Europe. It hopes that any requests for similar assistance, under the Expanded Programme of Technical Assistance, under the regular budget of the International Labour Organisation or under other appropriate arrangements, which may be formulated by governments of European countries, will receive sympathetic consideration. The Conference welcomes the help that has been given to the technical assistance activities of the International Labour Organisation, financially and in assisting the International Labour Organisation to secure the services of well-qualified experts, by the governments of the more highly developed countries, and hopes that this help will be continued, and if possible extended.

II. Resolution concerning the Age of Retirement 1

The First European Regional Conference of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, Having met at Geneva from 24 January to 5 February 1955,

Welcomes the report on the age of retirement and congratulates the Office on the comprehensive way in which the subject has been studied, and the manner in which it has recorded the details of past experience and current practice in regard to pension and retirement schemes in the different European countries.

Valuable information has been gathered together illustrating the advances from a social point of view that have been made and also showing the wide variations which exist in the different countries concerned. These variations are the direct results of differences in economic and demographic conditions, manpower needs and other factors which are not uniform.

The report indicates that the age at which regular work ceases depends on the occupation and circumstances of the individual worker, and on social, economic and industrial conditions in the country concerned. It is frequently found to be between the ages of 60 and 70 years, and lower ages are frequently applicable in certain occupations where special circumstances prevail. There are variations from country to country, and flexibility in the pensionable age is a feature of many national pension schemes.

It is suggested, therefore, that the following principles should guide the various countries in the arrangements which they make for retirement:

1. Legislation should provide for every worker who has completed a full working life to be able to retire and rest with an adequate pension. A "full working life" will include also periods of unemployment and incapacity for work.

2. The minimum pensionable age should be fixed, as a general rule, within the range of 60 to 65 years, regard being had to national differences in the effective earning capacity of the average worker aged 60 or more and in the number of years during which he may expect to enjoy his pension. For women this age should be five years lower than that fixed for men.

3. Pensions at lower ages should be provided for occupations which are arduous or unhealthy; these may be provided either under separate schemes or under the national scheme.

4. Many workers who have reached the minimum pensionable age are willing to continue at work and can render effective service. They should be given the

1 Adopted on 3 February 1955 by 65 votes to 17, with 10 abstentions.
opportunity to continue at work of some kind if suitable employment is available for them without prejudice to the interests of workers below the minimum pensionable age.

5. The amount of the pensions in payment should follow the same trend as the general level of the cost of living.

6. Economic and demographic considerations may justify a variation in the conditions of a pension scheme. Such variations should always take due account of the rights acquired or being acquired.

III. Resolution concerning an International Comparison of the Cost of Social Security and Other Social Advantages

The First European Regional Conference of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, Having met at Geneva from 24 January to 5 February 1955, Having considered the methods of financing social security benefits, item III on the agenda;

Adopts this fourth day of February 1955 the following resolution concerning the financial statistics of social security and other social advantages:

Considering that the development of social security in the European countries during the post-war period has laid stress on the importance of the problems arising from its financing;

Considering that the diversity of the methods of financing among the European countries, and particularly of the relative importance of the financial participation of the public authorities, makes it difficult to establish a complete and objective international comparison;

Considering that the problems of financing social security cannot be examined by themselves but only in relation to the cost of production, the general level of prices, the general level of wages—taking account of the wages proper and of the various social advantages—and the economic, social and demographic structure of each country;

Considering that an international comparison is necessary in order to find appropriate solutions to the problems arising with regard to the economic co-operation of all European countries;

Having noted the extremely full documentation and the very instructive analysis which have been submitted to the Conference by the International Labour Office in its Report III: The Financing of Social Security;

1. Decides to invite the Governing Body of the International Labour Office to instruct the Director-General—

(a) to continue and expand the efforts of the Office to assemble basic statistical data, to study the evolution of the said systems of financing social security and to compare the methods of financing social security and other social advantages granted either to the workers or to the population as a whole;

(b) to expand the inquiries and studies relating to the economic and social incidence of resources allocated to social security and other social advantages both on the national and the international levels in order to obtain an objective and complete international comparison;

(c) to publish regularly the results of its work, including absolute basic figures.

1 Adopted on 4 February 1955 by 72 votes to 16, with 1 abstention.
2. Invites the governments and the industrial organisations of employers and workers to co-operate closely with the International Labour Office in the establishment of statistics and their technical exploitation.

3. Asks the Governing Body to submit the said studies to the next European Regional Conference for consideration of conclusions resulting from these studies.

IV. Conclusions concerning the Financing of Social Security

A. General Considerations

1. The favourable progress of social security in the European countries during the post-war period makes it necessary to concentrate attention on the methods of its financing. If social security is to function in a satisfactory manner in order to achieve its objects, methods of financing must be established in such a way as to ensure a fair and rational distribution of its cost on the one hand and, on the other, to guarantee a balance between the receipts and expenditure of social security institutions so that the right of protected persons to benefits may be guaranteed in all circumstances.

2. When examining the different methods of financing it must always be borne in mind that the effect of social security is a redistribution of the national income. In other words, the cost of social security, whether it applies to the whole or only to certain categories of the population, is always borne by factors of production or by the consumers. It is possible to conceive a case in which methods of financing social security—whether through direct contributions of the protected persons or through contributions of undertakings and employers or by the State—would not affect the economic and social repercussions of the method selected, so that the choice of the method would rather depend on psychological aspects. In the hypothesis in which the net nominal income of labour on the one hand, and the price of goods and services as well as the volume of investments on the other, would be entirely controlled, the economic and social repercussions could be determined in advance without being affected by the method selected for financing. On the other hand, in an economy which is not entirely controlled, the methods selected for the financing of social security have direct repercussions either on the nominal incomes of the workers or on other factors of production, and indirect repercussions on the prices of goods and services.

3. In most European countries the income of social security comes from three sources: contributions of insured persons, contributions of employers, and participation of the public authorities from the fiscal income; special taxes for the financing of social security are only a particular method of financing social security by taxation. The importance of each of these three sources varies considerably from one country to another; in particular, the relationship between the income derived from contributions and that coming from general taxation shows marked variations. In a number of countries, on the other hand, social security is financed by the State. In examining the reasons and the justification for the present differences it can be seen that each country has determined the methods of financing its social security system in a fashion deriving from a series of factors: tradition, political, economic and social reasons, the structure of the State and of its fiscal system, as well as the importance attached to one or other branch of social security.

1 Adopted on 4 February 1955 by 68 votes to 18, with 3 abstentions.
B. SOURCES OF SOCIAL SECURITY REVENUE

4. In order to determine the financial resources of social security, a series of elements should be taken into consideration, of which the most important are the following:

(a) the kind of benefits, taking account of the peculiarities of the different branches of social security, envisaged in the different parts of the Social Security (Minimum Standards) Convention, 1952 (No. 102);

(b) the scope of protection: the economic and social expediency of the different methods of financing depends actually on the categories of persons protected;

(c) economic and social factors peculiar to each country: the level and structure of the national income, the general level of wages, the economic situation of the different sectors of the national economy, the importance of the categories making up the economically active population, the demographic situation, the fiscal system, etc., determine the direct and indirect repercussions of the different methods of financing social security; these repercussions can vary in the same country from one economic sector to another or from one branch of activity to another; they can vary much more from one country to another, and special interest should be attached to this if it is desired to effect closer economic co-operation among the European countries;

(d) the traditions and customs of each country, which are at the root of the wide divergence of methods at present in force in the different European countries.

5. The participation of the public authorities in the financing of social security means, in certain countries, that the resources of social security come from taxes and duties. Financial participation of the public authorities should take more account of economic situations and of social justice, provided that the fiscal system itself satisfies this last preoccupation. In other countries social security is financed by the State from other sources, such as profits of undertakings, and not from taxes. Some financial participation by the public authorities would be particularly recommended in the following cases:

(a) preventive medical care;

(b) curative medical care in cases of so-called social diseases;

(c) a part of the effective cost of hospitalisation;

(d) maternity benefits;

(e) family allowances;

(f) benefits in the case of unemployment;

(g) old-age, invalidity and survivors' pensions in so far as they tend to guarantee reasonable means of subsistence;

(h) the cost of adjusting pensions to a rise in the cost of living due to currency devaluation or other factors.

6. The participation of the employers in the financing of social security is considered in many countries justified and desirable. The relative importance of employers' contributions in relation to total direct contributions has increased in the post-war period. The amount of the employer's contribution is closely related to wages properly speaking; from the point of view of the employee it is the net remuneration which counts, and from the point of view of the employer it is the total of wages and contributions which counts. Employees regard the employer's contribution as an integral part of their rights deriving from their work. The employer's contribution, like wages, is an element in the cost of production, so that the cost of this contribution is shifted to consumers in all cases where this is possible. This fact makes it necessary to take into consideration the situation of the producers in the country concerned with regard to international trade, when determining the volume of the employers' contributions.
7. The rights of workers to social security benefits and their right to participate in the management of social security institutions derive from their work and not from their contributions. Nevertheless some workers admit that the worker's contribution strengthens these rights and for that reason alone they are in favour of their participation in the financing of social security. Moreover, they wish to demonstrate, by their contributions, their convictions that their rights are always closely linked with their obligations and that the worker's contribution is an expression of his personal responsibility for himself and for his family. The contributions of employees should not, however, constitute too large a part of the total resources of social security and it is desirable that financial participation of the employers and the public authorities should predominate.

8. In a number of countries the workers are entitled to social security benefits without payment of contributions to the social security funds.

9. Although the differences in the relative importance of the resources, according to their origin in the different countries, cannot be considered as an insuperable obstacle to efforts to establish closer economic co-operation among European countries, it appears desirable that future developments should tend to reconcile the present differences which are too pronounced.

10. The choice between contributions related to the amount of wages or income and the contribution fixed independently of the amount depends in the first place on the technique established for calculating the amount of benefits. The contribution fixed in relation to the wage has the advantage of reducing automatically the contribution of the low-paid worker. Moreover, if the type of benefit or the calculation of benefits is such that the ratio of benefits to wages varies in the opposite sense to variations in wages, contributions fixed in proportion to wages strengthen the solidarity among protected persons, which is one of the objectives of social security. Contributions in proportion to wages are more especially justified when the amount of the benefit is also proportional to the wage, at least if the amount increases with the wage. On the other hand, if the system provides for benefits of a fixed amount, a contribution fixed independently of the amount of the wage should also be considered as an appropriate solution. This solution implies that the part of the contribution charged to the worker should remain within very narrow limits so that it does not fall too heavily on low wages; this is easier to achieve if the range of wages is not too wide.

11. In the case of a contribution related to the wage or income, the wage or income ceiling for the calculation of contributions should not be fixed too low, so as to maintain the solidarity of protected persons. As the ceiling fixed for the calculation of contributions generally applies to benefits, too low a ceiling would deprive the worker of the possibility of obtaining benefits more adequate in relation to his wage.

C. CENTRALISATION AND DECENTRALISATION OF FINANCIAL ORGANISATION

12. It is not possible to dissociate the problems of separate financing for each branch of social security from those of unified financing of several branches of the general system of social security. When the different branches of social security have come into existence separately, each branch has been able to enjoy financial autonomy. In some European countries later reforms have introduced a unified financial structure for several branches, very often when the entire social security system was being reorganised. The separate financing of each branch makes it easier to ascertain variations in the receipts and expenditure of that branch. It involves certain necessary adjustments when the financial equilibrium of the branch in question is threatened. On the other hand, unified financing allows of equalisation between different branches when some find themselves more heavily burdened than had been foreseen, while others enjoy a better prosperity.
13. A number of social security schemes cover a wider field than the employee categories; they may be based on a unified financial structure for the active population or for the entire population. This unification, which implies a field with a broad financial basis, makes it easier to adapt the contribution of the persons concerned to their means. It also enables the provision of relief for certain categories of economically weak persons by allowing for reductions in their contributions to be offset either by increasing the contributions of other categories or by supplementary contributions from public authorities. Furthermore, in a unified financial scheme the burden can be distributed as fairly as possible among the different regions, branches of activity and occupational groups. In this way a social security scheme can more effectively fulfil its task as an agent for the redistribution of individual income, and at the same time the financial ability of the scheme to withstand economic, social or biological hazards which may affect a particular region or branch of activity more severely than the country or industry as a whole can be increased.

14. The financing of a special scheme for a particular occupational group inevitably rests on a narrower basis than a general scheme, with the result that economic fluctuations peculiar to the occupational branch concerned may affect a special scheme much more than they would a general one. The demographic structure of the members and beneficiaries of a special scheme is frequently less favourable than in a general scheme. In this case it may appear opportune to try to find a compromise solution between financial independence for a special scheme and a unified financial structure with a view to distributing equitably the cost of that part of the benefit provided by the special scheme which corresponds to the benefits provided under the general one. Only with such a procedure would the additional advantages provided under the special scheme be financed independently.

15. A completely unified financial structure has the disadvantage that the insured persons may feel themselves too far away from the institution which effects distribution and compensation, with the result that they might not take enough interest in the financial results of the scheme to which they belong. For that reason the legislation of several European countries favours, particularly with regard to sickness and maternity insurance, the existence of several insurance institutions each enjoying financial autonomy. However, a system of this kind may lead either to the differentiation of the contribution rate or to the differentiation in the quality or the quantity of the benefits, if special measures are not taken.

16. Most of the European countries finance the employment injuries scheme by employers' contributions which vary according to the degree of risk in the undertaking. This differentiation has its origin in the historical development of this branch which began by direct compensation by the employer, and by stages from commercial insurance into social insurance. At the present time this differentiation is regarded as an incentive to undertakings to strengthen preventive measures. Nevertheless, the differences which exist in the importance of employment accident risks between one branch of industry and another may be due in large measure to natural causes which cannot be completely removed by preventive measures. Consequently, contributions fixed according to risks place a higher burden on the industries where greater risks are the natural consequence of the circumstances under which the employees work.

17. In compulsory medical care insurance schemes the contribution should be entirely independent of the number of persons in the family entitled to benefits by virtue of its head being an insured person.

D. FINANCIAL EQUILIBRIUM OF SOCIAL SECURITY SCHEMES

18. Financial equilibrium of the responsible organs and sufficiency of liquid assets are essential conditions for the smooth functioning of social security. The elements governing financial equilibrium of social security are in particular—

(a) the general situation of the national economy and of its different sectors, as well as the variations in the situation;
(b) demographic and biometric elements and their variations;
(c) the structure of the system of benefits and financing;
(d) the financial system.

Variations in demographic and biometric elements are the object of many studies, particularly in so far as they affect mortality and birth rates. On the basis of certain plausible hypotheses their influence on the variation in the volume of future expenditure can be forecast. The economic factors influencing the receipts and the expenditure of a social security scheme include employment and unemployment levels, and wage and price levels.

19. Increased expenditure in social security is in all circumstances justified, when it is more or less parallel to the national product as a whole. An increase in the production of goods and services will make available the financial resources needed to cover increased social expenditure without reducing direct factor income; in any event, the distribution of this income should be satisfactory and equitable. A system effectively guaranteeing the financial stability of social security should be based on the relationship between variations in social security expenditure and the national product; no action restricted to the field of social security alone can give lasting and truly satisfactory results unless due allowance is made for the national economy as a whole.

20. In spite of the difficulties inherent in the forecasting of the probable future receipts and expenses of a social security scheme, it is highly desirable that the situation should be actuarially analysed regularly and as thoroughly as possible, particularly when important changes in legislation are contemplated, so that the final decision can be taken with a full knowledge of the facts.

E. STATISTICS

21. The inquiry into the cost of social security during the period 1949-51, carried out by the International Labour Office, furnished information which was extremely useful for an international comparison, a comparison which is indispensable for a study of the economic and social expediency of social security both on the national and international levels. The financing of social security gives rise to problems which cannot be examined by themselves but only in close conjunction with a series of other factors and elements. In particular, the relation between wages and contributions of the employee and the employer does not give a complete picture unless the other social advantages are also taken into account, whether these are financed by the employer or through general taxation. The Committee adopted a draft resolution, based on these considerations, concerning an international comparison of the cost of social security and other social advantages. ¹

V. Resolution concerning Housing Construction ²

The First European Regional Conference of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour Office,
Having met at Geneva from 24 January to 5 February 1955,
Considering the importance of housing in workers' standards of living,
Recalling that within the general field of housing and town and country planning, leadership in which is assigned to the United Nations, the International Labour Organisation is recognised to have special responsibility for matters relating to workers' housing;
Invites the Governing Body of the International Labour Office to draw the attention of European governments to the following conclusions and considerations and to request that they be brought to the notice of employers' and workers' organisations, and to communicate them to the international organisations concerned.

¹ See above, p. 85.
² Adopted on 4 February 1955 by 80 votes to 0, with 6 abstentions.
I. Basic Principles

1. Next to food and clothing, housing is one of the essential needs of human life. In some countries there are considerable numbers of people who either do not yet have any dwelling of their own at all, or have to live in most primitive and unhealthy accommodation. It should consequently be an objective of national policy to ensure the provision of minimum requirements for the accommodation of the people of the country, taking account of the size of families. The length of time within which these minimum requirements can be secured will largely depend on the financial and economic possibilities of the country concerned.

2. In each country there should be one central body with responsibility for formulating and developing long-term and short-term national housing programmes, taking into consideration the conditions prevailing in that country. Representatives of employers' and workers' organisations and other bodies concerned should be consulted in the formulation of these programmes.

3. Comprehensive town and country planning is indispensable in the development and execution of such housing programmes, so as to ensure that proper use is made of existing land and that the housing requirements of the population in relation both to places of work and to facilities for health, transport, education, shopping, recreation, etc., are taken into account.

4. In order to promote housing construction appropriate measures should be taken to stimulate increased investment in housing by private capital, in addition to financing from public funds.

5. Governments should especially endeavour to promote the construction of low-cost housing at reasonable rents for the broad masses of the people (social housing construction).

6. During the period of housing shortage appropriate measures should be taken to ensure that available housing accommodation which is provided for the broad masses of the people is distributed on a social basis, and to prevent rents from being determined entirely by the free play of the market. The objective of housing policy should be, however, to arrive as soon as possible at an economic rent.

7. When employers take the initiative in constructing housing for workers, which is most praiseworthy, appropriate measures should be taken to prevent hardship to the worker by his being obliged to leave his dwelling on the termination of the contract of employment.

8. Private builders, private and public housing construction companies, co-operative building societies, public and other undertakings should participate on equal terms in the execution of housing programmes, provided they have the necessary productive capacity and reliability.

II. Financing of Housing Programmes

9. In the long run, and as a consequence of higher productivity, the relationship between wages, including family allowances, and rents should be such as to enable workers to rent modern, healthy housing out of their own income, without public subsidies.

10. Governments should particularly promote the construction of privately owned homes, small settlements and privately owned flats. Where, under present income conditions, workers are not yet in a position to provide the necessary capital from their own resources, they should receive all possible help.

11. Individuals, private builders, co-operative and other building societies should be given the opportunity to pay off over a lengthy period any loans they have contracted.
12. Public loans should be granted to facilitate the financing of housing construction. Housing subsidies should be made available particularly to those groups of the population who are most in need of this kind of assistance.

13. Governments should consider the most appropriate ways and means of granting the various types of direct or indirect public subsidies, taking into account any views which may be expressed by employers' and workers' organisations.

III. Reduction of Housing Costs

14. The development of long-term national housing programmes will substantially contribute to the maintenance of building activity, to the reduction of seasonal unemployment, to the increase of productivity and to the effective reduction of building costs.

15. Special attention should be given to improved planning and organisation of work at the site, to greater standardisation and simplification of production methods, and to the application of modern research and of recognised construction standards.

16. Special attention should be given to promoting good labour-management relations in the house-building industry as a contribution to raising productivity in the industry and to the reduction of housing costs.

17. Finally, specific action should be taken to ensure that land required for housing developments is available at reasonable prices.

Action to be Taken on the Conclusions of the Conference

At its 128th Session (Geneva, March 1955) the Governing Body had before it the report of the First European Regional Conference.

The Governing Body authorised the Director-General to communicate the resolutions and conclusions adopted by the Conference to the governments of European States Members of the Organisation, with the request that they should be brought to the attention of employers' and workers' organisations; the Director-General was instructed to inform governments that the Governing Body had not expressed any view upon the content of these texts.

By 16 votes to 5, with 17 abstentions, the Governing Body decided to appoint a small group of experts to study and report to it on the social aspects of problems of European economic co-operation.

By 33 votes to 0, with 1 abstention, the Governing Body authorised the Director-General to appoint a small group of statistical experts with special knowledge of wages and related elements of labour cost in European industry; the experts are to advise on an inquiry into these problems which is to be conducted with a view to providing comparable statistics of labour costs in the various countries.

The conclusions of these two meetings of experts will be submitted to later sessions of the Governing Body.

Finally, the Governing Body noted with satisfaction that the discussions at the European Regional Conference bore out the principles which the Governing Body had often reiterated regarding the co-ordination of the activities of the International Labour Organisation with those of other international organisations in the social field.
Convention, Recommendations and Resolutions
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at Its 38th Session
(Geneva, 1955)

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XII. Resolution concerning the inclusion in the agenda of the next session of the Conference of the question of vocational training in agriculture

XIII. Resolution concerning the placing on the agenda of the next general session of the Conference of the question of welfare facilities for workers

XIV. Resolution concerning the adoption of the budget for the 38th financial period (1956) and for the allocation of expenses among States Members for 1956

XV. Resolution concerning contributions payable to the I.L.O. Staff Pensions Fund in 1956

XVI. Resolution concerning appointments to the Administrative Tribunal of the International Labour Organisation
Convention and Recommendations
Adopted by the International Labour Conference
at Its 38th Session
(Geneva, 1955)

Convention 104
Convention concerning the Abolition of Penal Sanctions for Breaches of Contract of Employment by Indigenous Workers

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and
Having decided upon the adoption of certain proposals with regard to penal sanctions for breaches of contract of employment by indigenous workers, which is the sixth item on the agenda of the session, and
Having determined that these proposals shall take the form of an international Convention, and
Being convinced that the time has come for the abolition of such penal sanctions, the maintenance of which in national legislation is contrary to modern conceptions of the contractual relationships between employers and workers and to the personal dignity and rights of man;
adopts this twenty-first day of June of the year one thousand nine hundred and fifty-five the following Convention, which may be cited as the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955:

Article 1
The competent authority in each country where there exists any penal sanction for any breach of a contract of employment as defined in

1 Adopted on 21 June 1955 by 206 votes to 1, with 4 abstentions.
Article 1, paragraph 2, of the Penal Sanctions (Indigenous Workers) Convention, 1939, by any worker referred to in Article 1, paragraph 1, of that Convention, shall take action for the abolition of all such penal sanctions.

Article 2

Such action shall provide for the abolition of all such penal sanctions by means of an appropriate measure of immediate application.

Article 3

Where an appropriate measure of immediate application is not considered to be practicable, measures shall be adopted providing for the progressive abolition of such penal sanctions in all cases.

Article 4

The measures adopted under Article 3 of this Convention shall in all cases ensure that all penal sanctions are abolished as soon as possible and in any event not later than one year from the date of the ratification of this Convention.

Article 5

With a view to abolishing discrimination between indigenous and non-indigenous workers, penal sanctions for breaches of contracts of employment not covered by Article 1 of this Convention which do not apply to non-indigenous workers shall be abolished for indigenous workers.

Article 6

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 8

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years
mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 9**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 10**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 11**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 12**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 8 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 13**

The English and French versions of the text of this Convention are equally authoritative.
The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Thirty-eighth Session which was held at Geneva and declared closed the twenty-third day of June 1955.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of July 1955.

The President of the Conference,
F. GARCÍA OLDINI.
The Director-General of the International Labour Office,
DAVID A. MORSE.

Recommendation 99
Recommendation concerning Vocational Rehabilitation of the Disabled

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and
Having decided upon the adoption of certain proposals with regard to the vocational rehabilitation of the disabled, which is the fourth item on the agenda of the session, and
Having determined that these proposals shall take the form of a Recommendation,
adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five the following Recommendation, which may be cited as the Vocational Rehabilitation (Disabled) Recommendation, 1955:

Whereas there are many and varied problems concerning those who suffer disability, and
Whereas rehabilitation of such persons is essential in order that they be restored to the fullest possible physical, mental, social, vocational and economic usefulness of which they are capable, and
Whereas to meet the employment needs of the individual disabled person and to use manpower resources to the best advantage it is necessary to develop and restore the working ability of disabled persons by combining into one continuous and co-ordinated process medical, psychological, social, educational, vocational guidance, vocational training and placement services, including follow-up,

The Conference recommends as follows:

1 Adopted on 22 June 1955 by 210 votes to 0, with no abstentions.
I. Definitions

1. For the purpose of this Recommendation—

(a) the term "vocational rehabilitation" means that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those vocational services, e.g. vocational guidance, vocational training and selective placement, designed to enable a disabled person to secure and retain suitable employment; and

(b) the term "disabled person" means an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment.

II. Scope of Vocational Rehabilitation

2. Vocational rehabilitation services should be made available to all disabled persons, whatever the origin and nature of their disability and whatever their age, provided they can be prepared for, and have reasonable prospects of securing and retaining, suitable employment.

III. Principles and Methods of Vocational Guidance, Vocational Training and Placement of Disabled Persons

3. All necessary and practicable measures should be taken to establish or develop specialised vocational guidance services for disabled persons requiring aid in choosing or changing their occupations.

4. The process of vocational guidance should include, as far as practicable in the national circumstances and as appropriate in individual cases—

(a) interview with a vocational guidance officer;

(b) examination of record of work experience;

(c) examination of scholastic or other records relating to education or training received;

(d) medical examination for vocational guidance purposes;

(e) appropriate tests of capacity and aptitude, and, where desirable, other psychological tests;

(f) ascertainment of personal and family circumstances;

(g) ascertainment of aptitudes and the development of abilities by appropriate work experiences and trial, and by other similar means;

(h) technical trade tests, either verbal or otherwise, in all cases where such seem necessary;

(i) analysis of physical capacity in relation to occupational requirements and the possibility of improving that capacity;

(j) provision of information concerning employment and training opportunities relating to the qualifications, physical capacities, aptitudes, preferences and experience of the person concerned and to the needs of the employment market.
5. The principles, measures and methods of vocational training generally applied in the training of non-disabled persons should apply to disabled persons in so far as medical and educational conditions permit.

6. (1) The training of disabled persons should, wherever possible, enable them to carry on an economic activity in which they can use their vocational qualifications or aptitudes in the light of employment prospects.

(2) For this purpose, such training should be—

(a) co-ordinated with selective placement, after medical advice, in occupations in which the performance of the work involved is affected by, or affects, the disability to the least possible degree;

(b) provided, wherever possible and appropriate, in the occupation in which the disabled person was previously employed or in a related occupation; and

(c) continued until the disabled person has acquired the skill necessary for working normally on an equal basis with non-disabled workers if he is capable of doing so.

7. Wherever possible, disabled persons should receive training with and under the same conditions as non-disabled persons.

8. (1) Special services should be set up or developed for training disabled persons who, particularly by reason of the nature or the severity of their disability, cannot be trained in company with non-disabled persons.

(2) Wherever possible and appropriate, these services should include, inter alia:

(a) schools and training centres, residential or otherwise;

(b) special short-term and long-term training courses for specific occupations;

(c) courses to increase the skills of disabled persons.

9. Measures should be taken to encourage employers to provide training for disabled persons; such measures should include, as appropriate, financial, technical, medical or vocational assistance.

10. (1) Measures should be taken to develop special arrangements for the placement of disabled persons.

(2) These arrangements should ensure effective placement by means of—

(a) registration of applicants for employment;

(b) recording their occupational qualifications, experience and desires;

(c) interviewing them for employment;

(d) evaluating, if necessary, their physical and vocational capacity;

(e) encouraging employers to notify job vacancies to the competent authority;

(f) contacting employers, when necessary, to demonstrate the employment capacities of disabled persons, and to secure employment for them;

(g) assisting them to obtain such vocational guidance, vocational training, medical and social services as may be necessary.
11. Follow-up measures should be taken—

(a) to ascertain whether placement in a job or recourse to vocational training or retraining services has proved to be satisfactory and to evaluate employment counselling policy and methods;

(b) to remove as far as possible obstacles which would prevent a disabled person from being satisfactorily settled in work.

IV. ADMINISTRATIVE ORGANISATION

12. Vocational rehabilitation services should be organised and developed as a continuous and co-ordinated programme by the competent authority or authorities and, in so far as practicable, use should be made of existing vocational guidance, vocational training and placement services.

13. The competent authority or authorities should ensure that an adequate and suitably qualified staff is available to deal with the vocational rehabilitation, including follow-up, of disabled persons.

14. The development of vocational rehabilitation services should at least keep pace with the development of the general services for vocational guidance, vocational training and placement.

15. Vocational rehabilitation services should be organised and developed so as to include opportunities for disabled persons to prepare for, secure and retain suitable employment on their own account in all fields of work.

16. Administrative responsibility for the general organisation and development of vocational rehabilitation services should be entrusted—

(a) to one authority, or

(b) jointly to the authorities responsible for the different activities in the programme with one of these authorities entrusted with primary responsibility for co-ordination.

17. (1) The competent authority or authorities should take all necessary and desirable measures to achieve co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities.

(2) Such measures should include as appropriate—

(a) determination of the responsibilities and obligations of public and private bodies;

(b) financial assistance to private bodies effectively participating in vocational rehabilitation activities; and

(c) technical advice to private bodies.

18. (1) Vocational rehabilitation services should be established and developed with the assistance of representative advisory committees, set up at the national level and, where appropriate, at regional and local levels.

(2) These committees should, as appropriate, include members drawn from among—

(a) the authorities and bodies directly concerned with vocational rehabilitation;
(b) employers’ and workers’ organisations;
(c) persons specially qualified to serve by reason of their knowledge of, and concern with, the vocational rehabilitation of the disabled; and
(d) organisations of disabled persons.

(3) These committees should be responsible for advising—
(a) at the national level, on the development of policy and programmes for vocational rehabilitation;
(b) at regional and local levels, on the application of measures taken nationally, their adaptation to regional and local conditions and the co-ordination of regional and local activities.

19. (1) Research should be fostered and encouraged, particularly by the competent authority, to evaluate and improve vocational rehabilitation services for the disabled.

(2) Such research should include continuous or special studies on the placement of the disabled.

(3) Research should also include scientific work on the different techniques and methods which play a part in vocational rehabilitation.

V. METHODS OF ENABLING DISABLED PERSONS TO MAKE USE OF VOCATIONAL REHABILITATION SERVICES

20. Measures should be taken to enable disabled persons to make full use of all available vocational rehabilitation services and to ensure that some authority is made responsible for assisting personally each disabled person to achieve maximum vocational rehabilitation.

21. Such measures should include—
(a) information and publicity on the availability of vocational rehabilitation services and on the prospects which they offer to the disabled;
(b) the provision of appropriate and adequate financial assistance to disabled persons.

22. (1) Such financial assistance should be provided at any stage in the vocational rehabilitation process and should be designed to facilitate the preparation for, and the effective retention of, suitable employment including work on own account.

(2) It should include the provision of free vocational rehabilitation services, maintenance allowances, any necessary transportation expenses incurred during any periods of vocational preparation for employment, and loans or grants of money or the supply of the necessary tools and equipment, and of prosthetic and any other necessary appliances.

23. Disabled persons should be enabled to make use of all vocational rehabilitation services without losing any social security benefits which are unrelated to their participation in these services.

24. Disabled persons living in areas having limited prospects of future employment or limited facilities for preparation for employment should be provided with opportunities for vocational preparation, including provision
of board and lodging, and with opportunities for transfer, should they so desire, to areas with greater employment prospects.

25. Disabled persons (including those in receipt of disability pensions) should not as a result of their disability be discriminated against in respect of wages and other conditions of employment if their work is equal to that of non-disabled persons.

VI. CO-OPERATION BETWEEN THE BODIES RESPONSIBLE FOR MEDICAL TREATMENT AND THOSE RESPONSIBLE FOR VOCATIONAL REHABILITATION

26. (1) There should be the closest co-operation between, and the maximum co-ordination of, the activities of the bodies responsible for medical treatment and those responsible for the vocational rehabilitation of disabled persons.

(2) This co-operation and co-ordination of activities should exist—

(a) to ensure that medical treatment and, where necessary, the provision of appropriate prosthetic apparatus, are directed to facilitating and developing the subsequent employability of the disabled persons concerned;

(b) to promote the identification of disabled persons in need of, and suitable for, vocational rehabilitation;

(c) to enable vocational rehabilitation to be commenced at the earliest and most suitable stage;

(d) to provide medical advice, where necessary, at all stages of vocational rehabilitation;

(e) to provide assessment of working capacity.

27. Wherever possible, and subject to medical advice, vocational rehabilitation should start during medical treatment.

VII. METHODS OF WIDENING EMPLOYMENT OPPORTUNITIES FOR DISABLED PERSONS

28. Measures should be taken, in close co-operation with employers' and workers' organisations, to promote maximum opportunities for disabled persons to secure and retain suitable employment.

29. Such measures should be based on the following principles:

(a) disabled persons should be afforded an equal opportunity with the non-disabled to perform work for which they are qualified;

(b) disabled persons should have full opportunity to accept suitable work with employers of their own choice;

(c) emphasis should be placed on the abilities and work capacities of disabled persons and not on their disabilities.

30. Such measures should include—
(a) research designed to analyse and demonstrate the working capacity of disabled persons;
(b) widespread and sustained publicity of a factual kind with special reference to—
   (i) the work performance, output, accident rate, absenteeism and stability in employment of disabled persons in comparison with non-disabled persons employed in the same work;
   (ii) personnel selection methods based on specific requirements;
   (iii) methods of improving work conditions, including adjustment and modification of machinery and equipment, to facilitate the employment of disabled workers;
(c) the means whereby increased liability of individual employers in respect of workmen's compensation premiums may be eliminated;
(d) the encouraging of employers to transfer workers whose working capacity has undergone a change as a result of a physical impairment to suitable jobs within their undertakings.

31. Wherever appropriate in the national circumstances, and consistent with national policy, the employment of disabled persons should be promoted by means such as—

(a) the engagement by employers of a percentage of disabled persons under such arrangements as will avoid the displacement of non-disabled workers;
(b) reserving certain designated occupations for disabled persons;
(c) arranging that seriously disabled persons are given opportunities for employment or preference in certain occupations considered suitable for them;
(d) encouraging the creation and facilitating the operation of co-operatives or other similar enterprises managed by, or on behalf of, disabled persons.

VIII. SHELTERED EMPLOYMENT

32. (1) Measures should be taken by the competent authority or authorities, in co-operation, as appropriate, with private organisations, to organise and develop arrangements for training and employment under sheltered conditions for those disabled persons who cannot be made fit for ordinary competitive employment.

(2) Such arrangements should include the establishment of sheltered workshops and special measures for those disabled persons who, for physical, psychological or geographical reasons, cannot travel regularly to and from work.

33. Sheltered workshops should provide, under effective medical and vocational supervision, not only useful and remunerative work but opportunities for vocational adjustment and advancement with, whenever possible, transfer to open employment.
34. Special programmes for the homebound should be so organised and developed as to provide, under effective medical and vocational supervision, useful and remunerative work in their own homes.

35. Where and to the extent to which statutory regulation of wages and conditions of employment applying to workers generally is in operation it should apply to disabled persons employed under sheltered conditions.

IX. SPECIAL PROVISIONS FOR DISABLED CHILDREN AND YOUNG PERSONS

36. Vocational rehabilitation services for disabled children and young persons of school age should be organised and developed in close co-operation between the authorities responsible for education and the authority or authorities responsible for vocational rehabilitation.

37. Educational programmes should take into account the special problems of disabled children and young persons and their need of opportunities, equal to those of non-disabled children and young persons, to receive education and vocational preparation best suited to their age, abilities, aptitudes and interests.

38. The fundamental purposes of vocational rehabilitation services for disabled children and young persons should be to reduce as much as possible the occupational and psychological handicaps imposed by their disabilities and to offer them full opportunities of preparing for, and entering, the most suitable occupations. The utilisation of these opportunities should involve co-operation between medical, social and educational services and the parents or guardians of the disabled children and young persons.

39. (1) The education, vocational guidance, training and placement of disabled children and young persons should be developed within the general framework of such services to non-disabled children and young persons, and should be conducted, wherever possible and desirable, under the same conditions as, and in company with, non-disabled children and young persons.

(2) Special provision should be made for those disabled children and young persons whose disabilities prevent their participation in such services under the same conditions as, and in company with, non-disabled children and young persons.

(3) This provision should include, in particular, specialised training of teachers.

40. Measures should be taken to ensure that children and young persons found by medical examination to have disabilities or limitations or to be generally unfit for employment—

(a) receive, as early as possible, proper medical treatment for removing or alleviating their disabilities or limitations;

(b) are encouraged to attend school or are guided towards suitable occupations likely to be agreeable to them and within their capacity and are provided with opportunities of training for such occupations;

(c) have the advantage of financial aid, if necessary, during the period of medical treatment, education and vocational training.
41. (1) Vocational rehabilitation services should be adapted to the particular needs and circumstances of each country and should be developed progressively in the light of these needs and circumstances and in accordance with the principles laid down in this Recommendation.

(2) The main objectives of this progressive development should be—

(a) to demonstrate and develop the working qualities of disabled persons;
(b) to promote, in the fullest measure possible, suitable employment opportunities for them;
(c) to overcome, in respect of training or employment, discrimination against disabled persons on account of their disability.

42. The progressive development of vocational rehabilitation services should be promoted with the help, where desired, of the International Labour Office—

(a) by the provision, wherever possible, of technical advisory assistance;
(b) by organising a comprehensive international exchange of experience acquired in different countries; and
(c) by other forms of international co-operation directed towards the organisation and development of services adapted to the needs and conditions of individual countries and including the training of the staff required.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organisation during its Thirty-eighth Session which was held at Geneva and declared closed the twenty-third day of June 1955.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of July 1955.

The President of the Conference,
F. GARCÍA OLDINI.

The Director-General of the International Labour Office,
DAVID A. MORSE.

Recommendation 100

Recommendation concerning the Protection of Migrant Workers in Underdeveloped Countries and Territories

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and

1 Adopted on 22 June 1955 by 161 votes to 18, with 36 abstentions.
Having decided upon the adoption of certain proposals concerning the protection of migrant workers in underdeveloped countries and territories, which is the fifth item on the agenda of the session, and having determined that these proposals shall take the form of a Recommendation, adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five the following Recommendation, which may be cited as the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955:

I. DEFINITIONS AND SCOPE

1. This Recommendation applies to—
   (a) countries and territories in which the evolution from a subsistence form of economy towards more advanced forms of economy, based on wage earning and entailing sporadic and scattered development of industrial and agricultural centres, brings with it appreciable migratory movements of workers and sometimes their families;
   (b) countries and territories through which such migratory movements of workers pass on their outward and, where applicable, their return journeys, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys than is laid down in this Recommendation;
   (c) countries and territories of destination of such migratory movements of workers, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys or employment than is laid down in this Recommendation.

2. For the purposes of this Recommendation, the term "migrant worker" means any worker participating in such migratory movements either within the countries and territories described in clause (a) of Paragraph 1 above or from such countries and territories into or through the countries and territories described in clauses (b) and (c) of Paragraph 1 above, whether he has taken up employment, is moving in search of employment or is going to arranged employment, and irrespective of whether he has accepted an offer of employment or entered into a contract. Where applicable, the term "migrant worker" also means any worker returning temporarily or finally during or at the end of such employment.

3. Nothing in this Recommendation should be construed as giving any person a right to move into or remain in any country or territory except in accordance with the immigration or other laws of that country or territory.

4. The provisions of this Recommendation are without prejudice to any provision or practice, existing by virtue of law, custom or agreement, which provides for migrant workers conditions more favourable than those provided in this Recommendation.

5. Any discrimination against migrant workers should be eliminated.
II. PROTECTION OF MIGRANT WORKERS AND THEIR FAMILIES DURING THEIR OUTWARD AND RETURN JOURNEYS AND PRIOR TO THE PERIOD OF THEIR EMPLOYMENT

6. (1) Arrangements should be made by means of national or local laws or regulations, agreement between governments or any other means, with a view to providing protection for migrant workers and their families during the journey between their point of departure and their place of employment, both in the interests of the migrants themselves and in the interests of the countries or areas whence they come, in which they move about and to which they are making their way.

(2) These arrangements should include—

(a) making available mechanised means of transport, including public passenger transport, for the migrant workers and their families, where that is physically possible; and

(b) providing, at suitable stages along the routes, rest camps where lodging, food, water and essential first aid may be furnished.

7. All necessary steps should be taken to enable migrant workers to make their journeys in reasonable conditions either—

(a) in the case of recruited or engaged workers, by providing, in the regulations relating to recruitment or to contracts of employment, an obligation on the recruiter, or failing him the employer, to pay the travelling expenses of the workers and, where applicable, of their families; or

(b) in the case of workers journeying without having entered into a contract or accepted an offer of definite employment, by making provision for reducing travelling expenses to a minimum.

8. (1) Arrangements should be made for free medical examination of migrant workers on departure for or commencement of employment, and on completion of employment.

(2) Where lack of medical staff in particular regions makes it impossible to submit all migrant workers to this double medical examination, priority should be given to—

(a) migrant workers coming from regions where there are communicable or endemic diseases;

(b) migrant workers who accept or who have been in employment involving special physical risks; and

(c) migrant workers whose journeys are undertaken in accordance with special arrangements for recruitment or engagement.

9. (1) If the competent authority considers, after consultation with employers' and workers' organisations where both exist, that a period of acclimatisation is necessary in the interest of the health of migrant workers, it should take steps to ensure to them, and particularly to those recruited or bound by a contract, such a period of acclimatisation immediately before commencing their employment.

(2) In making its decision as to the need for a period of acclimatisation the competent authority should take account of the climate, the altitude and the different conditions of life in which the migrant workers
may be called upon to work. Where it considers a period of acclimatisation to be necessary it should fix the length thereof according to local circumstances.

(3) During the acclimatisation period, the employer should bear the expense of the adequate maintenance of the migrant worker and of the members of his family authorised to accompany him.

10. Arrangements should be made to ensure to migrant workers and, where applicable, to their families the right to repatriation, during a period to be determined by the competent authority, after consultation with employers’ and workers’ organisations where both exist, in the following circumstances:

(a) where the migrant worker has been recruited or has been sent forward to the place of engagement by the recruiter or the employer, his repatriation should be to the place where he was engaged or from which he was sent forward for engagement and at the expense of the recruiter or the employer in all cases where—

(i) the worker becomes incapacitated by sickness or accident during the journey to the place of employment;

(ii) the worker is found on medical examination to be unfit for employment;

(iii) the worker, for a reason for which he is not responsible, is not engaged after having been sent forward for engagement;

(iv) the competent authority finds that the worker has been engaged, or sent forward for engagement, by misrepresentation or mistake; or

(b) where the migrant worker has entered into a contract of employment and has been brought to the place of employment by the employer or by any person acting on behalf of the employer, his repatriation, together with that of the members of his family also so brought, should be to the place where he was engaged or from which he was sent forward for engagement, and at the expense of the employer in all cases where—

(i) the period of service stipulated in the contract has expired;

(ii) the contract is terminated by reason of the inability of the employer to fulfil the contract;

(iii) the contract is terminated by reason of the inability of the migrant worker to fulfil the contract owing to sickness or accident;

(iv) the contract is terminated by agreement between the parties;

(v) the contract is terminated on the application of either of the parties, unless the competent authority otherwise decides.

11. The competent authority should give sympathetic consideration to the question whether, and if so under what conditions, migrant workers or the members of their families who have not been brought to the place of employment by the employer or by any person acting on behalf of the employer, should have a right to repatriation.

12. In the event of the death of a migrant worker, the members of his family should have the right, to be exercised within a period to be
determined by the competent authority, after consultation with the employers' and workers' organisations where both exist, to be repatriated to the place where the worker was engaged or from which he was sent forward for engagement, at the expense of the recruiter or the employer as the case may be—

(a) where they had been authorised to accompany the worker to the place of employment—

(i) if death has occurred during the journey to the place of employment; or

(ii) if the deceased worker had entered into a contract of employment with the employer; or

(b) in other cases in the circumstances determined by the competent authority under Paragraph 11 above.

13. (1) Migrant workers should be free to waive the right to repatriation at the expense of the employer, such waiver to be exercised within a period and in a manner to be determined by the competent authority after consultation with employers' and workers' organisations where both exist, and not to become final until the end of such period.

(2) Migrant workers should also be free to postpone the exercise of their rights to repatriation to within a period to be fixed by the competent authority.

14. Where standard employment contracts, to be entered into between employers and migrant workers, are established by or under the authority of the government or governments concerned, representatives of the employers and workers concerned, including representatives of their respective organisations if such exist, should, whenever practicable, be consulted as to the terms of such contracts.

15. (1) Arrangements should be made for the proper placing of migrant workers.

(2) These arrangements should include the creation, where appropriate, of a public employment service system which should—

(a) consist of a central office for the country or territory as a whole and branch offices both in areas from which workers normally migrate and in employment centres, so as to enable information on employment opportunities to be gathered, and to be regularly disseminated in the districts from which labour normally comes to those centres;

(b) establish and maintain arrangements with the employment services in other countries or territories to which workers in a given area usually emigrate, so as to collect information on prevailing employment opportunities there;

(c) establish and maintain, where practicable, vocational guidance facilities and arrangements for ascertaining the general suitability of workers for particular employments; and

(d) seek, where practicable, the advice and co-operation of employers' and workers' organisations in the organisation and operation of the system.
III. MEASURES TO DISCOURAGE MIGRATORY MOVEMENTS WHEN CONSIDERED UNDESIRABLE IN THE INTERESTS OF THE MIGRANT WORKERS AND OF THE COMMUNITIES AND COUNTRIES OF THEIR ORIGIN

16. The general policy should be to discourage migration of workers when considered undesirable in the interests of the migrant workers and of the communities and countries of their origin by measures designed to improve conditions of life and to raise standards of living in the areas from which the migrations normally start.

17. The measures to be taken to ensure the application of the policy described in the preceding paragraph should include—

(a) in emigration areas, the adoption of economic development and vocational training programmes to enable fuller use to be made of available manpower and natural resources, and in particular the adoption of all measures likely to create new jobs and new sources of income for workers who would normally be disposed to emigrate;

(b) in immigration areas, the more rational use of manpower and the increase of productivity through better organisation of work, better training and the development of mechanisation or other measures as local circumstances may require;

(c) the limitation of recruitment in regions where the withdrawal of labour might have untoward effects on the social and economic organisation, and the health, welfare and development of the population concerned.

18. The governments of the countries and territories of origin and destination of migrant workers should endeavour to bring about a progressive reduction of migratory movements which have not been subject or appeared open to regulation, when such movements are considered undesirable in the interests of the migrant workers and of the communities and countries of their origin. So long as the economic causes of these unregulated migrations persist, the governments concerned should endeavour to exercise appropriate control, to the extent that such action appears practicable and desirable, over voluntary migration as well as organised recruitment. Such reduction and control may be sought by means of arrangements at local or area level and through bilateral agreements.

19. While unregulated migrations continue the governments concerned should, as far as practicable, strive to secure, for workers who migrate under such conditions, the protection provided for in this Recommendation.

IV. PROTECTION OF MIGRANT WORKERS DURING THE PERIOD OF THEIR EMPLOYMENT

A. General Policy

20. Every effort should be made to assure to migrant workers as favourable working and living conditions as those provided by law or in practice to other workers engaged in the same employment and to apply to them, as to such other workers, the standards of protection set out in the following Paragraphs of this Recommendation.
B. Housing

21. The arrangements to be made for the housing of migrant workers should include measures to enable such workers to be provided, either at the expense of the employer or by the provision of appropriate financial aid or by other means, with accommodation meeting approved standards and at rents reasonable in relation to the wages earned by the various categories of workers.

22. The competent authority should be responsible for ensuring the establishment of satisfactory housing conditions for migrant workers. It should define the minimum standards of accommodation and exercise strict control over the enforcement of these standards. It should also define the rights of the worker who may be required to vacate his accommodation on leaving employment and should take all necessary steps to secure the enforcement of these rights.

C. Wages

23. (1) Arrangements should be made for wage fixing in the case of migrant workers.

(2) Such arrangements should include—

(a) adoption of a scale of minimum wage rates calculated so that its lowest rate, including any allowances, enables a worker starting unskilled work at least to meet his minimum requirements according to the standards accepted in the region and taking into account normal family needs;

(b) the fixing from time to time of minimum wage rates either—

(i) by means of collective agreements freely negotiated between the trade unions which are representative of the workers concerned and the employers or the employers' organisations concerned; or

(ii) where no adequate machinery for fixing minimum wage rates by collective agreements exists, by the competent authority in accordance with the principle stated in clause (a) above.

24. Where relevant, the competent authority should, when fixing wages, take into consideration the results of any budgetary surveys of household consumption in the region concerned which may be available, it being understood that such surveys should be undertaken with the co-operation of the representative organisations of employers and workers.

25. Representatives of the employers' and workers' organisations where they exist, and, where they do not, representatives of workers and employers concerned, equal in number and on an equal footing, should collaborate in the operation of statutory machinery for fixing minimum wage rates.

26. The minimum wage rates in force should be communicated to the employers and workers concerned. Where the rates have been fixed in accordance with subparagraph (2) (b) (ii) of Paragraph 23, they should be binding on the employers and workers concerned so as not to be subject to abatement by them by agreement without the express authorisation of the competent authority.
27. Employers should be required to keep records of wage payments and deductions in respect of each worker. The amounts of wages and of deductions therefrom should be communicated to the workers concerned.

28. Deductions from wages should be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.

29. Wages should normally be paid in legal tender direct to the individual worker.

30. Unless there is an established local custom to the contrary, and the competent authority is satisfied, after consulting representatives of the workers or of their representative organisations, that the continuance of this custom is desired by the workers, wages should be paid regularly and at such intervals as will minimise the likelihood of indebtedness among the wage earners.

31. The substitution of alcohol or any harmful substance for all or any part of wages should be prohibited.

32. Payment of wages in taverns or stores should be prohibited except in the case of workers employed therein.

33. Employers should be required to restrict any advances to workers to a small proportion of their monthly remuneration.

34. Any advance in excess of the amount fixed by the competent authority should not be legally recoverable either by the withholding of amounts of pay due to the worker at a later date or in any other way. No interest should be chargeable on advances.

35. A worker to whom minimum rates are applicable and who, since they became applicable, has been paid wages at less than these rates, should be entitled to recover, by judicial or other means authorised by law, the amount by which he has been underpaid, subject to such limitation of time as may be determined by law or regulation.

36. Where food, housing, clothing and other essential supplies and services form part of the remuneration, the competent authority should, with the co-operation of the representative organisations of employers and workers, take all practicable steps to ensure that they are adequate, that their cash value is properly assessed and that the payment in kind does not exceed in value a certain proportion, to be fixed by the competent authority, of the basic cash wage.

D. Admission to Skilled Jobs without Discrimination

37. The principle of equal opportunity for all sections of the population, including migrant workers, should be accepted.

38. Subject to the application of national immigration laws, and of special laws concerning the employment of foreigners in the public service, any barriers preventing or restricting, on account of national origin, race, colour, belief, tribal association or trade union affiliation, access of any section of the population, including migrant workers, to particular types
of job or employment should be deemed contrary to public policy and the principle of the abolition of any such barriers should be accepted.

39. Measures should be taken immediately to secure in practice the realisation of the principles set out in Paragraphs 37 and 38 of this Recommendation and to facilitate the performance of an increasing share of skilled work by the least favoured grades of workers.

40. Such measures should specifically include—

(a) in all countries and territories, provision of equal access for all workers to technical and vocational training facilities and equal possibilities of access for all workers to employment opportunities in new industrial enterprises;

(b) in countries or territories where separate classes distinguished by race or origin have already been permanently formed, the introduction of facilities enabling workers of the least favoured class to be admitted to semi-skilled and skilled jobs;

(c) in countries or territories where separate classes distinguished by race or origin have not been permanently formed, the opening of equal opportunities for all qualified workers to jobs requiring specified skills.

E. Trade Union Activities

41. The right of association and freedom for all lawful trade union activities should be granted to migrant workers in the centres where they work and all practicable measures should be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organisations.

F. Supply of Consumer Goods

42. (1) Steps should be taken to ensure the availability of consumer goods, particularly essential products and foodstuffs, to migrant workers and their families at reasonable prices and in sufficient quantities.

(2) Land for the cultivation of crops should be made available to migrant workers, wherever possible, either by the employer or by the competent authority.

43. Where the creation of co-operative organisations would be of service, arrangements should be made for their development, including—

(a) the creation, if possible, of stock farms, fish ponds and market gardens on a co-operative basis;

(b) the creation of retail stores run by workers' co-operatives;

(c) the granting of assistance by governments by training members of co-operatives, by supervising their administration and by guiding their activities.

44. (1) Where stores are attached to undertakings, only cash payment should be accepted in them.

(2) If local circumstances do not yet permit the application of the preceding provision, the credit granted to migrant workers should be limited to a proportion of wages, to be fixed by the competent authority,
and restricted to a fixed period which should be as short as possible. It should be forbidden to charge interest on credit given or to accept its repayment in work.

(3) There should be no coercion on the migrant workers concerned to make use of such stores.

(4) Where access to other stores is not possible the competent authority should take appropriate measures with the object of ensuring that goods are sold at fair and reasonable prices and that stores operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

G. Social Security, Industrial Safety and Hygiene

45. The steps to be taken for migrant workers should in any case include in the first instance appropriate arrangements, without discrimination on grounds of nationality, race or religion, for workmen's compensation, medical care for workers and their families, industrial hygiene and prevention of accidents and occupational diseases.

46. These arrangements should include—

(a) medical supervision in accordance with local possibilities by periodical visits in the course of employment, and in case of sickness;
(b) first aid, free medical treatment and hospitalisation facilities in accordance with standards to be prescribed by the competent authority;
(c) a system of workmen's compensation for accidents and for occupational diseases;
(d) suitable assistance measures in case of accident or occupational disease;
(e) measures to secure the health and safety of migrant workers in their places of employment;
(f) measures for reporting accidents and investigating their causes;
(g) an obligation on the employers to bring to the attention of migrant workers by notices, talks or any other means any dangerous or unhealthy features of their work;
(h) special or additional training or instruction to migrant workers on the prevention of accidents and risks to health in places of employment when, on account of lack of familiarity with processes, language difficulties or for other reasons, the training or instruction normally given to other workers employed in the country or territory is unsuitable;
(i) provision for the collaboration of employers and workers in the promotion of safety measures;
(j) special health and social measures for the protection of the migrant worker's wife and children living with him.

47. Where migrant workers fail to benefit from the same treatment as other workers as regards protection against the risks of invalidity, old age and death, arrangements should be made, to the extent possible and desirable and in collaboration with the workers, for the organisation of
friendly societies and works provident funds in order to meet the needs of migrants workers in these cases and as the forerunners of larger schemes on a local, district or territorial basis.

H. Relations of Migrant Workers with Their Areas of Origin

48. Arrangements should be made to enable migrant workers to maintain contact with their families and their areas of origin, including—

(a) the granting of such facilities as may be required for the voluntary remittance of funds to the worker's family in his area of origin or elsewhere and for the accumulation, with the assent of the worker, of deferred pay which he should receive at the end of his contract or when he returns to his home or in any other circumstances to be decided in agreement with him;

(b) facilities for the exchange of correspondence between the migrant worker, his family and his area of origin;

(c) facilities for the performance by the migrant worker of those customary obligations to his community of origin which he wishes to observe.

I. Material, Intellectual and Moral Welfare of Migrant Workers

49. Arrangements should be made to ensure the material, intellectual and moral welfare of migrant workers, including—

(a) arrangements to encourage voluntary forms of thrift;

(b) arrangements to protect the migrant worker against usury, in particular by action to reduce interest rates on loans, by the control of the operations of money-lenders and by the encouragement of facilities for borrowing money for appropriate purposes through co-operative credit organisations or through institutions under the supervision of the competent authority;

(c) wherever practicable, the maintenance in immigration areas of welfare officers who are familiar with the languages and customs of the migrant workers to facilitate the adaptation of these workers and their families to their new way of living;

(d) measures to ensure educational facilities for migrant workers' children;

(e) facilities to enable migrant workers to satisfy their intellectual and religious aspirations.

V. Stabilisation of Migrant Workers

50. Except where permanent establishment of the migrant workers is clearly against their interest and that of their families or of the economies of the countries or territories concerned, the general policy to be followed should be to seek the stabilisation of the workers and their families in or near the employment centres by all appropriate measures and particularly by those which are set out in Part IV and in Paragraphs 51, 52 and 53 of this Recommendation.

51. As stated in Paragraph 3, nothing in this Recommendation should be construed as giving any person a right to move into or remain in any
country or territory except in accordance with the immigration or other laws of that country or territory. Nevertheless, where such action is not contrary to the policy of the country concerned, the competent authority should consider affording to migrant workers who have been resident for a period of not less than five years in the country to which they have migrated all opportunities of acquiring citizenship of the country of immigration.

52. (1) Where lasting settlement of migrant workers at or near their place of employment is found to be possible, arrangements should be made to promote their permanent installation.

(2) These arrangements should include—

(a) encouragement of recruitment of migrant workers accompanied by their families;

(b) the granting wherever possible and desirable of facilities to enable the establishment at or near the place of employment of appropriate community organisation;

(c) the provision of housing of an approved standard and at suitable cost to promote the permanent settlement of families;

(d) the allocation, wherever possible and desirable, of sufficient land for the production of foodstuffs;

(e) in the absence of more appropriate facilities and whenever possible and desirable, the creation of villages or settlements of retired migrant workers in places where it is possible for them to contribute to their own subsistence.

VI. APPLICATION OF THE RECOMMENDATION

53. Provision should be made by the competent authority for the supervision, by the appropriate administrative service or services, and with the co-operation of employers' and workers' organisations where both exist, of the application of the measures for the protection of migrant workers dealt with in this Recommendation.

54. In particular, in cases where the terms and conditions of employment, the language, customs, or the currency in use in the region of employment are not familiar to migrant workers, the appropriate administrative service or services should ensure the observance of any procedure for entering into employment contracts so as to make certain that each worker understands the terms and conditions of his employment, the provisions of his contract, the details in regard to the rates and payment of wages, and that he has accepted freely and knowingly these terms and conditions.

55. Each Member of the International Labour Organisation should report to the International Labour Office at appropriate intervals, as requested by the Governing Body, the position of the law and practice in the countries and territories for which the Member is responsible in regard to the matters dealt with in the Recommendation. Such reports should show the extent to which effect has been given, or is proposed to be given, to the provisions of this Recommendation and such modifica-
tions of those provisions as it has been found or may be found necessary to make in adopting or applying them.

56. Each Member of the International Labour Organisation which is responsible for any non-metropolitan territory should take all steps within its competence to secure the effective application in each such territory of the minimum standards set forth in this Recommendation, and in particular should bring the Recommendation before the authority or authorities competent to make effective in each such territory the minimum standards set forth in it.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organisation during its Thirty-eighth Session which was held at Geneva and declared closed the twenty-third day of June 1955.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of July 1955.

The President of the Conference,
F. GARCIA OLDINI.

The Director-General of the International Labour Office,
DAVID A. MORSE.
Resolutions Adopted by the
International Labour Conference
at Its 38th Session

(Geneva, 1955)

I

Resolution Submitted on the Occasion of the Tenth Anniversary
of the United Nations

On the Tenth Anniversary of the signing of the Charter of the United Nations,
The International Labour Conference,

Recalling the determination of the peoples of the United Nations to save succeeding generations from the scourge of war and to promote social progress and better standards of life in larger freedom,

Recalling that the International Labour Organisation is dedicated to the principle that lasting peace can be established only if it is based on social justice, and pledged to full co-operation with all international bodies entrusted with a share of the responsibility for promoting the fuller and broader utilisation of the world's productive resources and the health, education and well-being of all peoples,

Recalling that the United Nations has recognised the I.L.O. as the specialised agency responsible for taking such action as may be appropriate under its basic instrument for the accomplishment of the purposes set forth therein,

Bearing in mind the growing recognition of the value of the distinctive role the specialised agencies can play within the framework of the United Nations and the progress which has been made by the United Nations and the I.L.O. in the development of common and parallel action in respect of the observance of human rights, the protection of freedom of association, the suppression of forced labour, the prevention of discrimination, the maintenance of full employment and the development of productivity;

1. Reaffirms its faith in the aims and purposes of the United Nations;

2. Notes with satisfaction that, within the framework of the Charter of the United Nations and the Constitution of the I.L.O. and the Agreement between the United Nations and the I.L.O., the United Nations and the I.L.O. have collaborated increasingly closely and effectively to further among the nations of the world the purposes for which they were created;

3. Notes with satisfaction the recognition by the United Nations of the full responsibility of the I.L.O. for matters within its sphere;

1 Adopted unanimously on 9 June 1955.
4. Recognises the need for continuing intensification of effort by the I.L.O. in respect of all matters in regard to which the I.L.O. has a special contribution to make;

5. Pledges the full co-operation of the I.L.O. in accordance with the terms of its Constitution and the Agreement between the United Nations and the I.L.O. in the further development of co-ordinated international action for the implementation of the common objectives in an ever-widening area of the world;

6. Requests the Director-General to transmit this resolution to the Secretary-General of the United Nations with a view to its being communicated to the General Assembly on the occasion of the commemoration of the Tenth Anniversary of the signing of the United Nations Charter.

II

Resolution concerning the Part-Time Employment of Women and the Employment of Older Women

Whereas the International Labour Conference, at its 30th Session in 1947, unanimously adopted a resolution concerning women’s work, in which such essential principles as equality of opportunity, equal remuneration for work of equal value and equal conditions of work were the basis for expressing the hope that the Governing Body would “instruct the International Labour Office to continue the detailed study of the employment of women and its effect on the labour market and to undertake the study of the employment of mothers of families, industrial homework and the status of domestic workers, bearing in mind their role as mothers and homemakers”,

Whereas the employment of women in part-time work should not, as far as possible, adversely affect full employment and the general level of wages, contrary to the provisions of the Convention on equal remuneration for work of equal value,

And whereas various categories of older women, in particular unmarried women who have had dependent relatives, mothers who no longer have family responsibilities and widows whose children are no longer dependent upon them, sometimes find it difficult to obtain employment because of the lack of vocational guidance, vocational training or retraining and other such assistance;

The International Labour Conference—

1. Considers that it would be desirable to study in detail—

(a) the conditions of employment of women in part-time work and the ways in which such work could be made available to women seeking it;

(b) the integration or reintegration of older women into gainful occupations;

and to consider what measures would contribute to the solution of problems in these fields, with due regard to such basic principles as equality of oppor-

1 Adopted unanimously on 22 June 1955.
tunity, equal remuneration for work of equal value and equal conditions of work;

2. Requests the Governing Body—
   (a) to instruct the International Labour Office to continue its work on these subjects;
   (b) to consider the desirability of including these questions in the agenda of future sessions of regional conferences and, if appropriate, of the International Labour Conference.

III

Resolution concerning the Employment of Women Having Dependent Young Children

Whereas the employment of women having family responsibilities exists on a considerable scale and is tending to increase in many countries,

Whereas in many cases economic necessity appears to be one of the main motives causing women having family responsibilities to seek employment,

Whereas the International Labour Organisation has established the basis for a system of maternity protection, in particular by adopting the Maternity Protection Convention (Revised) and Recommendation, 1952, and the Social Security (Minimum Standards) Convention, 1952,

And whereas the principle adopted by the I.L.O. and contained in the Declaration of Philadelphia affirms that "all human beings... have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity",

Whereas the Conference, in 1947, noted with satisfaction the work already done by the regional conferences of States Members of the International Labour Organisation to promote the provision of social aids to working mothers, assurance of wages to women adequate to a decent standard of life, and the principle of the "right to work of every individual irrespective of sex or marital condition", with due regard for occupational qualifications and physical capacity and for the economic and social conditions of every country;

The International Labour Conference—

1. Considers that studies are required of the manifold problems which arise in connection with the employment of women having dependent young children. Such studies should embrace all aspects of the question including problems of a psychological and educative nature affecting the children of mothers who work outside their homes as well as the economic and social conditions under which this employment takes place;

2. Considers that the I.L.O. should study those aspects of these problems which are within its field of competence and consider what measures

1 Adopted unanimously on 22 June 1955.
the I.L.O. might take which would contribute most effectively to the solution of the many problems in this field, inviting the collaboration of the United Nations and the specialised agencies concerned as regards matters within their respective fields of competence;

3. Emphasises that all appropriate measures should be taken in each country to develop and improve maternity protection, taking into account in particular the standards laid down by the I.L.O.;

4. Invites Members to consider the need for the collection of statistics on the number of mothers of families engaged in or seeking employment in the different branches of industry and on the number and age of their children;

5. Expresses the hope that the Governing Body of the International Labour Office will—
(a) instruct the International Labour Office to intensify its studies in this field;
(b) use its influence to ensure that effective co-operation is established between the United Nations and the specialised agencies concerned and that a concerted policy is pursued in this field at the international level;
(c) consider the desirability of including this question in the agenda of future sessions of regional conferences and, if appropriate, of the International Labour Conference.

IV

Resolution concerning Labour-Management Relations

The International Labour Conference—

Considering that the attainment of the objectives of the International Labour Organisation is dependent not only upon the support of governments, employers and workers but also upon the growth throughout the world of co-operation between workers and employers and their respective organisations in support of these objectives,

Considering that accordingly the I.L.O. should endeavour by all means proper to it to promote good labour-management relations in all countries, taking account of the particular needs and conditions prevailing in each,

Considering that such action is important both for the industrially advanced countries in which co-operation between labour and management in industry is necessary to increase the prosperity of all sections of the community, and for the countries at present planning extensive economic development in which the fulfilment of the social objectives of industrialisation will depend in large measure upon the ability of a strong and healthy trade union movement co-operating with employers to work out with governments acceptable social policies for industry, where in accord with national laws and practices,

1 Adopted on 23 June 1955 by 117 votes to 16, with no abstentions.
Considering that good labour-management relations have repercussions beyond the purely labour field and become a source of strength to society as a whole by developing the practice of dealing with issues through a democratic process of discussion and agreement between the parties directly concerned and in the public interest and with a view to strengthening active participation and responsibility on the part of workers in economic and social policy,

Recalling that in the Declaration of Philadelphia this Conference recognised the solemn obligation of the I.L.O. to further among the nations of the world programmes which will achieve the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures,

Noting that the I.L.O. has in recent years given its attention to certain aspects of labour-management relations, and in particular that—

(a) the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949, endeavoured to establish safeguards for the development of co-operative relations between workers and employers and their respective organisations;

(b) the Recommendations concerning collective agreements (1951), voluntary conciliation and arbitration (1951) and consultation and co-operation between employers and workers at the level of the undertaking (1952), and the resolution concerning consultation and co-operation between employers and workers at the level of the undertaking (1952) set forth guidance for governments and the parties concerned as to the general form and principles applicable to collective bargaining procedures;

(c) the technical assistance activities of the I.L.O. provide the means of assisting governments which so desire to develop their services so as to facilitate the development of labour-management relations in various ways;

(d) the Industrial Committees of the I.L.O. have considered certain problems touching the relations between employers and workers in their respective industries;

Considering further that it is desirable for the I.L.O. to extend its programme of activities in this field so as to give particular emphasis to the promotion in practice of co-operation between employers and workers and their organisations throughout the world, and that to this end the Director-General has sought advice from the Conference by making this subject the theme of his Report;

Accordingly decides—

1. To ask the Director-General, in the light of the observations made by members of the Conference speaking in the general debate, to review the I.L.O.'s activities as a whole and to consider how these activities should be modified or supplemented so as to contribute effectively towards promoting labour-management co-operation and better human relations in industry throughout the world;
2. To ask the Governing Body—

(a) to draw up a practical programme of I.L.O. action for this purpose on the basis of proposals to be submitted by the Director-General as a result of the aforementioned review; and

(b) to consider bringing this matter before a future session of the Conference in some appropriate form.

### V

**Resolution concerning the Protection of Trade Union Rights**

The International Labour Conference—

Considering the fundamental importance of real respect for the trade union rights of the workers; the serious violations of these rights in certain countries; and the need in some countries for appropriate laws and regulations to safeguard the normal exercise of these rights,

Considering that the International Labour Conference adopted, in 1948, the Freedom of Association and Protection of the Right to Organise Convention (No. 87) and, in 1949, the Right to Organise and Collective Bargaining Convention (No. 98), which define the fundamental rights both of employers and workers and of their respective organisations,

Considering that the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), has so far been ratified by 18 countries and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), by 19 countries,

Considering that, despite the outstanding achievements of the Governing Body Committee on Freedom of Association, the efforts of the International Labour Organisation to ensure adequate protection for the rights of workers to organise freely cannot be fully effective until those countries, which have hitherto refused to do so, agree to co-operate with the Governing Body and to permit the Fact-Finding and Conciliation Commission on Freedom of Association to carry out investigations on the spot;

1. Addresses an urgent appeal to governments which have not yet ratified the above-mentioned Conventions and requests them to consider the possibility of doing so at as early a date as possible;

2. Reaffirms the importance which it attaches to the fundamental rights both of employers and workers in their respective organisations, and in particular the rights of freedom and independence;

3. Notes that the Governing Body has approved unanimous reports by the Committee on Freedom of Association on 108 cases and unanimous interim reports on five further cases, and invites the Governing Body to pursue expeditiously the examination of the cases still pending;

4. Invites the Governing Body to keep under constant review the question of improving the procedure of its Committee on Freedom of Association and to give earnest consideration to any recommendations which may from time to time be made by the Committee to that end, including any recommendations relating to the question of hearings of all the parties concerned;

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1 Adopted on 22 June 1955 by 173 votes to 0, with 30 abstentions.
5. Requests the Governing Body—

(a) to study, on the occasion of the examination of the report of the independent committee on freedom of employers' and workers' organisations from government domination or control, whether out of this report certain points arise which would justify a revision in whole or in part of the existing Conventions dealing with freedom of association and industrial relations;

(b) to take into account other points not arising from the report of the independent committee which may affect the existing Conventions or give rise to the need for a new Convention;

(c) to report on the matter as a whole to an early session of the Conference.

VI

Resolution concerning the Improvement of the Protection of Labour and Industrial Safety ¹

The International Labour Conference—

Recognising the importance of protecting workers against injuries and diseases arising out of their employment,

Noting that the Conventions and Recommendations adopted by the International Labour Organisation in the field of occupational safety and health do not cover all branches of economic activity or contain provisions of a general nature only,

Recognising, therefore, the importance of the widespread application of effective measures based upon detailed standards of occupational safety and health covering the various branches of economic activity,

Considering, in addition, that the value of legislation is all the greater when it has been formulated after consulting the workers' and employers' organisations, and that its provisions include the widest opportunity for these organisations to play an appropriate role in the efficient application of it,

Recognising, finally, the need to provide governments and industry with information of a practical nature concerning protective measures of proven value and, if necessary, with appropriate assistance in the field of occupational safety and health;

1. Invites States Members to examine—

(a) the need for sufficiently detailed laws and regulations on the prevention of occupational accidents and diseases and on the protection of the health of workers in places of employment to be enacted in those countries and for those branches of economic activity for which no such laws and regulations exist at present;

(b) the desirability of ratifying Conventions already adopted by the International Labour Conference, particularly the Protection against Accidents (Dockers) Convention (Revised), 1932, and the Safety Provisions (Building) Convention, 1937;

¹ Adopted on 23 June 1955 by 133 votes to 0, with 21 abstentions.
(c) the desirability of taking account, in framing rules and regulations to implement relevant laws, of the standards and guiding principles concerning occupational safety and health published by the I.L.O., and particularly the model codes for the guidance of governments and industry;

(d) the need to dispose, in the official inspection services, of an adequate staff possessing the necessary qualifications in occupational safety and health;

(e) the need to further the establishment in places of employment of safety and health committees or other similar bodies charged with, or advising on, the application of protective measures, and in which representatives of workers, after consultation with the organisations concerned, would participate;

(f) the need to promote a wider distribution of the publications of the International Labour Office and to take advantage, where necessary, of the opportunities provided by I.L.O. technical assistance in the field of occupational safety and health;

(g) the need to recognise that employers' and workers' organisations are competent and qualified to co-operate with the proper authorities in the application by the latter of laws and regulations concerning the protection of workers against injuries and diseases arising out of their employment;

(h) the need to ensure that the right to include questions of occupational safety and health in collective agreements is not denied.

2. Invites the Governing Body of the International Labour Office—

(a) to study the means whereby the action undertaken by the I.L.O. in the field of the prevention of occupational accidents and diseases and of the protection of the health of workers in places of employment may be developed, particularly as regards the organisation of occupational health services in places of employment;

(b) to consider what measures can be taken to extend, improve and standardise statistics concerning industrial accidents and occupational diseases;

(c) to instruct the Director-General to submit to it concrete proposals concerning the action which might be taken by the I.L.O. to improve safety and health conditions in the various branches of economic activity throughout the world;

(d) to consider submitting a report thereon to the Conference or putting specific aspects thereof on the agenda of the Conference.

VII

Resolution concerning the Peaceful Uses of Atomic Energy

Whereas the General Assembly of the United Nations at its Ninth Session adopted a resolution expressing its desire to promote energetically the use of atomic energy to the end that it will serve only the peaceful pursuits of mankind and ameliorate their living conditions, and

1 Adopted on 23 June 1955 by 168 votes to 0, with 1 abstention.
Whereas the General Assembly, with this aim in view, welcomed the proposal to establish an International Atomic Energy Agency and decided further to convene, under the auspices of the United Nations, an International Conference on the Peaceful Uses of Atomic Energy, which will be held in August 1955, and

Whereas the International Labour Organisation shares the concern of the United Nations for the promotion of peace and the improvement of living conditions everywhere, and has in addition a specific responsibility for securing a steady improvement in the working conditions of all workers;

This Conference—

1. Welcomes the holding of the International Conference on the Peaceful Uses of Atomic Energy and expresses the hope that it will be successful in stimulating international co-operation in this important field;

2. Requests the Governing Body, in the light of the information available as a result of that conference, to consider what part the I.L.O., by all means proper to it, can play in giving advice and assistance in—

(a) promoting the development of the use of atomic energy for peaceful purposes and as a means of raising living standards;

(b) studying and solving the problems of adjustment which will arise within the fields of competence of the I.L.O.;

(c) promoting the highest possible standards of health, safety and welfare among workers in atomic plants and in other undertakings affected by the development of the industrial uses of atomic energy.

VIII

Resolution concerning Disarmament and the Use of the Resources Which Would Be Set Free by a Reduction of Armament Expenditure

The International Labour Conference—

Considering that the States Members of the United Nations have agreed to pursue the purposes, and to act in accordance with the principles, set out in the Charter signed at San Francisco on 26 June 1945,

Considering that the preamble of that Charter affirms the determination of the peoples “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”,

1. Notes the adoption by the General Assembly of the United Nations at its Ninth Session of the following resolutions:

(a) International Convention or Treaty on the Reduction of Armaments and the Prohibition of Atomic, Hydrogen and other Weapons of Mass Destruction (adopted 4 November 1954);

(b) International Co-operation in Developing the Peaceful Uses of Atomic Energy (adopted 4 December 1954);

(c) Question of the Establishment of a Special United Nations Fund for Economic Development (adopted 11 December 1954);

1 Adopted on 23 June 1955 by 177 votes to 0, with no abstentions.
(d) Question of the Establishment of an International Finance Corporation (adopted 11 December 1954);

2. Expresses the hope that the work of the Disarmament Commission set up by the United Nations may be brought to a speedy and fruitful conclusion;

3. Notes the studies on the question of economic development undertaken under the auspices of the United Nations Economic and Social Council and expresses the hope that progress with internationally supervised worldwide disarmament will soon produce the conditions required in General Assembly Resolution 724 (VIII).

IX

Resolution concerning the Placing on the Agenda of a Future Session of the Conference of the Question of the Adoption of an Instrument Extending the Scope of the Conventions of 1939 and 1955 Relating to Penal Sanctions

The Conference,

Having at its 25th Session adopted the Penal Sanctions (Indigenous Workers) Convention, 1939, which declares that all penal sanctions for any breach of contract to which the Convention applies shall be abolished progressively and as soon as possible,

Having at its 38th Session adopted the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955, which declares that all such penal sanctions should be abolished by an appropriate measure of immediate application and, in those cases where immediate abolition is not considered to be practicable, in any event not later than one year from the date of ratification of this Convention,

Expresses the hope that this Convention will be widely and promptly ratified and applied, and

Feeling that a wider review of the whole question of penal sanctions for breaches of contract of employment is necessary with a view to the total abolition of those penal sanctions which are contrary to modern conceptions of the proper contractual relationship between employer and worker;

Invites the Governing Body of the International Labour Office to instruct the Office to prepare a law and practice report dealing with the question of penal sanctions for breaches of contract of employment imposed on workers, whether indigenous or not, with a view to considering, having regard to the provisions of the Penal Sanctions (Indigenous Workers) Convention, 1939, and the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955, the desirability of placing on the agenda of a future session of the Conference the question of the adoption of an instrument of extended scope as regards both the workers and the various types of breaches of contract of employment to be covered.

1 Adopted on 21 June 1955 by 148 votes to 1, with 4 abstentions.
X

Resolution concerning Persons Disabled in War

The Conference,

Having adopted the Vocational Rehabilitation (Disabled) Recommendation, 1955,

Desirous of expressing its interest in efforts made to improve the living and working conditions of persons suffering from disability arising from war;

Stresses the fact that this Recommendation gives formal recognition to the principles and methods already employed in many countries in the field of vocational rehabilitation of war disabled; and

Invites governments and interested organisations to increase their efforts, within the framework of national legislation and in the light of the principles of the Recommendation, to assist war-disabled persons to return to a normal occupation.

XI

Resolution concerning the Adoption of a Future Convention concerning Migrant Workers in Underdeveloped Countries and Territories

The Conference,

Having adopted the Migrant Workers (Underdeveloped Countries) Recommendation, 1955;

Requests the Governing Body to instruct the Director-General of the International Labour Office to proceed to an examination of the provisions of the said Recommendation so as to enable the Governing Body to decide which of them might warrant consideration for inclusion in a future Convention dealing with migrant workers in underdeveloped countries and territories.

XII

Resolution concerning the Inclusion in the Agenda of the Next Session of the Conference of the Question of Vocational Training in Agriculture

The Conference,

Having approved the report of the Committee appointed to examine item VII on its agenda,

Having in particular approved as general conclusions, with a view to the consultation of governments, proposals for a Recommendation relating to vocational training in agriculture;

Decides to place on the agenda of its next session the question of vocational training in agriculture with a view to a final decision on a Recommendation on the subject.

1 Adopted on 22 June 1955 by 183 votes to 0, with no abstentions.
2 Adopted on 22 June 1955 by 115 votes to 23, with 28 abstentions.
3 Adopted on 18 June 1955 by 184 votes to 0, with no abstentions.
XIII

Resolution concerning the Placing on the Agenda of the Next General Session of the Conference of the Question of Welfare Facilities for Workers

The Conference,

Having approved the report of the Committee appointed to examine item VIII on its agenda,

Having in particular approved as general conclusions, with a view to consultation of governments, proposals for a Recommendation relating to welfare facilities for workers;

Decides to place the question of welfare facilities for workers on the agenda of its next general session for a second discussion with a view to final decision on a Recommendation on this question;

Decides also to invite the Governing Body to include in the agenda of a future session of the Conference an item concerning welfare facilities in agriculture.

XIV

Resolution concerning the Adoption of the Budget for the 38th Financial Period (1956) and for the Allocation of Expenses among States Members for 1956

In virtue of the Financial Regulations the Conference passes for the 38th financial period, ending 31 December 1956, the budget of expenditure of the International Labour Organisation amounting to 7,395,729 U.S. dollars and the budget of income amounting to 7,395,729 U.S. dollars, and resolves that the budget of income from States Members shall be allocated among them in accordance with the scale of contributions recommended by the Finance Committee of Government Representatives.

XV

Resolution concerning Contributions Payable to the I.L.O. Staff Pensions Fund in 1956

The International Labour Conference—

Decides that the contribution of the International Labour Organisation to the Pensions Fund for 1956 under article 7, paragraph (a), of the Staff Pensions Regulations shall be 14 per cent. of the pensionable emoluments of the members of the Fund;

1 Adopted on 22 June 1955 by 171 votes to 0, with 46 abstentions.
2 Adopted on 20 June 1955 by 184 votes to 7, with 2 abstentions.
3 Adopted unanimously on 20 June 1955.
Decides that, for the year 1956; the officials mentioned in article 4, paragraph (a) (i), of the I.L.O. Staff Pensions Regulations shall continue to pay an additional 1 per cent, of their pensionable emoluments (making a total of 7¹/₂ per cent.), and those mentioned in article 4, paragraph (a) (ii), an additional ¹/₂ per cent. (making a total of 5¹/₂ per cent.) if their pensionable emoluments exceed the equivalent of Swiss francs 6,500 per annum, and an additional ¹/₄ per cent. (making a total of 5¹/₄ per cent.) if these emoluments are the equivalent of Swiss francs 6,500 or less;

Resolves that, in continuation of the arrangement approved in previous years, the whole budgetary vote for 1956 in respect of the contributions of the Organisation to the I.L.O. Staff Pensions Fund should be paid to the Fund.

XVI

Resolution concerning Appointments to the Administrative Tribunal of the International Labour Organisation

The Conference, in accordance with article III of the Statute of the Administrative Tribunal,

Appoints Mr. Robert G. Simmons (United States of America) and Sir John Forster, K.B.E., Q.C. (United Kingdom of Great Britain and Northern Ireland) as deputy judges of the Administrative Tribunal of the International Labour Organisation for a period of three years.

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¹ Adopted unanimously on 20 June 1955.
Subscription Rates and Prices for 1955

I. International Labour Review.
Monthly. Articles on economic and social topics. A statistical supplement gives information on employment, unemployment, wages, consumer prices, etc.
Annual subscription: $6.00, £1 16s.
Price: per number, 60 cents, 3s. 6d.

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**Chemical Industries Committee**

*(Fourth Session, Geneva, 7-18 February 1955)*

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Chemical Industries Committee

(Fourth Session, Geneva, 7-18 February 1955)¹

Convocation of the Committee

The governments of States Members of the International Labour Organisation represented on the Chemical Industries Committee² were informed by a letter of 23 November 1954 of the date and place of the Fourth Session of the Committee.³

In accordance with a decision taken by the Governing Body at its 123rd Session (Geneva, November 1953), the agenda of the session was as follows:

I. General Report, dealing particularly with—
   (a) action taken in the various countries in the light of the conclusions of the previous sessions;
   (b) steps taken by the Office to follow up the studies and inquiries proposed by the Committee;
   (c) recent events and developments in the chemical industries.

II. Factors affecting productivity in the chemical industries, with special reference to work study and systems of wage payment.

III. Problems of safety and hygiene in the chemical industries:
   (a) classification of dangerous substances;
   (b) labelling of dangerous substances.

² For the list of these governments, see below the chart showing the composition of Industrial Committees, etc., p. 158.
³ The United Nations and the World Health Organisation were invited by letter of 8 December 1954 and the Organisation for European Economic Co-operation by letter of 10 December 1954 to send representatives to the meeting. Invitations were also sent to the non-governmental international organisations with which the International Labour Organisation has established consultative relationships and to a number of other non-governmental international organisations especially interested in the meeting.

³ The text of this communication is not reproduced here.
The Fourth Session of the Chemical Industries Committee was held in Geneva from 7 to 18 February 1955. In accordance with a decision taken by the Governing Body, Mr. R. L. HARRY (Australia), Government representative on the Governing Body of the International Labour Office, presided at the session.

The Committee elected two Vice-Chairmen: Mr. M. BOURDON, French Federation of Chemical Industries (Employers' delegate) and Mr. E. EASER, Vice-President of the Chemical, Paper and Ceramic Trade Union of the Federal Republic of Germany (Workers' delegate).

The following 21 countries, composing the Chemical Industries Committee, were represented:

- Argentina
- Austria
- Belgium
- Canada
- Chile
- Denmark
- Finland
- France
- Federal Republic of Germany
- Greece
- India
- Israel
- Italy
- Japan
- Mexico
- Netherlands
- Norway
- Sweden
- Switzerland
- United Kingdom
- United States

Each of these countries, except Greece, sent a tripartite delegation. The Greek Workers' delegation, though appointed, did not attend the session.

The Governing Body of the International Labour Office was represented as follows:

- Government group: Mr. R. L. HARRY (Australia).
- Employers' group: Mr. G. BERGENSTRÖM (Swedish).
- Workers' group: Mr. J. MÖRI (Swiss).

The United Nations was represented by Mr. A. ADOSSIDES; the World Health Organisation by Dr. T. S. SZE; and the Organisation for European Economic Co-operation by Mr. J. CHAPELIER, Mr. G. V. M. VON ARNIM and Mr. G. FRANÇAIS.

The following non-governmental international organisations were represented by observers: International Co-operative Alliance; International Federation of Christian Factory and Transport Workers; International Federation of Christian Trade Unions; International Federation of Christian Trade Unions of Employees, Professional Workers, Supervisors and Commercial Travellers; International Federation of Commercial, Clerical and Technical Employees; International Federation of Industrial Organisations and General Workers' Unions; International Organisation of Employers; World Federation of Trade Unions.

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1 See also Industry and Labour (Geneva, I.L.O.), Vol. XIII, No. 12, 15 June 1955, pp. 530-548.
2 Organisation with consultative status.
The Committee appointed a Steering Committee, which also acted as a Resolutions Committee, and two subcommittees and a working party, as follows:

Subcommittee on Productivity in the Chemical Industries;
Subcommittee on the Classification and Labelling of Dangerous Substances;
Working Party on the Effect Given to the Conclusions Adopted at Previous Sessions of the Committee.

The Committee held nine plenary sittings, six of which were mainly devoted to a general discussion of the questions before the Committee. At its eighth and ninth sittings, on 18 February 1955, the Committee considered and adopted the reports, resolutions and other conclusions submitted to it.

Conclusions and Reports Adopted by the Committee

The Committee adopted nine resolutions, a memorandum, suggestions and a recommendation by the Steering Committee. These texts are reproduced below, together with the reports of the subcommittees and of the working party.

Resolution (No. 21) concerning Productivity in the Chemical Industries

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and
Having met at Geneva in its Fourth Session from 7 to 18 February 1955,
Having noted that the Third Session of the Chemical Industries Committee held in Geneva in September 1952 recognised in its resolution No. 18 the relationship between living standards and the level of productivity,
Considering that one of the responsibilities of the Industrial Committees is to consider the application or adaptation to their particular industries of the principles embodied in conclusions previously adopted at I.L.O. meetings in relation to the over-all field of productivity,
Considering that the Committee's discussions on productivity have been of value and have resulted in better understanding of the individual problems of member countries,
Considering that the chemical industries have an increasingly vital part to play in industrial advancement, which is the keystone to material prosperity throughout the world,
Recognising that, notwithstanding the great progress already achieved in many countries, a continuing increase in productivity in the chemical industries can make a major contribution to the promotion of higher standards of living and the health, welfare and future sustenance of a growing world population, by making possible increased production at lower costs and lower prices, higher real earnings, and improvements in conditions of life and work,
Considering that an increase of productivity can only advance the general standard of living when the increased production normally resulting from it finds adequate markets, both national and international, based upon sufficient purchasing power,

1 At its previous sessions the Committee had adopted 19 resolutions and one memorandum; the first text adopted at its Fourth Session is therefore numbered 21.

2 Adopted by 110 votes to 1, with no abstentions.
Considering that it is desirable not only that productivity be increased in the field of production but also that adequate attention be given to the efficient distribution of chemical products;

Adopts this eighteenth day of February 1955 the following resolution:

1. All reasonable means should be adopted to increase both production and productivity throughout the chemical industries.

2. In a society accepting the principles of social justice the employees should receive an equitable share of the direct and indirect benefits, material and other, obtained from increased productivity.

3. The process of increasing productivity should not adversely affect the moral, physical or material well-being of labour generally, nor, under any circumstances, be achieved at the expense of human dignity.

4. All possible steps should be taken to resolve any problems of redundancy arising from increased productivity. Such measures are of special importance in countries suffering from unemployment and underemployment, and, in particular, in underdeveloped countries. Employers have a responsibility for—

   (a) looking ahead and taking all measures that are possible to ensure that higher productivity does not lead to unemployment; and

   (b) working out, with the co-operation of workers' representatives, reasonable arrangements with the object of safeguarding the interests of workers affected by technological improvements or other changes which may be introduced with a view to raising productivity.

At the national level governments have a responsibility for adopting policies favourable to the establishment and maintenance of a high level of employment.

5. The problem of increasing productivity can best be solved by making the most efficient use of all available resources, both natural and man-made. The most important of these resources are human skill and effort.

6. The achievement of higher productivity rests broadly upon the success of each individual undertaking in planning, organising and efficiently utilising available personnel, raw materials, plant and equipment, and technical know-how. Success is dependent upon the integration of a wide variety of factors, among which good industrial relations are of paramount importance. These alone are not sufficient. Special attention needs to be devoted to research and technical development generally, to supervisory training and to vocational training of employees, to mention but a few.

7. Work study is rapidly taking its place in some countries as an additional factor in securing increased productivity. There is evidence to show that in its modern forms its application to the chemical industries may be of the greatest value in pointing the way to increased levels of production from existing plant and equipment, in reducing capital needed for new projects and in achieving the most efficient use of manpower and materials.

8. The Committee recognises that, for appropriate work, careful work study can provide a sound basis for schemes of payment by results, when it is agreed to introduce such schemes. It is not claimed that work study is an exact science, since, although it is mainly an objective and analytical technique, an element of judgment enters into the work measurement assessments. Nevertheless, when applied with due care and proper safeguards, by properly qualified specialists, work study constitutes an advance upon previous practice, it is likely to provide a more equitable basis for incentive schemes, and it may thus help to make such schemes acceptable to the workers. The Committee appreciates, however, that because of variations in the economic and social structure between countries, the increase in remuneration resulting from increased productivity cannot take an invariable form. The systems of payment should be adapted to national considerations as well as to the particular considerations of the undertaking and of the workers concerned.
9. Sound planning and routing to give effective utilisation of equipment and efficient internal organisation of the establishment are necessary preliminaries to the introduction of systems of payment by results. These systems should be introduced after consultation with the trade unions, with the workers, or with their accredited representatives, in keeping with the general practice in each country.

10. It is recommended that all possible steps should be taken, in countries where it is appropriate, to encourage the development of systems of wage payment based upon work study, so that workers' earnings may be related to their productive performance in terms of quality as well as quantity of work.

11. The benefits of the various techniques that may be employed to raise productivity will not be realised unless there is an atmosphere of good human and industrial relations, and active co-operation between employers, employees and trade unions. To the extent that is customary in the country concerned, consultations should take place between management and the trade unions, the workers or their accredited representatives, before any important changes affecting the workers are introduced for the purpose of securing higher productivity.

12. It is desirable that programmes of research into the scientific, technical and social aspects of the problem of raising productivity in the chemical industries should be promoted by individual firms, co-operative research associations, trade associations, trade unions, universities, government research institutions and national and international productivity centres and institutes, and that there should be a wider exchange of information among undertakings and between countries concerning the development of new methods of increasing productivity.

13. Good working conditions are desirable, both for their own sake and because they can contribute to higher productivity. The problems of creating and maintaining a healthy and attractive physical environment and good working conditions deserve the careful attention of all concerned.

14. There is ample evidence that free and independent organisations of employers and workers can make a valuable contribution to increasing productivity in the chemical industries.

Resolution (No. 22) concerning the Classification of Dangerous Substances

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and
Having met at Geneva in its Fourth Session from 7 to 18 February 1955, Considering that it would be useful to classify dangerous substances in a limited number of categories characteristic of the chief hazards involved, and Taking into consideration the studies made on this subject by the Office and other international organisations concerned;
Adopts this eighteenth day of February 1955 the following resolution:
The Governing Body of the International Labour Office is invited—
(1) to draw the attention of governments to the desirability of recognising without further delay, within the framework of international trade, the five main categories of hazards associated with the handling and use of dangerous substances adopted by the Committee;
(2) to request the Office—
(a) to prepare and keep up to date, in consultation with the appropriate experts concerned with this question, a basic list of dangerous substances to which

1 Adopted by 111 votes to 0, with no abstentions.
danger symbols characteristic of the chief hazards involved are to be affixed; and

(b) to continue to collaborate with the other international organisations concerned in the matter of classification of dangerous substances.

Resolution (No. 23) concerning Symbols for the Labelling of Dangerous Substances

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and

Having met at Geneva in its Fourth Session from 7 to 18 February 1955,

Considering the value of appropriate labels for the protection of workers engaged in the handling and use of dangerous substances,

Recalling the contribution by the International Labour Organisation in this field, in co-operation with the other international organisations concerned;

Adopts this eighteenth day of February 1955 the following resolution:

The Governing Body of the International Labour Office is invited—

(1) to draw the attention of governments to the desirability of adopting without further delay, for use in international trade, a system of marking dangerous substances by means of distinctive labels, showing the five danger symbols adopted by the Committee;  
(2) to consult governments as to the most suitable methods by which the system of marking dangerous substances referred to in paragraph (1) may be put into effect as soon as possible;  
(3) to urge the international organisations concerned with this question to recognise the five danger symbols adopted by the Committee, and to promote, in collaboration with the other international organisations concerned, the greatest possible uniformity between the systems of labelling dangerous substances used in the various branches of transport and in the manufacturing industry on the basis of the danger symbols adopted by the Committee.

Suggestions (No. 24) concerning the Effect Given to the Conclusions Adopted by the Chemical Industries Committee

The Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee examined the conclusions which had been adopted by the Committee and the information supplied by governments on the effect given to these conclusions. The Committee decided to invite the Governing Body of the International Labour Office to consider the following suggestions:

(1) The Governing Body is invited to suggest to governments that, when communicating information to the Office for the Fifth Session of the Committee, they should include information, or should bring up to date information previously provided, on resolution (No. 13) concerning vocational training in the chemical industries.

(2) The Governing Body is invited to express its thanks to governments for the valuable information supplied for the Fourth Session of the Chemical Industries Committee.

1 Adopted by 73 votes to 16, with 26 abstentions.
2 See next page.
3 Adopted unanimously on 18 February 1955.
DANGER SYMBOLS ADOPTED BY THE CHEMICAL INDUSTRIES COMMITTEE

Danger of explosion

Danger of ignition

Danger of poisoning

Danger of corrosion

Dangerous radiations
Resolution (No. 25) concerning Consideration of the Conclusions Adopted at Sessions of the Chemical Industries Committee

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and

Having met at Geneva in its Fourth Session from 7 to 18 February 1955,

Considering that it is advisable to stimulate action in the various countries in regard to certain resolutions adopted at previous sessions of the Committee,

Further considering that effect can best be given to these resolutions by action initiated at the national level;

Adopts this eighteenth day of February 1955 the following resolution:

The Governing Body of the International Labour Office is invited to suggest to governments that when considering the conclusions of the Chemical Industries Committee, in accordance with the procedure suggested by the Governing Body at its 109th Session, they should take steps, wherever this is consistent with national practice, to promote collaboration between representatives of governments and employers' and workers' organisations in giving effective consideration to those conclusions by arranging for the conclusions to be discussed by existing bodies, or, where this is not possible, by specially constituted committees, or by ad hoc meetings.

Resolution (No. 26) concerning Vocational Training in the Chemical Industries

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and

Having met at Geneva in its Fourth Session from 7 to 18 February 1955,

Having taken note of the information given in the General Report (Report I, Item 1 (a) and (b)) concerning the action taken in the various countries in regard to vocational training in the chemical industries, and having taken special note of the results of the study carried out by the International Labour Office, as requested in resolution No. 14, which results have been published in the International Labour Review for November 1954,

Considering that the rapid technical development of the chemical industries inevitably affects the composition of the labour force and the skills required of employees;

Adopts this eighteenth day of February 1955 the following resolution:

The Governing Body of the International Labour Office is invited—

(1) to request the governments to urge the employers' and workers' organisations in countries where no or insufficient training opportunities exist for chemical workers to acquire or improve their skill (for example, to become qualified chemical operators), to intensify their efforts to facilitate the application of the principles set out in resolution No. 13 and, where the individual undertakings have not been

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1 The original text of this resolution was submitted by the Workers' group. Various amendments and additions were made to it by the Steering Committee. The resolution, as amended, was adopted by 99 votes to 0, with no abstentions.


3 The original text of this resolution was submitted by the Workers' group. It was subsequently examined by the Steering Committee, which recommended it for adoption in the above form. The resolution was adopted by 98 votes to 0, with no abstentions.


able to arrange vocational training, to give consideration to the creation of training courses by voluntary agreement;

(2) to instruct the Office to carry out an investigation into the principal methods of vocational training existing in the chemical industries in the different countries and to provide information on the methods which have proved to be the most satisfactory.

Resolution (No. 27) concerning the Use of Spanish as an Official Language in the Chemical Industries Committee

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and

Having met at Geneva in its Fourth Session from 7 to 18 February 1955;

Considering the need to provide the Spanish-speaking delegates with the necessary means to make a full contribution to the work of the Committee by having a better understanding of the Office reports and the documents of the Committee,

Considering that all the reports and documents for the Petroleum Committee and the Committee on Work on Plantations are published in Spanish not only for the benefit of the Spanish-speaking delegates but also for the other countries which make use of this language,

Considering that the Inland Transport Committee at its Fifth Session adopted a resolution calling the attention of the Governing Body to the fact that it would be useful if Spanish were made one of the official languages of that Committee,

Considering that the problems of the chemical industries are of great interest to all the Spanish-speaking countries, whether represented on the Committee or not,

Considering that Spanish is spoken by a considerable proportion of the population of the world and is the official language of a number of countries,

Considering that to attain the objectives of the Chemical Industries Committee and to give full effect to the principles of the International Labour Organisation it is useful and even necessary that the reports and studies prepared by the Office for the Committee and the working documents of the Committee should be drafted in Spanish, and

Considering, finally, that the Governing Body has decided to examine the problems arising in regard to the use of Spanish as an official language in the Industrial Committees after having reviewed the membership of these Committees at its 127th Session;

Adopts this eighteenth day of February 1955 the following resolution:

The Governing Body of the International Labour Office is invited, in accordance with article 11 of the Standing Orders for Industrial Committees, to decide that Spanish shall be one of the official languages of the Chemical Industries Committee.

Resolution (No. 28) concerning the Agenda of the Fifth Session of the Chemical Industries Committee

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and

1 This resolution was submitted by the Government, Employers' and Workers' delegations of Argentina, Chile and Mexico, and was subsequently examined by the Steering Committee, which recommended its adoption. The resolution was adopted by 94 votes to 0, with 2 abstentions.

2 This resolution was submitted by the Workers' group. After having amended the original text, the Steering Committee recommended that the resolution be adopted in the above form. It was adopted by 98 votes to 0, with no abstentions.
Having met at Geneva in its Fourth Session from 7 to 18 February 1955,
Considering that the International Labour Office has, to a certain extent,
complied with the request formulated by the Committee at its Third Session
(Geneva, September 1952) in resolution No. 19, to carry out a study on the subject
of industrial relations in the chemical industries,
Having read with interest the chapter of the General Report dealing with this
subject 1,
Taking into account the differences between various countries in industrial
relations, and
Considering that freedom of association is fundamental to good industrial
relations;
Adopts this eighteenth day of February 1955 the following resolution:
The Governing Body of the International Labour Office is invited to instruct
the Office to continue its study of industrial relations in the chemical industries
in particular, and to place this question on the agenda of the Fifth Session of the
Chemical Industries Committee.

Resolution (No. 29) concerning the Collection and Dissemination of Information on
Chemicals Requiring Special Handling 2

The Chemical Industries Committee of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour
Office, and
Having met at Geneva in its Fourth Session from 7 to 18 February 1955,
Recognising the value to employers and workers of the dissemination of full
information concerning the characteristics of chemicals requiring special handling for
reasons of safety and health, and
Noting paragraph 2 (d) of resolution No. 8 on this matter which was adopted
at the Second Session of the Chemical Industries Committee 3;
Adopts this eighteenth day of February 1955 the following resolution:
The Governing Body of the International Labour Office is invited to direct the
Office to collect from authoritative sources detailed factual information on chemicals
requiring special handling because of their properties in relation to safety and health
and on methods of protection in use, this information to be circulated periodically
to governments and through them to employers' and workers' organisations, for
the purposes of accident prevention and health protection.

Memorandum (No. 30) concerning Further Action by the International Labour
Organisation in Regard to Industrial Diseases in the Chemical Industries 4

1. The Steering Committee has discussed proposals submitted by the Employers' and Workers' groups for further action by the I.L.O. in regard to industrial
diseases in the chemical industries. During the discussions it was agreed that all

1 I.L.O.: General Report: Recent Events and Developments in the Chemical Industries,
Report I, Item 1 (c), Chemical Industries Committee, Fourth Session, Geneva, 1955 (Geneva,
1954), Chapter IV, pp. 76-106.
2 This resolution was submitted by the Employers' group and was subsequently examined
by the Steering Committee, which recommended its adoption. The resolution was adopted by
101 votes to 0, with no abstentions.
4 Two resolutions were submitted, one by the Workers' group and the other by the
Employers' group. After discussion the Steering Committee amalgamated the proposals into a
memorandum and recommended its adoption. The memorandum was adopted in the above
form on 18 February 1955 by 95 votes to 0, with no abstentions.
industries should review from time to time the incidence of industrial diseases peculiar to the industry. Further, it was noted that the ten-yearly report on the Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) will be submitted to the Governing Body in 1956.

2. In the light of the discussions the Steering Committee agreed to recommend that the Governing Body of the International Labour Office be invited to consider the suggestions set out below.

3. The Governing Body is invited to request the Office to obtain further information on industrial diseases in the chemical industries and their incidence, and on the measures of protection taken to reduce that incidence. The Employers’ members considered that the results of these inquiries should be discussed as an item on the agenda of the Fifth Session of the Chemical Industries Committee. The Workers’ members felt that these results should be submitted to the Committee in the general report or that the subject should be placed on the agenda of a future session, though not necessarily of the next session.

4. The Governing Body is further invited to request the Office—
(a) to take the above-mentioned information into account when preparing its report on Convention No. 42 concerning workmen’s compensation for occupational diseases, and, in particular, in relation to the schedule appended to Article 2 of the Convention;
(b) to inform the Chemical Industries Committee at its next session of the action taken in the meantime in regard to Convention No. 42.

5. It was suggested by the Workers’ group that any revision of Convention No. 42 should provide (a) for the possibility of an award of compensation in cases of diseases not listed in the schedule, when the occupational origin of the disease has been proved, and (b) for a simple procedure of appeal in cases where the occupational origin of the disease is contested. This suggestion, however, was not acceptable to the Employers’ members. In the first place, they did not think it appropriate for the Chemical Industries Committee to make a recommendation involving a general principle of social security. In the second place, they thought that the principle suggested by the Workers’ members was a dangerous one which would lead to a large number of speculative claims which would be difficult to settle, and which might well upset the financial equilibrium of a social security fund. They further maintained that in the case of any disease which could be readily identifiable with the occupational risk there would be no difficulty in adding it to the schedule.

Resolution (No. 31) concerning the Agenda of the Fifth Session of the Chemical Industries Committee

The Chemical Industries Committee of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and
Having met at Geneva in its Fourth Session from 7 to 18 February 1955,
Considering that at its Third Session (Geneva, September 1952) the Committee adopted a resolution inviting the Governing Body to place the question of the reduction of hours of work on the agenda of the Fourth Session,
Considering that this item has not yet been placed on the agenda,

1 This resolution was submitted by the Workers’ group. After discussion the Steering Committee referred it to the Committee without a recommendation. The resolution was adopted by 54 votes to 38, with 13 abstentions.
Considering that productivity in the chemical industries of all countries is constantly increasing, which in some countries leads to a decrease in the number of workers employed,

Considering also that in a number of countries working hours have already been reduced,

Considering that in pursuance of a resolution of the 37th Session of the International Labour Conference the Governing Body has charged the Director-General of the I.L.O. to prepare a general report on the question of the reduction of hours of work in the various countries, and

Considering finally that—

(a) if this report is made in due time it could usefully be the basis of a particular study concerning the chemical industries;

(b) in the opposite case a special study concerning the reduction of hours of work in the chemical industries could contribute to the solution of the problem as a whole;

Adopts this eighteenth day of February 1955 the following resolution:

The Governing Body of the International Labour Office is invited to place on the agenda of the Fifth Session of the Chemical Industries Committee the question of the reduction of hours of work in the chemical industries, taking into account prevailing conditions at that time.

Report of the Subcommittee on Productivity in the Chemical Industries

1. The Subcommittee on Productivity in the Chemical Industries was set up by the Committee at its third plenary sitting on 8 February 1955, and was composed of 50 members: 15 Government members, 15 Employers' members, and 20 Workers' members. To achieve equality of voting each Government member and each Employers' member had four votes and each Workers' member had three votes.

2. The Subcommittee appointed its Officers as follows:

Chairman: Mr. E. Calderón Puig (Government member, Mexico).
Vice-Chairmen: Mr. E. T. Grin't (Employers' member, United Kingdom).
Mr. J. Matthews (Workers' member, United Kingdom).
Reporter: Miss M. Towy-Evans (Government member, United Kingdom).

3. The Subcommittee held six sittings.

4. In the course of its proceedings the Subcommittee appointed a Working Party consisting of the Chairman, the Reporter, three members each from the Government and Employers' groups and four members from the Workers' group. The Working Party held six sittings.

Terms of Reference

5. The Subcommittee was asked to consider the second item on the agenda of the Committee: "Factors affecting productivity in the chemical industries, with special reference to work study and systems of wage payment." The Subcommittee had before it a report prepared by the Office. At an early stage in its proceedings it also had before it proposed resolutions submitted by the Employers' members and by the Workers' members.

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1 Adopted on 18 February 1955 by 108 votes to 1, with no abstentions.
General Discussion

6. The Subcommittee in its early sittings held a general discussion on questions arising from the generally accepted need to increase productivity in the chemical industries. During this discussion the Employers' members expressed their views as follows: the Office report provided a useful basis for the Subcommittee's discussions; the chemical industries had for some years paid attention to the problem of increasing productivity and, as the report indicated, had already achieved notable success in this respect; productivity was determined by a wide variety of factors; increased productivity required a more effective use of all the resources available to and within the industry; different techniques had been developed in different countries to raise productivity, for example in the United Kingdom work study was applied on an increasingly large scale. Nevertheless, the particular techniques which had been developed in various countries were dependent for their effectiveness upon the spirit which inspired and characterised industrial relations in each firm; goodwill and mutual respect among employers and workers were most important factors affecting productivity.

7. The position of the Workers' members, who congratulated the Office on the report which it had prepared, was as follows: it was clear that increased productivity could contribute greatly to raising standards of living, but it did not always lead to higher wages or lower prices for the necessities of life; workers were quite willing to accept work study systems, incentive schemes and other methods designed to increase productivity, provided that there was full opportunity for consultation with management; in some countries, such as the United Kingdom, the majority of employers had come to recognise the importance of the individual worker and had set up regular consultative machinery; in other countries this situation did not exist, and workers still had fears that new methods and new techniques would be introduced without due regard being paid to the legitimate needs and interests of the workers.

8. Other points made in the general discussion included the following:

(1) Higher productivity was a means which might be used to serve good or bad ends. A free and independent trade union movement in a democratic society as well as efficient management were necessary if the benefits of increased productivity were to be fully realised.

(2) Efforts to raise productivity should not result in a lowering of standards of health and safety of the workers.

(3) There were particular problems connected with the raising of productivity in the less developed countries. In the first place, underdeveloped countries often lacked modern plant and equipment which were necessary to increase productivity. Secondly, there was increased anxiety among workers in such countries concerning the effects of introducing new techniques because the less developed countries were often characterised by underemployment and unemployment. It was, therefore, necessary not only that there be job security but that increased productivity should also lead to increased employment opportunities.

(4) The quality of the relationships between employers and employees in the individual plant as well as at the national level was a most important factor affecting productivity. "Human relations", however, should not be regarded merely as a technique for increasing productivity. They were of fundamental value in themselves.

9. Experience of work study in chemical plants in the United Kingdom was briefly described. Although there were a number of tasks for which work-studied incentive schemes were not yet practicable, these schemes were already applicable in a wide range of operations, and in one large factory three-quarters of all workers were employed on incentive wage schemes based upon work study. There were two good tests of a work-studied incentive scheme: (a) is management willing to expose every detail of the scheme and of the studies to workers? (b) does the plan, in operation, give satisfaction to employers and workers? Work study should not be
taken lightly. Sound incentive schemes required carefully selected and highly trained persons to set them up and operate them.

Comments on the Proposed Resolutions

10. Some of the Workers' members pointed out that the text submitted by the Employers made no mention of trade unions, and that it contained no reference, or at any rate no adequate reference, to the importance of good human and industrial relations, to an equitable distribution of the benefits resulting from higher productivity or to the need for measures to safeguard the job security of the worker. It was not enough to state, as it was in paragraph 6 of the Employers' text, that "relevant information should be given to workers in advance for their fuller understanding of the objects of changes in working methods which may affect them". The essential principle which is expressed in several paragraphs of the proposed resolution submitted by the Workers' group, and which inspires the text as a whole, is that employers should consult the workers and their trade unions before changes in methods, designed to increase productivity, are introduced.

11. The Employers' Vice-Chairman asked for clarification of a number of points in the Workers' text and indicated certain passages in which the Employers' members would like to see changes made. In his view these points could most appropriately be discussed by a Working Party, the setting up of which had already been suggested by the French Workers' member. The Employers could not, in particular, accept paragraph 8 of the Workers' text—according to which "consultations must be held between employers and trade unions to ensure job security"—without further discussion and without recognition of the fact that measures to raise productivity would inevitably entail some displacement of labour, even though it might be possible to absorb displaced workers elsewhere in the plant.

12. It was decided to refer the two texts to the Working Party.

13. The Canadian Government member pointed out that there were several important considerations affecting productivity which were dealt with in the Office report but which were not touched upon in the documents submitted by the Employers' members and the Workers' members, such as working conditions, an attractive physical environment, and further research on a national and international level. He suggested that the Working Party should be free to incorporate in the proposed conclusions to be put before the Subcommittee other points mentioned, both in the Office report and during the discussion in the Subcommittee. This was agreed.

Discussions in the Working Party

14. Discussions in the Working Party, though conducted in an atmosphere of goodwill and co-operation, were long and detailed. In many cases, it proved more difficult to reconcile the points of view of different countries than those of different groups. Unanimous agreement was, however, reached on all points in a proposed resolution, with the exception of the following paragraphs on which reservations were made: paragraph 4 (b): reservations by the Employers' members; paragraphs 9 and 14: reservations by the United States Employers' member.

15. It was felt by the Employers' members that the statement in paragraph 4 (b) that arrangements should be worked out, in co-operation with workers' representatives, "to safeguard the interests of workers affected..." did not take sufficient account of the difficulties involved.

16. The United States Employers' member could not accept paragraph 9, which he thought did not take sufficient account of the fact that in the United States negotiations and consultations were matters which were dealt with separately in each individual plant. He could not accept paragraph 14 because he thought that the reference to employers' organisations was not compatible with the provisions of the United States anti-trust laws.

17. During the discussion of paragraph 12 it was agreed that it was desirable that the I.L.O., through its publications and its technical assistance projects, should
play a full part in promoting the exchange of information between countries regarding factors affecting productivity in the chemical industries. The Subcommittee felt that additional information which the I.L.O. might from time to time be able to provide regarding the experience acquired in different plants and in different countries in the application of work study techniques in the chemical industries would be of special interest.

Discussion of the Proposed Resolution Submitted by the Working Party

18. At its fifth sitting the Subcommittee had before it the resolution proposed unanimously by the Working Party, subject to the reservations noted above. A certain number of minor amendments to the text were made by the Subcommittee.

19. The Indian Government member suggested the addition of the words "and also to ensure adequate compensation for workers who become temporarily redundant" to the last sentence of paragraph 4. The proposal received the support of the Workers' group, but it was withdrawn since the Subcommittee felt that it introduced considerations relating to social security which were too general in character to be dealt with appropriately in the resolution under discussion.

20. The Indian Government member also proposed that the reference to "vocational training of employees" in paragraph 6 be expanded to provide that underdeveloped countries should have the opportunity to send qualified personnel to the more advanced industrialised countries in order that they may receive vocational training. This proposal was also withdrawn, as the Subcommittee considered that questions of vocational training could more appropriately be dealt with by the Committee within the framework of a proposed resolution on vocational training which was under consideration by the Steering Committee.

21. Believing that paragraph 14 should express a positive recommendation and not remain merely a statement of fact, the Argentine Government member suggested an alternative drafting as follows: "Recognising the valuable contribution which free and independent organisations of employers and workers can make to the increase of productivity in the chemical industries, the Committee considers it desirable that the development of such organisations be encouraged." To this the Austrian Government member proposed adding the words "in countries where they do not already exist". When it became apparent that these proposals would give rise to difficulties, they were withdrawn in the interests of unanimity.

22. The Subcommittee adjourned briefly to enable the Employers' and Workers' members to consider amendments which had been proposed to paragraphs 4 (b) and 9. In paragraph 4 (b) the words: "Employers have a responsibility for... working out in advance, in co-operation with workers' representatives, arrangements to safeguard the interests of workers affected..." were not acceptable to the Employers' members or to the United Kingdom Government member, who proposed the insertion of the word "reasonable" before "arrangements". The text of paragraph 4 (b) as given in the proposed resolution eventually met with the agreement of all members of the Subcommittee except the United States Employers' member, who could not accept this paragraph for the same reasons that he was unable to accept paragraph 9.

23. In paragraph 9 the United States Employers' member proposed the replacement of the words "in keeping with the general practice in each country" by the words "to the extent that this is customary in the country concerned". This, however, was not acceptable to the Workers' members.

24. The Subcommittee took note of the reservations expressed by the United States Employers' member in regard to paragraphs 4 (b), 9 and 14. Apart from these reservations, the proposed resolution was accepted unanimously by the Subcommittee.1

1 See above, resolution No. 21, pp. 133-135.
25. At its sixth sitting on 17 February 1955 the Subcommittee unanimously adopted the present report and the proposed resolution concerning productivity in the chemical industries, subject to the reservations noted in the previous paragraph.

(Signed) E. CALDERÓN PUIG, Chairman.
(Signed) M. TOWY-EVANS, Reporter.

Report of the Subcommittee on Classification and Labelling of Dangerous Substances

1. The Subcommittee on Classification and Labelling of Dangerous Substances was set up by the Chemical Industries Committee at its third plenary sitting on 8 February 1955, and was composed of 45 members (15 from each group).

2. The Subcommittee elected its Officers as follows:
   Chairman: Mr. A. P. STASSENS (Government member, Belgium).
   Vice-Chairmen: Mr. F. FAUBEL (Employers' member, Federal Republic of Germany).
   Mr. L. PLUMIER (Workers' member, Belgium).
   Reporter: Mr. K. KAY (Government member, Canada).

3. The Subcommittee held six sittings.


TERMS OF REFERENCE

5. The Subcommittee was called upon to consider the question of the classification and labelling of dangerous substances. It had before it a report on the question prepared by the Office as a basis for discussion.

6. The subject was dealt with in two parts: the classification of dangerous substances, and the labelling of dangerous substances.

7. In the course of the early sittings it was recalled that the classification and labelling of dangerous substances had been the subject of a resolution (No. 16) adopted at the Third Session of the Chemical Industries Committee. By this resolution the Governing Body was invited to request the Office to continue its efforts with a view to arriving at the adoption, for use in international trade, of five symbols characteristic of the chief types of danger associated with the handling of dangerous substances; to undertake the preparation of a list of dangerous substances for which these symbols should be employed; and to continue to take part in the discussion of these questions with other international organisations concerned.

I. CLASSIFICATION OF DANGEROUS SUBSTANCES

General Discussion

8. The Representative of the Secretary-General gave an account of the position taken by the Office in international discussions on the question, emphasising the

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1 Adopted on 18 February 1955 by 108 votes to 0, with no abstentions.
importance attaching to the necessity of arriving at a uniform system of classifying the various risks associated with the handling of dangerous substances in the same number of categories for all branches of industrial activity, including the transport industry. Following extensive consultations of the Office and many discussions in international meetings, it had become apparent that the basic principles of classifying dangerous substances into five main groups of hazards, as suggested at the Third Session of the Chemical Industries Committee, had been generally accepted. Since the classification of hazards was the basis for the labelling of the dangerous substances, it had become increasingly urgent to reach final conclusions in this matter.

*Number of Groups of Hazards*

9. The French Government member felt that in respect of the number of groups of dangerous substances provision should be made for the inclusion of a large number of substances which, while not presenting highly toxic properties, were nevertheless harmful and might be used by workers who often were unaware of the hazards involved. This warranted the creation of a sixth class of dangerous substances which would bear a distinctive marking calculated to warn workers of the toxicity of the substances in question. He had particularly in mind the protection of agricultural workers who handled substances which would not directly enter into the basic list of the most dangerous and most commonly used toxic substances. In support of his views he explained the work of the Subcommittee on Safety and Health of the Social Committee of the Brussels Treaty Organisation, the Members of which have recommended the use, for this particular class of substances, of the St. Andrew's cross, which was well known as an international traffic hazard warning.

10. The discussion served to emphasise the fact that this aspect of the classification of dangerous substances was, in fact, a question relating to the degree of hazard and not to the type of hazard and that there was therefore no need to introduce, at this stage, a sixth class of hazard for such substances. Moreover, in the preparation of a basic list of dangerous substances for general use, the degree of hazard was a question that should be taken into consideration not only in the case of toxic substances but also in the case of substances of the other classes.

11. The Employers' members agreed to the adoption of five chief groups of hazards as proposed in the Office document.

12. The Workers' members also agreed to this method of classifying dangerous substances, on the understanding that certain substances could present more than one risk. This view was shared by the Subcommittee. Toxic substances could also be classified as inflammable substances in certain instances.

13. The Subcommittee decided to adopt five main groups of hazards for the classification of dangerous substances as follows: explosibility, inflammability, toxicity, corrosion and radioactivity.

*Basic List of Dangerous Substances*

14. The United Kingdom Government member referred to the difficulties encountered in trying to arrive at a uniform method of classifying dangerous substances for the needs of industry in general and for those of the transport industry in particular. The hazards presented by a given substance were sometimes different according to the particular operation in which the substance was being handled. This was borne out by the examination of the proposed I.L.O. list and the list suggested by the United Nations Committee of Experts on the Transport of Dangerous Goods. He thought that a number of substances in the I.L.O. list should be placed in more than one group of hazard. The listing of dangerous substances presented several other difficulties which could only be solved by lengthy and arduous discussions. A uniform system of classification was nevertheless essential.
15. The French Employers' member and the French Workers' member thought that, since agreement had already been reached on the number of basic groups of hazards, it would be preferable to postpone the discussion on the basic list of dangerous substances and to study the problem of providing suitable danger symbols for each group of hazards. The basic list of dangerous substances could be examined later or, possibly, this examination could be entrusted to a special panel of experts.

16. The Subcommittee agreed that, in view of the many technical considerations involved in the preparation and keeping up to date of a basic list of dangerous substances, extensive consultations with experts would be required to achieve good results.

II. LABELLING OF DANGEROUS SUBSTANCES

General Discussion

17. The representative of the United Nations emphasised the importance and urgency of arriving at a uniform system of classifying and labelling dangerous substances for use in all industrial activities. Progress had been made in this field. He stressed the fact that in his opinion there was no fundamental difference between the I.L.O. proposals concerning classification and labelling and those of the United Nations Committee of Experts on the Transport of Dangerous Goods. This Committee had taken substantial account of the proposals made in this field by specialised agencies and various organisations, including the I.L.O., and the recommendations of the Committee of Experts were the result of compromises on all parts. In view of the urgency of the matter for the various branches of transport concerned with the question, he felt that it would be highly desirable if the Chemical Industries Committee could reach agreement on the conclusions of the Committee of Experts in order that the United Nations Transport and Communications Commission, which was now in session and which would consider, among other things, these conclusions, could be informed of the decision taken by the Chemical Industries Committee.

18. The Employers' members strongly supported these views. After careful consideration of the question, they had unanimously reached the conclusion that the recommendations of the United Nations Committee of Experts should form the basis for a uniform system of labelling dangerous substances and that the Chemical Industries Committee should accept the United Nations recommendations, as this would speed agreement on a general system for use in international trade.

19. The Canadian Government member pointed out that considerable progress had been made at the international level with regard to a uniform system of labelling, since there was substantial uniformity between the two main systems proposed. It was apparent, however, that the primary aim of labelling was the protection of workers against the potential hazards associated with the handling of dangerous substances. There was a difference between the United Nations and I.L.O. designs in one instance and he considered that it rested with the I.L.O. to choose the more appropriate of these two warning symbols.

20. The question of the competence of the Chemical Industries Committee to seek an appropriate labelling system for dangerous substances having been raised, the Workers' members stressed that it was clearly within the competence of the Committee. The Government members and the Employers' members were in agreement with this point of view.

Symbols

Symboles for Explosive Substances.

21. The United Kingdom Employers' member drew attention to the fact that the I.L.O. symbol for explosive substances was somewhat different in design from that suggested by the United Nations Committee of Experts. He preferred the latter since the I.L.O. symbol closely resembled a trade mark used in his country.
22. The Chairman stated that the I.L.O. symbol had been designed by himself for the Subcommittee on Safety and Health of the Brussels Treaty Organisation and that he had proposed it at the Third Session of the Chemical Industries Committee in September 1952.

23. The Subcommittee considered that it was sufficient at this stage to adopt the principle of an exploding bomb as a symbol for explosive substances and to request the Office to take whatever steps might be necessary to arrive at a generally acceptable symbol for this group of substances.

_Symbols for Inflammable, Toxic and Radioactive Substances._

24. No discussion took place in respect of the symbols for inflammable, toxic and radioactive substances.

_Symbol for Corrosive Substances._

25. The United Kingdom Employers' member stated that the withered hand included in the I.L.O. proposal as a symbol for corrosive substances was unacceptable to the Employers' members. He explained that this symbol was considered, particularly in the United Kingdom, too abhorrent in that it showed mutilation of a part of the human body. The United Nations symbol, an upturned carboy from which drops of liquid are shown falling on a metal bar partly eaten away, was a more acceptable symbol for the aim in view, particularly since its adoption would mean uniformity between the two proposed labelling systems and thus accelerate the introduction of such a scheme for use in international trade.

26. The Workers' members considered that the primary aim in this respect should be to give the worker an adequate warning against potential danger of corrosive substances. This warning was particularly important in the case of countries where illiteracy amongst workers was a problem. Of the two symbols under consideration that of the I.L.O. was most calculated to effect this purpose. The United Nations symbol indicated only danger of damage to materials. Moreover, confusion could easily arise in the interpretation of this symbol in that it was by no means characteristic of the nature of the chief hazard involved in the handling of corrosive substances. For these reasons it was not acceptable. It was emphasised that no good reason had been advanced against the suitability of the symbol suggested by the I.L.O.

27. The French Government member was of the opinion that transport organisations considered hazards associated with dangerous substances from a point of view different from that of the Subcommittee. The chief concern of the transport industry appeared, on the basis of the symbol proposed by the United Nations Committee of Experts, to be possible damage to equipment, while it was the aim of the I.L.O. to protect all workers, including those in the transport industry. Considering that primary importance should be given to the human aspects involved, agreement should be sought to arrive at a symbol acceptable to both industry and transport.

28. The Government member of the Federal Republic of Germany thought that it was incumbent upon the Chemical Industries Committee to recommend all measures that could usefully be taken to draw the attention of transport organisations to the firm position taken by the I.L.O. with regard to the protection of workers, including transport workers, against the hazards presented by corrosive substances; the symbol proposed by the I.L.O. was the most suitable in this respect.

29. Having regard to the divergent views, the United States Employers' member, supported by the other Employers' members, proposed a compromise, calling for the immediate adoption by the Committee of the four symbols already agreed upon, the choice of the fifth symbol—for corrosive substances—to be decided on after discussion between the I.L.O. and the United Nations. This proposal was not considered acceptable by the other members in either the Working Party or the Subcommittee because of the delay which would be entailed.
Proposed Replacement Symbols for Corrosive Substances.

30. The Employers' members proposed to the members of the Working Party that they consider a certain number of replacement symbols. These included an unmutilated hand with conventional crossbones underneath; a normal hand and sleeve partly eaten away by drops of liquid falling thereon; skull and crossbones shown on the palm of a normal hand; and partly corroded crossbones.

31. The symbols proposed by the Employers' members and those suggested by other members of the Working Party were not accepted by the Workers' members or by the Government members. The Workers' members stated that none of the symbols effectively represented the danger involved.

32. The United Kingdom Government member urged the Subcommittee to make a further attempt to reach a compromise by selecting a symbol from those considered as possible replacement symbols rather than to continue discussion on the respective merits of the symbols proposed by the United Nations and the I.L.O., since it was apparent that the opinions of the members of the Subcommittee on the suitability of either of these two symbols were irreconcilable.

33. Since this appeal did not succeed in reconciling the various viewpoints it was decided, at the request of the Workers' members, to take a record vote on the question of whether the I.L.O. symbol for corrosive substances (the withered hand) should be accepted. By 23 votes to 8, with 10 abstentions, the symbol proposed by the I.L.O. for corrosive substances was accepted.¹

CONCLUSIONS

Proposed Panel of Experts

34. In reviewing the work of the Working Party, the Subcommittee gave consideration to a number of aspects which should be taken into consideration in the course of future work on the classification and labelling of dangerous substances. In particular, the Subcommittee recognised the need for setting up a panel of experts to assist the Office in this work and to deal especially with the following questions:

(a) the preparation of a basic list of dangerous substances and consideration of the methods best suited to keep this list up to date;

(b) consideration of the desirability of arriving at suitable definitions of the various categories of dangerous substances, each one of which may be subdivided;

(c) consideration of the desirability of preparing basic texts setting out the chief precautions to be taken in handling dangerous substances in respect of which the I.L.O. symbols are to be applied; and

(d) the study of all aspects of warning labels (colours, sizes, etc.) on which the I.L.O. danger symbols should appear.

PROPOSED RESOLUTIONS

35. At the request of the Subcommittee, the Working Party prepared resolutions on the basis of the conclusions reached by the Subcommittee.

Proposed Resolution concerning the Classification of Dangerous Substances

36. This resolution² was adopted unanimously.

¹ Eight Employers' members voted against and seven abstained. Three Government members abstained (the Netherlands, the United Kingdom and the United States).

² See above, pp. 135-136.
Proposed Resolution concerning Symbols for the Labelling of Dangerous Substances

37. The Subcommittee introduced a number of modifications into this resolution and then, at the request of the Workers' members, a record vote was taken. This resolution 1 was adopted by 29 votes to 8, with 7 abstentions.2

38. The present report was adopted unanimously by the Subcommittee at its sixth sitting on 17 February 1955.

(Signed) A. P. STASSENS,
Chairman.

(Signed) Kingsley KAY,
Reporter.

Report of the Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee 3

1. The Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee was set up by the Chemical Industries Committee at its third plenary sitting on 8 February 1955.

2. The Working Party consisted of 15 members (five from each group).

3. The Working Party unanimously appointed its Officers as follows:
   
   Chairman and Reporter: Mr. O. HINDAHL (Government member, Norway).
   
   Vice-Chairmen: Mr. S. CHAPMAN (Employers' member, United Kingdom).
   
   Mr. E. ESSER (Workers' member, Federal Republic of Germany).


Terms of Reference

5. The terms of reference of the Working Party, as proposed by the Steering Committee and adopted by the Committee at its third plenary sitting, were as follows:

   (1) to examine the information given in the report concerning the effect given to the conclusions of previous sessions, i.e. Report I, Item 1 (a) and (b): Effect Given to the Conclusions of the Previous Sessions 4, and certain relevant information contained in the other reports submitted to the Committee;

   (2) to classify the conclusions adopted at previous sessions with the object of facilitating examination of the effect which had been given to them;

   (3) to indicate the subjects on which sufficient information had been provided and those on which the Committee would wish to receive further information at its next session.

6. The Working Party had before it the report mentioned in paragraph 5, prepared by the International Labour Office, together with certain relevant information contained in the other reports submitted to the Committee.

7. The Working Party also had before it two other documents prepared by the Office: (1) a draft classification of the conclusions adopted at previous sessions of

1 See above, p. 136.
2 Eight Employers' members voted against and seven abstained. The affirmative vote of the United Kingdom Government member was cast with a reservation to cover paragraph (1) of the resolution.
3 This report, together with the Appendix, was adopted unanimously on 18 February 1955.
4 General Report, Report I, Item 1 (a) and (b), op. cit.
the Committee; and (2) a list of countries which had provided information for the Third and Fourth Sessions on resolutions involving action in those countries.

Discussion

8. The Working Party adopted the first document as a basis for its discussions and proceeded to classify the conclusions in the light of the following considerations: Was there a need for more information at present? Was any further action needed?

9. The Working Party agreed that, with the exception of resolution No. 8, paragraph 2, the conclusions listed in the draft classification submitted by the Office should be included in Group I. This group contained conclusions in regard to which there was no need for governments to supply information because they were (a) requests for studies and inquiries to be undertaken by the Office; (b) proposals involving administrative action by the Office; or (c) conclusions which had been superseded by more recent conclusions. It was understood, however, that the fact that these resolutions were so classified should not be taken to mean that the subjects dealt with in the resolutions could not be raised again in the Committee later on in the appropriate way.

Resolution (No. 5) concerning Holidays with Pay in the Chemical Industries.

10. The Working Party agreed that resolution No. 5 (paragraphs 1 and 2) should be included in Group I, since this resolution had been superseded by a more recent and general conclusion, the Holidays with Pay Recommendation adopted by the International Labour Conference at its 37th Session in June 1954.

Resolution (No. 7) concerning the Definition of Chemical Industries.

11. The Employers' members considered that, while resolution No. 7 was of permanent value, the question should neither be raised again nor referred to the governments. It should therefore be classified in Group I. The Workers' members agreed that the resolution could be classified in this group, but felt that it was important to leave the question open for reconsideration as the Committee might find necessary, particularly in regard to the amendment of the list of chemical products in paragraph 3. The agreement of the Workers' members was therefore conditional on a satisfactory assurance on this point.

12. At the suggestion of the Secretary-General the Working Party agreed that, in view of the special character of this resolution, it should not be placed in any of the three groups but should be included with an explanatory phrase at the end of the classification.

Resolution (No. 8) concerning Safety and Hygiene in the Chemical Industries.

13. The Working Party agreed that paragraph 1 of this resolution should be classified in Group I since there was no further need to refer this simple statement on safety and health to the governments.

14. The Workers' members considered that the Committee had not received sufficient information concerning paragraph 2 of this resolution, which suggested a programme of action for the Office in the field of safety and hygiene in the chemical industries. They therefore proposed that paragraph 2 should be classified in Group II (conclusions which should be kept in abeyance for consideration at a future session of the Committee) so that this important subject should not be lost to sight.

15. The Employers' members, on the other hand, felt that the programme outlined in paragraph 2 was not the most desirable one in present circumstances. For example, this paragraph dealt only with prevention and took no account of recent developments in this field, which now included arrangements for the care of sick and injured

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1 See below, p. 154.
2 See below, p. 155.
workers and their rehabilitation. The Employers' members thought that it was not necessary to classify this paragraph in Group II in order to draw attention to the importance of the problem of safety and hygiene in the chemical industries, which was a permanent preoccupation of the Committee and which could at any time be placed on the agenda of a future session. The resolution contained many subjects which might be brought up again after new consideration and formulation. Two resolutions on related subjects were, in fact, being put forward at the present session. The paragraph also contained proposals which the Employers' members did not now support, such as that concerning a special model safety code for the chemical industries. The Employers considered that it would be better to introduce new ideas session by session rather than to retain conclusions which were out of date. The resolution should therefore be placed in Group I, and the Employers' members would oppose any other course.

16. The Secretary-General explained that the amount of work done by the Office on safety and hygiene in the chemical industries was limited by the resources at its disposal and by the other work on safety and hygiene for which the Office was also responsible, but that, within the limits of its possibilities, the Office would continue its efforts in this field.

17. At the request of the Workers' members the Secretary-General gave an assurance that, if the resolution were placed in Group I, the same conditions would apply as for the other resolutions in this group, that is to say, the resolution itself would be regarded as having served its purpose but the problem of safety and hygiene would remain of concern to the Committee and could be raised again in the appropriate way.

18. The Working Party agreed that resolution No. 8 should be included in Group I.

Resolution (No. 13) concerning Vocational Training in the Chemical Industries.

19. The Employers' members expressed their appreciation of the replies supplied by governments on this resolution and felt that it would be desirable that further information be collected on this new and complex subject for the next session of the Committee.

20. The Working Party agreed that resolution No. 13 should be included in Group III 1 (conclusions in regard to which it would be useful for governments to provide information concerning action taken in their respective countries for the Fifth Session of the Committee).

Resolution (No. 15) concerning the General Problems of Hours of Work in the Chemical Industries.

21. The Employers' members considered that this was a useful and very comprehensive resolution which, for the time being, exhausted the subject; it might therefore be classified in Group II.

22. The Working Party agreed that resolution No. 15 should be classified in Group II.

23. The Workers' members expressed the fear that some important aspects of questions dealt with in the resolutions now classified might be forgotten.

24. The Secretary-General pointed out that the procedure laid down by the Governing Body would ensure effective consideration being given to any subjects of importance. When the Office asked governments to supply information on the resolutions selected it also asked for information on recent events and developments in the chemical industries, and this was an opportunity for governments to supply any useful information on other subjects.

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1 See below, p. 155.
25. The Canadian Government member expressed satisfaction at the work done by the Working Party, which would greatly facilitate the task of the governments, and hoped that the Office, in sending out requests for information, would make them as specific as possible.

26. The Secretary-General said that if it was found necessary at a future session the Working Party could, in accordance with the procedure laid down by the Governing Body, indicate the particular aspects of a subject on which information was desired.

27. In reply to the United Kingdom Employers' member, the Secretary-General confirmed that the Office was never fully satisfied with the number of replies received or with the amount of information supplied, although in some cases the information was very full and satisfactory. It must be assumed that the countries which did not reply had little to say on their chemical industries or that they were not organised and staffed to meet the requests for information. The Office was, however, grateful to those governments which had taken trouble in preparing their replies, and an increase in the amount of information received might be expected as a result of the procedure for consideration of the conclusions adopted at the present session.

28. The Working Party agreed that the Governing Body should be asked to express its thanks to those governments which had supplied information for the present session.

29. The classification of the conclusions adopted at the previous sessions of the Committee will be found in the appendix below.

30. The suggestions which the Working Party proposed should be made to the Governing Body will be found in suggestions (No. 24) concerning the effect given to the conclusions adopted by the Chemical Industries Committee.1

31. The present report and appendix were adopted unanimously by the Working Party at its fifth sitting on 17 February 1955.

(Signed) Olav HINDAHL,
Chairman and Reporter.

APPENDIX

Classification of the Conclusions Adopted at Previous Sessions of the Committee2

GROUP I: Conclusions in regard to which there is no need for governments to supply information either because they have been superseded by more recent conclusions, or because they requested action by the International Labour Office.

No. 1. Resolution concerning the definition of chemical industries.
No. 2. Resolution concerning a special model safety code for the chemical industries.
No. 3. Resolution concerning the international standardisation of statistics of accidents and occupational diseases.
No. 4. Resolution concerning hours of work in the chemical industries.
No. 5. Resolution concerning holidays with pay in the chemical industries.
No. 6. Resolution concerning overtime arrangements in the chemical industries.
No. 8. Resolution concerning safety and hygiene in the chemical industries.

1 See above, p. 136.
No. 9. Resolution concerning classification and labelling and the establishment of an international mark of protection in the case of dangerous, obnoxious and toxic chemicals.

No. 10. Memorandum to the Governing Body of the International Labour Office on questions concerning the organisation of working hours in the chemical industries.

No. 11. Resolution concerning a comparative study of day work and continuous shift work in the chemical industries.

No. 12. Resolution concerning vocational training in the chemical industries.

No. 14. Resolution concerning further study of vocational training in the chemical industries.

No. 16. Resolution concerning classification and labelling of dangerous substances.

No. 17. Resolution concerning the effect given to the conclusions adopted by previous sessions of the Chemical Industries Committee.

No. 18. Resolution concerning the agenda of the Fourth Session of the Chemical Industries Committee.

No. 19. Resolution concerning the agenda of the Fourth Session of the Chemical Industries Committee.

No. 20. Resolution concerning the agenda of the Fourth Session of the Chemical Industries Committee.

GROUP II: Conclusions which should be kept in abeyance for consideration at a future session of the Committee.

No. 15. Resolution concerning general problems of hours of work in the chemical industries.

GROUP III: Conclusions in regard to which it would be useful for governments to provide information concerning action taken in their respective countries for the Fifth Session of the Committee.

No. 13. Resolution concerning vocational training in the chemical industries.

The remaining resolution, i.e. resolution (No. 7) concerning the definition of chemical industries, retains its validity. There is, however, no need to ask governments for information in regard to this resolution at the present time.

Recommendation of the Steering Committee concerning the Definition of Chemical Industries

The Steering Committee considered a proposed resolution submitted by the Workers' group which suggested that the definition of chemical industries adopted by the Chemical Industries Committee at its Second Session (Geneva, 1950) (resolution No. 7) be amended as follows:

35. Synthetic resins and plastics and plastic products.

40. Synthetic rubber and natural and synthetic rubber products.

Some members of the Steering Committee felt that it would be undesirable to recommend changes in the definition without a thorough examination. The Steering Committee therefore recommended that governments and employers' and workers' organisations be invited to consider the proposed changes with a view to their discussion at the Fifth Session of the Committee. This recommendation was approved by the Committee on 18 February 1955.
COMMUNICATION TO GOVERNMENTS OF THE CONCLUSIONS AND REPORTS ADOPTED BY THE COMMITTEE

On 11 July 1955 the following communication was sent to the governments of States Members of the Organisation:


Sir,

I have the honour to inform you that the Governing Body of the International Labour Office, at its 129th Session (Geneva, May-June 1955), considered the reports, resolutions, memorandum and suggestions adopted by the Chemical Industries Committee at its Fourth Session (Geneva, 7-18 February 1955). The Governing Body authorised me to transmit these texts to governments, informing them that it did not express any view on the content thereof, and inviting them to communicate the texts to the employers' and workers' organisations concerned.

A note on the proceedings of the Fourth Session of the Chemical Industries Committee, which contains the reports of the Subcommittees and of the Working Party together with the texts of the resolutions, memorandum and suggestions adopted by the Committee, is forwarded herewith in order to enable you to arrange for these conclusions to be examined.¹ In this connection, I venture to call your attention to the suggestions made by the Governing Body at its 109th Session (Geneva, June-July 1949) regarding the procedure which might be followed with a view to securing effective consideration for the conclusions of the Industrial Committees.

In regard to the conclusions of the Fourth Session of the Chemical Industries Committee, the Governing Body took the following decisions:

1. The Governing Body authorised me to draw the particular attention of governments to the resolution (No. 21) concerning productivity in the chemical industries, to be read in conjunction with the report of the Subcommittee on Productivity.²

2. In regard to the resolution (No. 22) concerning the classification of dangerous substances ³, the Governing Body authorised me to take the following action:

(a) to draw the attention of governments to the desirability of recognising without further delay, within the framework of international trade, the five main categories of hazards associated with the handling and use of dangerous substances: danger of explosion, danger of ignition, danger of poisoning, danger of corrosion, dangerous radiations;

(b) to prepare and keep up to date, in consultation with a group of experts, a basic list of dangerous substances to which danger symbols are to be affixed;

(c) to continue to collaborate with the other international organisations concerned in the matter of classification of dangerous substances.

3. With respect to the resolution (No. 23) concerning symbols for the labelling of dangerous substances, the Governing Body authorised me to take the following action:

(a) to respond to the request of the United Nations for comments on the symbols recommended by the Committee of Experts on the Transport of Dangerous Goods, explaining the consideration given to the symbol relating to the danger of corrosion and giving the reasons for which the Chemical Industries Committee considered the symbol which it approved to be superior;

(b) to urge that the United Nations Committee of Experts reconsider the matter and adopt the symbols proposed by the Chemical Industries Committee, and to promote such further collaboration as will advance agreement between the United Nations and the I.L.O. on the matter;

¹ This note is not reproduced here. For the reports of the Subcommittees and the Working Party, see above, pp. 142-155; for the text of the resolutions, memorandum and suggestions adopted by the Committee, see above, pp. 133-142.

² See above, pp. 133-135 and pp. 142-146.

³ See above, pp. 135-136.

⁴ See above, p. 136.
(c) to draw the attention of governments to the symbols recommended by the Chemical Industries Committee and the reasons for which it selected the symbol relating to the danger of corrosion;

(d) to take the other steps proposed in resolution No. 23 with respect to the four symbols on which there is agreement.

4. With respect to the suggestions (No. 24) concerning the effect given to the conclusions adopted by the Committee, the Governing Body authorised me to suggest to governments that, when communicating information to the Office for the Fifth Session of the Committee, they should include information, or should bring up to date information previously provided, on the resolution (No. 13) concerning vocational training in the chemical industries.

Further, the Governing Body authorised me to express its thanks, on behalf of the Committee, to the governments concerned for the valuable information supplied for the Fourth Session of the Committee.

5. In addition, the Governing Body authorised me to draw the attention of governments to the resolution (No. 25) concerning consideration of the conclusions adopted at sessions of the Chemical Industries Committee, which suggested to governments that they take certain steps in regard to consultation between representatives of the government and representatives of the employers' and workers' organisations.

6. The Governing Body authorised me to draw the attention of governments to the resolution (No. 26) concerning vocational training, which invited governments to take certain action to facilitate the application of the principles relating to vocational training set out in resolution No. 13.

7. In accordance with the memorandum (No. 30) concerning further action by the I.L.O. in regard to industrial diseases in the chemical industries, the Governing Body instructed me to undertake inquiries in this field, and to take account of the results when preparing the ten-yearly report on Convention No. 42 concerning workmen's compensation for occupational diseases.

In this connection, the Governing Body also instructed me to take into consideration, when preparing the ten-yearly report, the proposals and observations mentioned in paragraph 5 of the memorandum.

8. The Governing Body took note of resolutions Nos. 28 and 31 concerning the agenda of the Fifth Session of the Committee. It proposes to consider these resolutions at a later session, and to examine at the same time a suggestion made by the Employers' members of the Chemical Industries Committee in the above-mentioned memorandum No. 30.

9. Finally, the Governing Body authorised me to draw the attention of governments to the recommendation inviting governments and employers' and workers' organisations to consider the proposals for amending the definition of the chemical industries contained in resolution No. 7, with a view to the discussion of these proposals at the Fifth Session of the Committee.

I shall communicate with governments in due course with a view to requesting them to furnish information on the action taken, or proposed to be taken, on the conclusions of the Committee.

I have the honour to be, etc.,

For the Director-General:

(Signed) Luis Alvarado,
Assistant Director-General.

---

1 See above, p. 136.
2 See above, p. 138.
3 See above, pp. 138-139.
4 See above, pp. 140-141.
5 See above, pp. 139-140 and 141-142.
6 See above, p. 155.
### Composition of the Industrial Committees, the Advisory Committee on Salaried Employees and Professional Workers, and the Committee on Work on Plantations

#### COUNTRIES REPRESENTED ON 1 FEBRUARY 1955

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Textiles Committee

(Fifth Session, Geneva, 26 September-7 October 1955)

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Price of this number: 15 cents; 9d.
Convocation of the Committee

The governments of States Members of the International Labour Organisation represented on the Textiles Committee were informed by letter of 29 June 1955 of the date and place of the Fifth Session of the Committee.

In accordance with a decision taken by the Governing Body at its 124th and 125th Sessions (Geneva, February-March 1954, and May 1954), the agenda of the session was as follows:

I. General Report dealing particularly with—
   (a) action taken in the various countries in the light of the conclusions adopted at previous sessions of the Committee;
   (b) steps taken by the Office to follow up the studies and inquiries proposed by the Committee;
   (c) recent events and developments in the textile industry.

II. Problems of productivity in the textile industry.

III. Labour-management relations in textile factories.


2 For the list of these governments, see below the chart showing the composition of Industrial Committees, etc., p. 151.

The United Nations and the Organisation for European Economic Co-operation were invited by a letter of 29 June 1955 to send representatives to the meeting. Invitations were also sent to the non-governmental international organisations with which the International Labour Organisation has established consultative relationships, as well as to a number of non-governmental international organisations especially interested in the meeting.

3 The text of this communication is not reproduced here.
The Fifth Session of the Textiles Committee was held in Geneva from 26 September to 7 October 1955. In accordance with a decision taken by the Governing Body at its 128th Session, Mr. H. HAUCK (France), substitute Government representative on the Governing Body of the International Labour Office, presided at the session.

The Committee elected two Vice-Chairmen: Mr. H. F. IRWIN, Director of Industrial Relations, Primary Textiles Institute, Toronto (Employers' delegate), and Mr. E. BLASER, President of the Swiss Federation of Textiles and Factory Workers (Workers' delegate).

The following 21 countries composing the Textiles Committee were represented:

- Argentina
- Australia
- Belgium
- Brazil
- Canada
- Denmark
- Egypt
- France
- Federal Republic of Germany
- India
- Israel
- Italy
- Japan
- Netherlands
- Pakistan
- Peru
- Switzerland
- Syria
- United Kingdom
- United States
- Uruguay

With the exception of Argentina and Brazil each of these countries sent a tripartite delegation.

Two observers from the Union of Soviet Socialist Republics attended the session.

The Governing Body of the International Labour Office was represented as follows:

Government group: Mr. H. HAUCK (France).
Employers' group: Mr. G. BERGENSTRÖM (Swedish).
Workers' group: Sir Alfred ROBERTS (United Kingdom).

The United Nations was represented by Mr. J. WINTER, and the Organisation for European Economic Co-operation by Mr. J. CHAPELIER, Mr. J. BRUNELLET, Mr. R. G. W. THEOBALD and Mr. G. CRESPIN.

The following non-governmental international organisations were represented by observers: International Confederation of Free Trade Unions; International Co-operative Alliance; International Federation of Christian Trade Unions; International Federation of Christian Trade Unions of Textile and Garment Workers; International Federation of Christian Trade Unions of Salaried Employees, Technicians, Managerial Staff and Commercial Travellers; International Federation of Textile Workers' Associations; International Organisation of Employers; World Federation of Trade Unions.

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2 Organisation with consultative status.
The Committee appointed a Steering Committee, which also acted as a Resolutions Committee, and two subcommittees and a working party as follows:

Subcommittee on Productivity in the Textile Industry;
Subcommittee on Labour-Management Relations;
Working Party on the Effect Given to the Conclusions Adopted at Previous Sessions of the Committee.

The Committee held ten plenary sittings, five of which were mainly devoted to a general discussion of the questions before the Committee. At its ninth and tenth sittings, on 7 October 1955, the Committee considered and adopted the reports, resolutions and other conclusions submitted to it.

Conclusions and Reports Adopted by the Committee 1

The Committee adopted three resolutions, two memoranda, suggestions, proposals and a report by the Steering Committee. These texts are reproduced below, together with the reports of the subcommittees and of the working party.

Memorandum (No. 35) concerning Productivity in the Textile Industry 2

1. The Textiles Committee of the International Labour Organisation considered the question of productivity in the textile industry at its Fifth Session, which was held in Geneva from 26 September to 7 October 1955. The Committee had before it a report on the subject submitted by the International Labour Office and took this report as the basis for its discussion.3 The present memorandum sets forth the conclusions reached by the Committee.

2. Any declaration concerning a productivity programme in the textile industry must be considered in relation to the economic realities of industry prevailing in each country at the time of the programme. The last few years have demonstrated that in most countries the increase in markets for textiles has not always kept pace with the increase in the productive capacity achieved by the industry.

3. Any programme for increased productivity in the textile industry must be supplemented by arrangements for efficient and economical distribution of the products of the textile industry, which would contribute to raising productivity by ensuring the regular sales that are essential to planned production. In conjunction with a programme of this kind the employers should encourage and pursue innovating venturesome campaigns of new uses for old products, and new products for old and new uses, such as have already been initiated in many countries. In this context the textile industry can play an important role in raising living standards throughout the world by increasing the productivity of its plants as may be suitable to the economy of each country.

4. The employers should recognise the contribution which can be made by mass markets relying upon large volume, low costs and reasonable profits but the balance

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1 At its previous sessions the Committee had adopted 34 texts (32 resolutions and two memoranda); the first text adopted at its Fifth Session is therefore numbered 35.
2 Adopted on 7 October 1955 on a record vote by 87 votes to 2, with 11 abstentions.
must be struck between mass production and product variety to assure the maximum market. The employers, trade unions and governments, jointly and separately, should do everything possible to ensure that international competition for textile markets results from good designs and manufacturing ingenuity, while ensuring fair wages and good working conditions in the spirit of international co-operation and fair practice. Arrangements should be made to stimulate under-industrialised countries to bring about a greater degree of industrialisation to improve the quality and design of their products, thus creating a greater volume of employment.

5. Progressively increasing productivity should be accompanied by progressively improved working conditions, by maintenance of high quality and by reduced costs of production and distribution compatible with efficient operation.

6. Higher productivity must offer to workers an increased level of real earnings, better working conditions and reasonable hours of work, which should be arrived at by collective bargaining between trade unions and the employers in accordance with the usual practice in each country, including methods of arbitration where appropriate. Where trade unions do not exist, their growth should be encouraged.

7. Although increased productivity may well lead to a higher volume of employment, it may also cause problems of redundancy, particularly in the short term and in countries suffering from unemployment or underemployment; employers, workers' representatives and governments, each in their own sphere, therefore have responsibilities for foreseeing and minimising to the best of their ability the effects of redundancy due directly or indirectly to technological or other changes introduced with a view to raising productivity. National governments in co-operation with employers and trade unions should consider the basic importance of making available to workpeople, who may be deprived of employment, the practical means of retraining for new trades.

8. Modern work study techniques for the rational organisation of processes and methods and for the fair allocation of tasks offer a valuable means of raising productivity quickly by using resources to the best advantage, eliminating waste, and making possible improved planning and control.

9. Suitable and easily understood systems of payment by good piece-work results should be considered in order to provide for workers an interest in the higher output of individuals or of groups, coupled with maintenance of the required quality; this should contribute effectively to increased productivity. Work study can provide a sound background for wage systems based on payment by results. While not an exact science, work study can greatly limit the field of dispute and serve as a useful guide and protection both for employers and workers, provided that it is recognised as a proper subject for collective bargaining, taking into account the human element.

10. The speed of production should be commensurate with all the recognised practices of good hygiene procedures, safety engineering and the preservation of the general health of the worker.

11. An atmosphere of good human relations based on active co-operation between employers and workers and their trade unions is indispensable to worker participation in a productivity programme.

12. Free and independent organisations of employers and workers must play a very important part in encouraging and in assisting their members to achieve increased productivity. The co-operation of the workers' organisations in securing for the workers an equitable share of the benefits of increased productivity can contribute greatly to the success of the programme.

13. Success in achieving productivity is dependent on the integration of a number of direct and indirect factors. In addition to those already mentioned the following points, among others, require active attention:
(a) research and technical development in general;
(b) research into the scientific, technical and social aspects of the problem of raising productivity; co-operative research associations, trade associations, trade unions, universities, government research associations, national and international productivity centres and institutes are among the organisations which may appropriately play their part together with the industry itself;
(c) the desirability of widening exchanges of information between undertakings and between countries concerning the development of new methods of increasing productivity;
(d) the improvement of channels of communication within individual concerns;
(e) supervisory training and vocational training of employees.

Memorandum (No. 36) concerning Labour-Management Relations in Textile Factories

1. The Textiles Committee of the International Labour Organisation considered the question of labour-management relations in textile factories at its Fifth Session, which was held in Geneva from 26 September to 7 October 1955. The Committee had before it a report on the subject submitted by the International Labour Office, and took this report as the basis for its discussions. The present memorandum sets forth the conclusions reached by the Committee.

Principles

2. In the common interest of workers and of employers it is desirable to develop co-operation within undertakings in the textile industry. It is desirable that regard be paid to the various international labour Conventions and Recommendations concerning labour-management relations.

3. Methods to achieve this aim can be fully effective only if they stem from a common will to create a good atmosphere and if they are applied by all concerned, including employers' and workers' organisations, with loyalty and in a spirit of mutual respect.

4. It is desirable that co-operation between employers and workers should be sought by methods freely established through arrangements concluded within the undertakings themselves, so as to take into full account the special conditions obtaining in each undertaking. This co-operation may also be achieved by other means in accordance with the legislation, custom or practice existing in each country.

5. Good relations at the level of the undertaking are more easily maintained if there are good relations at the level of the industry. In this connection, it is recognised that freely established trade unions can contribute substantially to good labour-management relations.

6. It is essential that the activity of any joint bodies or other arrangements for co-operation and consultation, including those relating to the settlement of complaints and grievances and to suggestion schemes, do not encroach on functions which are proper to management or the trade unions concerned.

Joint Consultative Bodies

7. Where joint bodies have already been set up in accordance with the custom or practice of each country, or where joint bodies are considered desirable by those concerned, it is necessary that appropriate steps should be taken to ensure that

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1 Adopted on 7 October 1955 by 97 votes to 2, with 1 abstention.
representation of these bodies is on an equitable basis, having regard to national custom or practice.

8. Subjects which are considered as suitable for consideration by joint consultative bodies include:

(a) information on general problems which have an influence on the operation of the undertaking;
(b) information on the employment situation;
(c) conditions in the plant, such as ventilation, lighting, noise, temperature, factory hygiene;
(d) amenities such as rest rooms, health services, housing, canteen services, recreation;
(e) safety and accident prevention;
(f) vocational training; and
(g) measures for increasing efficiency.

9. The different categories of workers employed in the undertaking should be represented on an appropriate basis on the joint consultative bodies. These representatives should be appointed by a free and secret vote of all workers employed in the undertaking.

10. In view of the large proportion of women employed in the textile industry in most countries, due regard should be paid to the question of appointing, where appropriate, a reasonable proportion of women to the joint consultative bodies.

11. The task of joint consultative bodies may, where appropriate, be facilitated by the appointment of subcommittees to deal with problems such as safety or welfare requiring specialised treatment.

12. Top management should be actively associated with the form of consultation and co-operation adopted, in view of its continuing responsibility in the undertaking for decisions, taking into account legislative provisions and agreements.

13. The co-operation of foremen and other supervisory staff should be secured by their representation on the joint consultative bodies.

14. No discrimination should be exercised against the representatives on such bodies, who should feel free to express their views without fear of any measures being taken against them for so doing.

15. While it is difficult to generalise as to how often the joint consultative bodies should meet, it is important that they should do so at frequent and regular intervals.

16. Arrangements should be made for the workers to be kept fully informed of the work of these joint consultative bodies by such methods as bulletins, group meetings, works meetings or other means appropriate to the undertaking concerned.

17. With a view to assisting the working of such bodies, it may be useful to organise, either on a local or a regional basis, training courses to train actual or potential representatives both from the workers' and employers' side. Such courses may take the form of study groups or week-end courses. It is also highly desirable that those supervisors who are in closest contact with the workers should receive training in human relations.

18. Co-operation within undertakings can only develop fully provided that joint consultative bodies, wherever such have been set up, do not include within the scope of their discussions any questions which are normally the subject of negotiations between organisations of employers and workers.
19. The working of joint consultative bodies established at the level of undertakings should be adapted to the particular requirements of each undertaking and of the workers employed therein, taking the relevant provisions of national legislation into account.

**Informal Joint Consultation**

20. Apart from the methods of co-operation mentioned above, the development of good relations between employers and workers can be promoted by the communication and exchange of information by both sides at all levels of the undertaking.

**Settlement of Complaints and Grievances**

21. An adequate procedure for examining and settling complaints and grievances, agreed upon by the employers' and workers' organisations concerned, is an important factor in maintaining and developing good relations within the undertaking.

**Suggestions**

22. The establishment of a system of examining suggestions which may be made by the workers can also promote the development of good working relations.

**Conditions for Success**

23. Good relations between employers and workers are desirable for the development of a prosperous and healthy undertaking which is an important factor in safeguarding employment and improving the standard of living. In this connection it is desirable that all concerned recognise the necessity of technical improvements and efficient organisation, and understand that undertakings may have to adapt themselves to developments and technical progress.

**Suggestions (No. 37) concerning the Effect Given to Conclusions Adopted by the Textiles Committee**

The Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee examined the conclusions which had been adopted by the Committee and the information supplied by governments on the effect given to these conclusions. The Working Party decided to recommend that the Governing Body of the International Labour Office be invited to suggest to governments that, when communicating information to the Office for the Sixth Session of the Committee, they should include information, or should bring up to date information previously provided, on the following resolutions:

- No. 1. Resolution concerning improved working conditions and welfare facilities (First Session).
- No. 9. Resolution concerning a guaranteed adequate minimum weekly wage (First Session).
- No. 16. Resolution concerning welfare facilities for workers in the textile industry (Second Session).
- No. 17. Resolution concerning recruitment and conditions of work of workers living in frontier regions (Second Session).
- No. 27. Memorandum to the Governing Body of the International Labour Office on disparities in textile wages between the various countries engaged in textiles and the effect of these disparities on the standards of life of textile workers (Third Session).
- No. 31. Memorandum concerning women's employment in the textile industry (Fourth Session).

1 Adopted on 7 October 1955 by 65 votes to 0, with no abstentions.
Resolution (No. 38) concerning Technical Assistance in the Textile Industry

The Textiles Committee of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour Office, and
Having met at Geneva in its Fifth Session from 26 September to 7 October 1955,
Having noted the increased interest shown in technical assistance programmes, in particular by the less developed countries,
Having noted the work done by the International Labour Organisation in this field,
Desiring to make an effective contribution to the Expanded Programme of Technical Assistance for the textile industries of the less developed countries;
Adopts this seventh day of October 1955 the following resolution:

The Governing Body of the International Labour Office is invited to ask the Office to draw the attention of governments to the services which the International Labour Organisation can render to the textile industries of their countries in the field of technical assistance.

Resolution (No. 39) concerning the Study of Wages Systems

The Textiles Committee of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour Office, and
Having met at Geneva in its Fifth Session from 26 September to 7 October 1955;
Adopts this seventh day of October 1955 the following resolution:

The Governing Body of the International Labour Office is invited to request the Director-General to undertake a comparative study of the wages systems in force in the textile industries.

Proposals (No. 40) concerning the Agenda of the Sixth Session of the Textiles Committee

The Textiles Committee of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour Office, and
Having met at Geneva in its Fifth Session from 26 September to 7 October 1955,
Bearing in mind the various subjects discussed and the requests made to the Committee at its previous sessions regarding the choice of subjects for inclusion on its agenda;
Adopts this seventh day of October 1955 the following proposals:

The Governing Body of the International Labour Office is invited to give consideration to the following items when deciding upon the agenda of its Sixth Session:

1. Working conditions in the textile industry (with particular reference to heating and humidification, ventilation, lighting, reduction of noise, sanitary facilities, and plant cleanliness) and mutual co-operation in this field.

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1 Adopted by 93 votes to 0, with no abstentions.
2 Adopted by 76 votes to 0, with 13 abstentions.
3 The first four of these proposals were adopted by 93 votes to 0, with no abstentions, and the fifth was adopted on a record vote by 57 votes to 30, with 15 abstentions.
(2) Apprenticeship and vocational training.

(3) Welfare facilities (including rest and recreation facilities, day nurseries and medical services, canteens and transport facilities where necessary).

(4) Effects on wages and working conditions of the changes in the structure and organisation of the textile industry brought about by technological developments and by the invasion of the traditional textile field by new industries.

(5) Hours of work in the textile industry.

Resolution (No. 41) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value

The Textiles Committee of the International Labour Organisation,

Having been convened by the Governing Body of the International Labour Office, and

Having met at Geneva in its Fifth Session from 26 September to 7 October 1955, Considering that there is a large number of women workers in the textile industry,

Considering that in many countries the women workers do not benefit from the application of the principle of "equal pay for equal work", so that the application of this principle still constitutes an urgent problem,

Considering that the Textiles Committee, at its First Session (November 1946), adopted the principle of "equal remuneration for men and women workers for work of equal value", and

Considering that the International Labour Conference has laid down the same principle in the Equal Remuneration Convention, 1951 (No. 100) and in the Equal Remuneration Recommendation, 1951 (No. 90);

Adopts this seventh day of October 1955 the following resolution:

The Governing Body of the International Labour Office is invited, when communicating the conclusions of the Fifth Session of the Textiles Committee to governments, to draw their attention to the importance of the Equal Remuneration Convention, 1951 (No. 100) for the textile industry, and to the earnest desire of the Committee that they should take ratification of the Convention into active consideration.

Report of the Subcommittee on Productivity in the Textile Industry

1. The Subcommittee on Productivity in the Textile Industry was set up by the Committee at its third plenary sitting on 27 September 1955, and was composed of 45 members (15 from each group).

2. The Subcommittee appointed its Officers as follows:

Chairman: Mr. L. J. MALFAIT (Government member, Belgium).

Vice-Chairmen: Mr. J. RAYMAKERS (Employers' member, Netherlands).

Mr. V. CANZANO (Workers' member, United States).

Reporter: Mr. E. J. HOLFORD-STREVENS (Government member, United Kingdom).

3. The Subcommittee held 12 sittings.


1 Adopted by 59 votes to 16, with 23 abstentions.

2 Adopted on 7 October 1955 by 97 votes to 0, with 2 abstentions.
Terms of Reference

5. The Subcommittee was called upon to consider the second item on the agenda of the Committee: "Problems of productivity in the textile industry". It had before it a report prepared by the Office on this subject.1

General Discussion

6. The Representative of the Secretary-General gave a brief outline of the general approach of the Office in regard to the problems of productivity and the contents of the report submitted to the Committee to serve as a working document. Problems of productivity as affecting industry in general had, he said, been discussed by the International Labour Conference on two occasions. Practical methods of increasing productivity in manufacturing industries also formed the subject of discussion by a meeting of experts held in 1952. In addition, several of the Industrial Committees had considered the question as it affected each industry. This emphasis on increasing productivity was based on the view that a more efficient utilisation of resources created conditions for a higher standard of living generally, including an improvement in wages and working conditions.

7. Problems of productivity affecting the textile industry formed the subject of a preliminary discussion at the Fourth Session of the Committee, and the report now before the Committee took account of the suggestions then expressed and adopted subsequently by the Governing Body. Although technical and organisational factors had been treated at length in the report, considerable importance was in fact given to problems relating to human relations.

8. The Subcommittee had before it early in its proceedings a statement on productivity submitted by the Employers' members. The Workers' members preferred at that stage to raise some general questions, and the United States Workers' deputy member asked what measures the Employers proposed to take for ensuring a balance between production and consumption, e.g. for expanding markets by developing new uses for existing textile goods, for opening new and untapped markets, for increasing purchasing power in countries whose standards of living did not enable them to buy sufficient textile goods and, in short, what plans were in view for preventing increased production and international competition from leading to lower wages and worsening conditions of employment. Among other points raised was the need for retraining and re-employment of redundant workers.

9. On behalf of the Employers' members it was stated that these issues were largely economic questions, and that some of them raised matters which were of national and not of sectional responsibility. But measures were in fact taken by many individual managements in such matters as finding new uses for textile goods, introducing variety in construction and design, the mixing of fibres and the development of new fibres, and the improvement of quality. The industry made considerable efforts to expand markets, to adjust production to new markets and to advertise and market goods of guaranteed quality or price. Collectively, steps were taken to expand markets by research, by developing national trade marks, by expansion plans, and by arranging international exhibitions.

10. The question of equating production and consumption was not entirely within the power of employers and workers engaged in the industry, since it depended largely on the economic policies of governments. For example, there were regions needing economic development in which masses of people were insufficiently clothed; industrialisation of such underdeveloped countries would result in producing more textile goods and also greater consumption of textile goods and a generally better standard of living. In this connection the Government member for Israel suggested

that one of the ways to help in a campaign to increase the consumption of cloth might be the setting of minimum standards of clothing.

11. The Employers' members recognised that attempts to increase productivity might result in some temporary unemployment; they thought this was probably a short-term problem but felt nevertheless that the responsibility to provide opportunities for alternative employment and training for displaced workers was a national one.

12. During the general discussion several members of the Subcommittee referred to the position and special problems of underdeveloped countries. The Australian Government member pointed out that, while the objectives of countries which were highly industrialised and those that were not so highly industrialised might be the same to the extent that both desired to raise the standard of living, there were differences in the principles to be applied for achieving productivity. A distinction should therefore be made between countries which had full employment and aimed at a maximum output with a minimum of labour, and countries which had large numbers in need of work. In considering the methods for raising productivity in these latter countries, special attention should be given to those measures which could reduce costs and raise the value of output with the least effect on employment. The Indian Workers' member stated that, in view of the problem of unemployment in India, it was not possible to introduce mechanisation on a large scale. The Uruguayan Workers' member also agreed that problems in less developed countries were of a special character and that methods adopted in a highly industrialised country such as the United States could not be copied in other less industrialised areas. Some of the members also raised the related question of the effect on the export markets of the industrialisation of underdeveloped countries. In the opinion of the United States Workers' deputy member, if these countries concentrated on the textile industry in their industrialisation plans the result might be a surplus of textile goods and an effort to capture export markets which, in fact, did not exist. The Indian Employers' member felt that this fear was exaggerated, as also the fear that the cost of production was lower in underdeveloped countries. Efforts were being made to improve working and living conditions in these countries and there were safeguards against unfair competition and lowering of labour standards. The Indian Government member emphasised the need for the fullest consultation at all stages in the efforts to achieve higher productivity in underdeveloped countries.

13. The Workers' members also made the following points, among others, during the general discussion. The anxiety to increase productivity should not result in an unreasonable speeding up of work; the safety and health of workers should be safeguarded; social security measures should be introduced; and there must be security of employment for those displaced as a result of productivity measures. Costs could be reduced by improved layout, elimination of wastage, rationalised administration and better working conditions. These methods should be tried before mechanisation involving displacement of labour was introduced, particularly in underdeveloped countries. Prior consultation with the representatives of workers, in regard to the measures for increasing productivity, was necessary. Workers should get a share in the benefits as should the consumers in the form of reduced prices. The processes and products of the textile industry were so complex that it was often difficult for workers to prove that there was an actual increase in productivity. Exchange of experience on a national and international basis in this respect, and generally with regard to productivity problems, was desirable.

14. The Australian Government member emphasised the importance of ensuring the interests of individuals whether as small employers, trade union officials or workers, in the efforts to increase productivity, of decentralising such efforts, of co-ordinating the efforts made by the textile industry with those of other industries, and of the contribution made by work study methods in such matters as improving layout, methods and processes. The value of decentralised efforts was also stressed by the United Kingdom Government member, who referred to the successful working
of tripartite area productivity committees which covered all the industry in a particular locality; he also stressed the importance of training and education at all levels. The Danish Government member pointed to the need for defining the objectives of the programmes for increasing productivity and emphasised the importance of the problem of the distribution of textile products.

15. As a result of the discussion on the statement made by the Employers’ members, the latter submitted to the Subcommittee some amendments to their original statement. After considering the statement amended by the Employers’ members and the points suggested by the Office in its report on the problems of productivity in the textile industry, the Workers’ members in their turn submitted a declaration. The Subcommittee also received a statement from the Australian Government member. All these documents were transmitted to the Working Party mentioned above.

16. The Working Party soon reached provisional agreement on a large part of a composite draft but for a long time it was not possible to agree on the principle involved in certain references to trade unions and collective bargaining. Separate texts, representing the opposing views of the Workers’ and the Employers’ members, were submitted by the Working Party to the Subcommittee, which in its turn decided to transmit them to a plenary sitting of the Textiles Committee, thus reporting failure. The question was then again remitted to the Working Party.

17. Agreement was at length reached in the Working Party and, subsequently, in the Subcommittee.¹

18. The present report and the proposed memorandum were adopted by the Subcommittee at its twelfth sitting on 7 October 1955.

(Signed) L. J. MALFAIT, Chairman.
(Signed) E. J. HOLFORD-STREVENS, Reporter.

Report of the Subcommittee on Labour-Management Relations²

1. The Subcommittee on Labour-Management Relations was set up by the Textiles Committee at its third plenary sitting on 28 September 1955 and was composed of 36 members (12 from each group).

2. The Subcommittee appointed its Officers as follows:
Chairman: Mr. R. L. HARRY (Government member, Australia).
Vice-Chairmen: Mr. R. BOCCARDI (Employers’ member, Italian).
Mr. A. BAEXENS (Workers’ member, Belgian).
Reporter: Mr. B. A. BAGDON (Government member, United States).

3. The Subcommittee held seven sittings.

Terms of Reference

4. The Subcommittee was called upon to consider the third item on the agenda of the Committee: “Labour-management relations in textile factories”. It had as a basis for its discussion a report prepared by the Office on this subject.³

¹ For the text as finally adopted see above, pp. 161-163.
² Adopted on 7 October 1955 by 88 votes to 2, with 1 abstention.
5. The Representative of the Secretary-General explained the circumstances in which this item had been placed on the agenda of the Textiles Committee and related the work of the Committee in this field to the general work of the International Labour Organisation on labour-management relations, to which several Industrial Committees had contributed; others were expected to take up the subject. The International Labour Conference had in recent years formulated the bases for industrial relations by the adoption of a number of Conventions and Recommendations, and at its last session had emphasised the importance of developing harmonious labour-management relations, asking the Governing Body to draw up a practical programme of I.L.O. action in this field. He pointed out that, in preparing the report on the subject, the Office had taken the view that it was called upon to deal with relations at the level of the undertaking.

6. After a brief general discussion two draft memoranda, prepared by the Employers' members and the Workers' members respectively, were placed before the Subcommittee.

7. The Subcommittee appointed a Working Party, consisting of the Chairman and Vice-Chairmen and four other members from each of the three groups, to examine these two texts and any further suggestions submitted and to prepare a single text for the Subcommittee's consideration.

Principles

8. It was generally recognised that the attitude of mind in which problems of labour-management relations were approached was of the greatest importance, and that there must be a common will to create a good atmosphere in the plant, based on mutual respect and trust.

9. The Workers' members considered that good labour-management relations could have no other basis than good relations between the employers and/or their organisations and the trade unions, and they expressed their anxiety lest some employers should make use of the joint consultative bodies as a means of by-passing the trade unions or even of preventing their establishment and growth.

10. The Workers' members again considered that a sound basis for the establishment of labour-management relations was to be found in certain instruments adopted by the International Labour Conference and wished attention to be drawn in particular to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Collective Agreements Recommendation, 1951 (No. 91), the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94) and the resolution concerning consultation and co-operation between employers and workers at the level of the undertaking, adopted by the International Labour Conference at its 35th Session (Geneva, 1952). They stressed the importance of the full implementation of these instruments in all countries. They urged that, in the establishment of good labour-management relations, full recognition should be accorded to the trade unions as representative and bargaining factors within the industry. They felt that every encouragement should be given towards the establishment of conditions which would promote the creation and development of responsible trade unions in those countries where no such unions existed. They pointed out that the support of the trade union movement was most important in certain economically underdeveloped countries in which the trade unions were still in early stages of growth.

11. It was pointed out on behalf of the Employers' members that the Subcommittee had been asked to consider labour-management relations in textile factories at the level of the undertaking, and that general considerations concerning the part that trade unions were called upon to play in labour-management relations,
and in particular problems of industrial relations at the higher level, were not relevant
and should therefore not be dealt with in the conclusions of the Textiles Committee
on this item of the agenda. In particular, the Employers stated that they were not
prepared to endorse by reference instruments adopted by the International Labour
Conference in a broader context and that constitutional machinery existed to follow
up the action taken by member States on the decisions of the International Labour
Conference. In their opinion good labour-management relations could be, and in fact
in certain cases had been, established even in the absence of a trade union; they added
that there was nothing in the proposals they had submitted which was in any way
designed to prejudice the position of the unions. They recognised that good relations
at the level of the undertaking were more easily maintained if there were good rela-
tions at the level of the industry.

12. The Employers' members agreed to include in paragraph 2 of the memo-
randum a general reference to the international labour Conventions and Recommenda-
tions which concerned labour-management relations. They also agreed to the
addition of a clause recognising that freely established trade unions could contribute
substantially to good labour-management relations.1

13. It was recognised that arrangements for joint consultation and co-operation
should not encroach upon functions which were proper to management or the trade
unions concerned.2

drew the attention of the Subcommittee to the fact that, though labour-management
relations and the working of joint consultative bodies were primarily matters for the
parties concerned, they were in certain countries the subject of constitutional provi-
sions or of legislation, which laid down the framework in which they had to work.
They urged that the memorandum take this situation into account.

15. The Working Party had considered this point and agreed unanimously that
the position was adequately covered by paragraphs 4, 12 and 19 of the memorandum.
At the request of the Government member for the Federal Republic of Germany, the
Subcommittee considered whether a similar provision should be also included in
paragraph 6. The Subcommittee felt that the position was adequately dealt with in
the paragraphs referred to but agreed to add in paragraph 4 a reference to
legislation.

Joint Consultative Bodies

16. Having regard to the principles referred to above, there was substantial
agreement on the important part which joint consultative bodies could play in
promoting better labour-management relations, and on their terms of reference and
methods of appointment. Thus, subject to the introduction of some relatively minor
amendments, of the passages dealing with these bodies, paragraphs 8 to 17 of the text
of the memorandum as finally adopted by the Subcommittee found their origin in the
proposals submitted by the Workers' members and paragraphs 7, 18 and 19 in the
proposals submitted by the Employers' members.

17. The Workers' members had also proposed the inclusion of the following
paragraph in their draft memorandum:

In the work of the joint consultative bodies, care should be taken to avoid—
  fostering paternalistic conditions;
  neutralising the influence of the trade union movement;
  dissociating the workers from their trade unions;
  distracting the attention of the workers and of their organisations from
  justified claims;

1 See paragraph 5 of the memorandum (No. 36), p. 163.
2 Idem, paragraph 6.
creating the pretence of better human relations within the undertaking in order to make the workers abandon their desire of a complete social and economic co-management of the undertaking;

creating a psychological climate favourable to the increase of productivity without, however, enabling the workers to share in the results of any increases in productivity.

18. In view of its negative character the Workers' members agreed to the deletion of the paragraph which expressed their fears as to the possible misuse of the joint consultative bodies referred to above.

19. The Danish Government member pointed out that the joint consultative bodies could also play a considerable part in furthering the improvement of productivity in the undertakings, as well as in discussing the most appropriate arrangements for dealing with any cases of redundancy of labour which might result. The Subcommittee felt, however, that these matters would be more appropriately dealt with by the Subcommittee on Productivity in the Textile Industry.

**Informal Joint Consultation**

20. The Workers' members had expressed some hesitation in agreeing to proposals for informal joint consultation, but accepted the Employers' suggestions on the subject (paragraph 20) on the strength of the passage included in paragraph 5 regarding the contribution which trade unions could make to good labour-management relations in general.

**Settlement of Complaints and Grievances**

21. Similarly, the Workers' members accepted the proposals made by the Employers' members regarding the importance of adequate procedures for examining and settling complaints and grievances, after this text had been amended to make it clear that these procedures should be agreed upon by the employers' and workers' organisations concerned.

**Personnel Officers**

22. The Workers' members had suggested the inclusion of a paragraph pointing out that personnel officers having the necessary training and qualifications could exercise a favourable influence on the establishment of good labour-management relations, that they could assist in promoting the welfare of the workers and that they should be granted the necessary independence in order that they might enjoy the confidence of both management and workers. As the Employers' members considered that the inclusion of a text on these lines would encroach on the normal functions of management, the Workers' members agreed not to press their suggestion.

**Statement by the Italian Workers' Member**

23. The Italian Workers' member stated that he could not accept the draft memorandum proposed because it did not provide adequate guarantees for the workers and contained many clauses, including those relating to the increase of efficiency, which were only designed to protect the interests of the employers. He also claimed that the text lacked precision.

24. The Subcommittee adopted the draft memorandum with one dissentient vote.

25. The present report was adopted unanimously by the Subcommittee at its seventh sitting on 6 October 1955.

(Signed) R. L. HARRY,
Chairman.

(Signed) B. A. BAGDON,
Reporter.
Report of the Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee

1. The Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee was set up by the Textiles Committee at its third plenary sitting on 27 September 1955 and was composed of 12 members (four from each group).

2. The Working Party unanimously appointed its Officers as follows:
   
   **Chairman and Reporter**: Mr. E. EICHELHOLZER (Government member, Switzerland).
   
   **Vice-Chairmen**: Mr. C. BELLINGHAM-SMITH (Employers' member, United Kingdom).
   
   Mr. R. J. H. DAWANT (Workers' member, Belgian).

3. The Working Party held four sittings.

   **Terms of Reference**

4. The terms of reference of the Working Party, as proposed by the Steering Committee and adopted by the Committee at its third plenary sitting, were as follows:

   (1) to examine the information given in the report concerning the effect given to the conclusions of previous sessions, i.e. Report I, Item 1 (a) and (b): *Effect Given to the Conclusions of the Previous Sessions*;
   
   (2) to classify the conclusions adopted at previous sessions with the object of facilitating examination of the effect which had been given to them;
   
   (3) to indicate the subjects on which sufficient information had been provided and those on which the Committee would wish to receive further information at its next session.

5. The Working Party had before it the report mentioned in paragraph 4, prepared by the International Labour Office, and a supplement thereto.

   **General Discussion**

6. At its first sittings the Working Party had also before it three documents prepared by the Office: (1) a draft classification of the conclusions adopted at previous sessions of the Committee; (2) a list of countries which had provided information for the Fifth Session on resolutions involving action in those countries; and (3) information on the administrative action taken by the Office with regard to the resolution (No. 25) concerning a model safety code applicable to the textile industry.

7. The Working Party adopted the first document as a basis for its discussions and proceeded to classify the conclusions in the light of the following considerations: Was there a need for more information at present? Was any further action needed?

   **I. CONCLUSIONS WHICH MAY BE LEFT OUT OF ACCOUNT IN ACCORDANCE WITH THE CONSIDERATIONS SET OUT IN PARAGRAPH 7**

8. The Working Party noted that at its Fourth Session the Textiles Committee had agreed that there was no need for governments to supply further information

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1 Adopted on 7 October 1955 by 64 votes to 0, with no abstentions.
in regard to conclusions Nos. 7, 10, 11, 12, 13 and 23, which are consequently class-
ified in Group I. It was understood, however, that the fact that these conclusions were so classified should not be taken to mean that the matters dealt with could not be raised again in the Committee in the appropriate way.

Requests for Studies and Inquiries to Be Undertaken by the Office

9. The Working Party decided to include in Group II resolutions Nos. 3, 5, 19, 21 and 22.

Proposals Involving Administrative Action Which Has Been Taken by the Office

10. The Working Party agreed to include in Group III conclusions Nos. 20, 24, 25, 30 and 34. Resolutions Nos. 25 and 34 gave rise to some discussion, which is summarised below.


11. The United Kingdom Workers' member pointed out that action on this resolution was still pending. In reply, the Secretary-General explained that, since the Fourth Session of the Committee, further administrative action had been taken by the Office as the proposals made by the Committee had been placed before a Meeting of a Panel of Experts chosen from among the members of the Correspondence Committee on Occupational Safety and Health, which was held in September 1955. The recommendations of this meeting would in due course be submitted to the Governing Body. Accordingly the Working Party agreed that resolution No. 25 should be classified in Group III.

Resolution (No. 34) concerning the Publication in Spanish of the Documents for the Next Meeting of the Textiles Committee.

12. The Employers' members proposed that resolution No. 34 should not be included in Group III as further administrative action was still required. The Peruvian Employers' member stressed that Spanish-speaking delegates were unable to participate fully in the work of the Committee as many of the documents were not available in Spanish, and he expressed the hope that the Governing Body would decide to consider Spanish as an official language for Industrial Committees. The Secretary-General pointed out that the Office had submitted the resolution to the Governing Body and that the matter would be considered by the Governing Body at its next session in connection with proposals for providing additional language facilities to the I.L.O. as a whole. In the light of this explanation, the Working Party agreed that resolution No. 34 should be classified in Group III. In so doing the Working Party expressed the hope that the Governing Body, when considering the matter, would take account of the wishes expressed in this resolution.

II. OTHER CONCLUSIONS

13. The draft classification prepared by the Office divided the remaining con-
clusions into three groups as follows: conclusions held in abeyance at the Fourth Session; requests for information made at the Fourth Session; and conclusions adopted at the Fourth Session and not yet classified.

1 See below, Appendix, p. 177.
Conclusions Held in Abeyance at the Fourth Session

14. At its Fourth Session the Textiles Committee decided that sufficient information had been received for the time being on resolutions Nos. 1, 4, 8, 14, 15, 16, 17, 18 and 29.

15. The Employers' members drew attention to the decisions with regard to the procedure for securing effective consideration for the conclusions of Industrial Committees, adopted by the Governing Body at its 125th Session (Geneva, May 1954), and in particular to paragraph 1 on page 9 of the second part of the Document for the Guidance of Industrial Committees. When classifying the conclusions on which the Textiles Committee would wish to receive further information at its next session, the Working Party should limit its choice to a small number of the most important subjects. The Employers' members therefore suggested that the question should be approached from the point of view of the subject; the questions on which they wished governments to provide more information for the next session were recruitment, welfare and training. The Workers' members pointed out that it was the conclusions of the Committee rather than specific subjects which were communicated to governments, and that the information which governments were requested to supply related to the effect which had been given to these conclusions.

16. After some discussion it was agreed that resolutions Nos. 1, 16 and 17 should be classified among the conclusions concerning subjects on which the Textiles Committee would wish to receive further information at its next session, i.e. in Group IV. It was also agreed that resolutions Nos. 8, 14, 15, 18 and 29 should be classified in Group V, i.e. conclusions concerning subjects on which the Textiles Committee had received sufficient information for the time being and that resolution No. 4 should be placed in Group I, among the conclusions which are obsolete.

Requests for Information Made at the Fourth Session

17. The Working Party noted the information given in Report I, Item 1 (a) and (b), and expressed satisfaction that the number of countries which had supplied information had increased, although some governments were not forwarding as complete and precise information as others.

18. It was agreed that further information should be requested from governments in regard to conclusions Nos. 9 and 27, classified in Group IV, and that resolutions Nos. 2, 6, 26 and 28 should be classified in Group V among the conclusions concerning subjects in regard to which the Textiles Committee had received sufficient information for the time being.

Conclusions Adopted at the Fourth Session and Not Yet Classified

19. After some discussion, during which the United Kingdom Employers' member suggested that the information to be requested on memorandum No. 31 should be limited, the Working Party agreed to classify the memorandum in Group IV. It was considered that sufficient information had been received for the time being on conclusions Nos. 32 and 33 and that these should therefore be included in Group V.

20. The classification of the conclusions adopted at the previous sessions of the Committee will be found in the appendix below.

1 See below, Appendix, p. 178.
21. The Working Party decided to make certain suggestions to the Governing Body.¹

22. The present report and the appendix were adopted unanimously by the Working Party at its fourth sitting on 5 October 1955.

(Signed) E. Eichholzer,
Chairman and Reporter.

APPENDIX ²

Classification of the Conclusions Adopted at Previous Sessions of the Committee

GROUP I. Conclusions which are obsolete, either because they have been superseded by more recent resolutions or because the conditions have changed.

No. 4. Resolution concerning holidays with pay (First Session).
No. 7. Resolution concerning the need for increased production (First Session).
No. 10. Resolution concerning the increase of wages in the textile industry and on the application in this industry of the principle of equal remuneration for work of equal value (First Session).
No. 11. Resolution concerning the recruitment and training of personnel (First Session).
No. 12. Statement concerning the work of the Textiles Committee (First Session).
No. 13. Resolution concerning the development of the textile industry in Germany and Japan (First Session).
No. 23. Resolution concerning maternity protection (Second Session).

GROUP II. Requests for studies and inquiries to be undertaken by the Office.

No. 3. Resolution concerning social security (First Session).
No. 5. Resolution concerning inquiries to be undertaken by the I.L.O. (First Session).
(As regards recruitment and training, industrial relations, health, fatigue, accident prevention and wage comparisons.)
No. 19. Resolution concerning disparities in wages between the various countries engaged in the textile industry (Second Session).
No. 21. Resolution concerning the safety of workers in the textile industry (Second Session).
No. 22. Resolution concerning the health of workers in the textile industry (Second Session).

GROUP III. Proposals involving administrative action which has been taken by the Office.

No. 20. Resolution concerning the textile industry in Japan (Second Session).
No. 24. Communication to the Governing Body on the classification of artificial and organic fibres (Second Session).

¹ For the text of these suggestions see above, p. 165.
² Adopted on 7 October 1955 by 64 votes to 0, with no abstentions.
No. 25. Resolution concerning a model safety code applicable to the textile industry (Third Session).

No. 30. Resolution concerning the agenda for the Fourth Session of the Textiles Committee (Third Session).
(As regards problems affecting the employment of women and the guaranteed wage.)

No. 34. Resolution concerning the publication in Spanish of the documents for the next meeting of the Textiles Committee (Fourth Session).

GROUP IV. Conclusions concerning subjects on which the Textiles Committee would wish to receive further information at its next session.

No. 1. Resolution concerning improved working conditions and welfare facilities (First Session).

No. 9. Resolution concerning a guaranteed adequate minimum weekly wage (First Session).

No. 16. Resolution concerning welfare facilities for workers in the textile industry (Second Session).

No. 17. Resolution concerning recruitment and conditions of work of workers living in frontier regions (Second Session).

No. 27. Memorandum to the Governing Body of the International Labour Office on disparities in textile wages between the various countries engaged in textiles and the effect of these disparities on the standards of life of textile workers (Third Session).

No. 31. Memorandum concerning women's employment in the textile industry (Fourth Session).

GROUP V. Conclusions concerning subjects in regard to which the Textiles Committee has received sufficient information for the time being.

No. 2. Resolution concerning joint committees on health, welfare and safety (First Session).

No. 6. Resolution concerning full employment (First Session).

No. 8. Resolution concerning reduction of working hours (First Session).


No. 15. Resolution concerning the recruitment of manpower in the textile industry (Second Session).

No. 18. Resolution concerning industrial relations in the textile industry (Second Session).


No. 28. Resolution concerning the inspection of safety measures in the textile industry (Third Session).

No. 29. Resolution concerning raw materials in the textile industry (Third Session).

No. 32. Memorandum on guaranteed wages in the textile industry (Fourth Session).

No. 33. Resolution concerning international trade and social standards in the textile industry (Fourth Session).
Report of the Steering Committee on the Use of the German Language

The Workers' group submitted a draft resolution in which they proposed that the Governing Body of the International Labour Office be invited to ask the Director-General to have the working documents for the Textiles Committee drawn up in German and to provide a German interpretation of all proceedings in the Committee. During a discussion in the Steering Committee it was pointed out that the Governing Body had already voted a credit for the provision of additional language facilities in 1956 and was now considering the way in which the credit should be utilised. In these circumstances the adoption of a resolution might not be necessary. The Workers' group agreed not to press their draft resolution on the understanding that the attention of the Governing Body be drawn to the difficulties which the Textiles Committee had encountered, especially with regard to the German language, and that the Governing Body be asked to take these difficulties into account.

COMMUNICATION TO GOVERNMENTS OF THE CONCLUSIONS AND REPORTS ADOPTED BY THE COMMITTEE

On 12 December 1955 the following communication was sent to the governments of States Members of the Organisation:


Sir,

I have the honour to inform you that the Governing Body of the International Labour Office, at its 130th Session (Geneva, November 1955), considered the reports, memoranda, resolutions, suggestions and proposals adopted by the Textiles Committee at its Fifth Session (Geneva, 26 September-7 October 1955). The Governing Body authorised me to transmit these texts to governments, informing them that it did not express any view on the content thereof, and inviting them to communicate the texts to the employers' and workers' organisations concerned.

A note on the proceedings of the Fifth Session of the Textiles Committee, which contains the reports of the Subcommittees and of the Working Party, together with the texts of the memoranda, resolutions, suggestions and proposals adopted by the Committee, is forwarded herewith in order to enable you to arrange for these conclusions to be examined. In this connection I venture to call your attention to the suggestions made by the Governing Body at its 109th Session (Geneva, June-July 1949) regarding the procedure which might be followed with a view to securing effective consideration for the conclusions of the Industrial Committees.

In regard to the conclusions of the Fifth Session of the Textiles Committee the Governing Body took the following decisions:

1. The Governing Body authorised me to draw the attention of governments to the memorandum (No. 35) concerning productivity in the textile industry and to the memorandum (No. 36) concerning labour-management relations in textile factories.

2. With respect to the suggestions (No. 37) concerning the effect given to the conclusions adopted by the Committee, the Governing Body authorised me to suggest to governments that when communicating information to the Office for the Sixth Session of the Committee they should include information or should bring up to date information previously provided on matters dealt with in the following conclusions: resolution (No. 1) concerning improved working conditions and welfare

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1 Adopted on 7 October 1955 by 76 votes to 1, with 9 abstentions.
2 See above, pp. 161-163.
3 See above, pp. 163-165.
4 See above, p. 165.
facilities; resolution (No. 9) concerning a guaranteed adequate minimum weekly wage; resolution (No. 16) concerning welfare facilities for workers in the textile industry; resolution (No. 17) concerning recruitment and conditions of work of workers living in frontier regions; memorandum (No. 27) on disparities in textile wages; and memorandum (No. 31) concerning women's employment in the textile industry.

3. The Governing Body also authorised me to draw the attention of governments to the resolution (No. 38) concerning technical assistance in the textile industry.¹

4. The Governing Body took note of the requests made by the Textiles Committee with regard to the extension of language facilities.²

5. Finally, the Governing Body decided to consider at a later session the proposals regarding items for inclusion in the agenda for the Sixth Session of the Textiles Committee.

I shall communicate with governments in due course with a view to requesting them to furnish information on the action taken, or proposed to be taken, on the conclusions of the Committee.

I have the honour to be, etc.,

For the Director-General:

(Signed) J. MORELLET,

Assistant Director-General.

¹ See above, p. 166.
² See above, pp. 175 and 179.
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(Third Session, Geneva, 17-28 October 1955)

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Committee on Work on Plantations

(Third Session, Geneva, 17-28 October 1955)  

Convocation of the Committee

The governments of States Members of the International Labour Organisation represented on the Committee on Work on Plantations were informed by letter of 14 July 1955 of the date and place of the Third Session of the Committee.

In accordance with a decision taken by the Governing Body at its 123rd Session (Geneva, November 1953), the agenda of the session was as follows:

I. General report, dealing particularly with—
   (a) action taken in the various countries in the light of the conclusions adopted at previous sessions of the Committee;
   (b) steps taken by the Office to follow up the studies and inquiries proposed by the Committee;
   (c) recent events and developments affecting work on plantations.

II. Living and working conditions and productivity on plantations.

III. Possible measures within the countries and industries concerned for stabilising employment and earnings of plantation workers.

Proceedings of the Committee

The Third Session of the Committee on Work on Plantations was held in Geneva from 17 to 28 October 1955. In accordance with a decision

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2 The membership of the Committee on Work on Plantations was revised by the Governing Body at its 127th Session (Rome, November 1954). The Governing Body elected the following 17 States: Belgium, Brazil, Burma, Ceylon, China, Colombia, Costa Rica, Cuba, the Dominican Republic, Egypt, France, India, Indonesia, the Netherlands, Peru, Portugal and the United Kingdom. The maximum number of members of the Committee was fixed at 20. Subsequently the Governing Body elected Pakistan (128th Session, Geneva, March 1955) and the Philippines (130th Session, Geneva, November 1955) to membership of this Committee.
3 The United Nations and the Food and Agriculture Organisation were invited by a letter of 14 July 1955 to send representatives to the meeting. Invitations were also sent to the non-governmental international organisations with which the International Labour Organisation has established consultative relationships or which were especially interested in the meeting.
taken by the Governing Body at its 128th Session (Geneva, March 1955),
Dr. H. D. J. Ferro (Argentina), Government representative on the
Governing Body of the International Labour Office, presided at the session.

The Committee elected two Vice-Chairmen: Mr. R. Dubled, President
of the Federation of Coffee and Cocoa Producers in French Overseas
Territories (Employers' delegate, French) and Mr. I. Gonzalez
Tellechea, President of the Regional Interamerican Workers' Organisation
(Workers' delegate, Cuban).

The following 19 countries—composing the Committee on Work on
Plantations—were represented:

- Belgium
- Brazil
- Burma
- Ceylon
- China
- Colombia
- Costa Rica
- Cuba
- Dominican Republic
- Egypt
- France
- India
- Indonesia
- Netherlands
- Pakistan
- Peru
- Philippines
- Portugal
- United Kingdom

Brazil was represented by Employers' and Workers' delegations and
Portugal by a Government observer. The other 17 countries were
represented by tripartite delegations. In addition, Jamaica, the Federa-
tion of Nigeria, and Trinidad were represented by tripartite observer
delegations.

The Governing Body of the International Labour Office was repre-
sented as follows:

- Government group: Dr. H. D. J. Ferro (Argentina).
- Employers' group: Mr. A. G. Fennema (Netherlands).
- Workers' group: Mr. A. Cofiño García (Cuban).

The following non-governmental international organisations were
represented by observers: the International Confederation of Free Trade
Unions \(^1\), the International Co-operative Alliance \(^1\), the International Federa-
tion of Christian Trade Unions \(^1\), the International Landworkers' Federation,
the International Organisation of Employers \(^1\), the International Union of Food and Drink Workers' Associations and the World Federation
of Trade Unions.\(^1\)

The Committee appointed a Steering Committee, which also acted as
a Resolutions Committee, as well as two subcommittees and two working
parties, as follows:

- Subcommittee on Living and Working Conditions and Productivity
  on Plantations;
- Subcommittee on Possible Measures within the Countries and Industries
  Concerned for Stabilising Employment and Earnings of Plantation
  Workers;
- Working Party on the Effect Given to the Conclusions of the Previous
  Sessions of the Committee;
- Working Party to Examine the Possibility of Plantation Labour
  Questions Being Considered by the International Labour Conference.

\(^1\) Organisation with consultative status.
The Committee held ten plenary sittings, five of which were mainly devoted to a general discussion of the questions placed before it.

**CONCLUSIONS AND REPORTS ADOPTED BY THE COMMITTEE**

The Committee adopted four resolutions, two memoranda, and one set, respectively, of conclusions, suggestions and proposals. These texts are reproduced below, together with the reports of the subcommittees and of the working parties.

**Conclusions (No. 30) concerning Living and Working Conditions and Productivity on Plantations**

The Committee on Work on Plantations of the International Labour Organisation considered the question of living and working conditions and productivity on plantations at its Third Session, which was held in Geneva from 17 to 28 October 1955. The Committee had before it a report on the subject submitted by the International Labour Office, and took this report as the basis for its discussions.

**Introduction**

In arriving at the conclusions hereunder, the Committee considered that—

(a) technical progress is desirable in every field of production;
(b) in view of the fact that its beneficent effects on the conditions of workers may become apparent only after a long period, it should be possible, at the present stage of development of plantations, for workers to benefit in the meantime from measures to improve their conditions;
(c) social and economic developments are taking place at a rapid rate in most of the economically underdeveloped countries;
(d) the utilisation of science in the promotion and development of plantation production has been instrumental in the expansion of plantations, in the considerable rise of the volume of output and in the productivity per unit;
(e) the development of plantations also depends upon a research applied to final products, production methods and processes most suitable to local conditions and problems.

**Extension of Research Work and Application of Science to Production Processes**

1. While recognising the achievements in the field of scientific research on the part of governments and of organised industry, the Committee stresses that efforts should be made by governments and employers to expand the field of scientific investigation relating to the production of plantation crops. Facilities for such research should include provisions for the study of the problems of the production of plantation crops irrespective of the size of the undertaking.

2. Immediate steps should be taken where necessary to promote and stimulate, under governmental guidance, programmes of applied agricultural and industrial research on plantation crop production.

3. The results of publicly financed applied research should be made available to the appropriate international organisations and should be exchanged between public research bodies in the different countries engaged in plantation crop production to which such research relates.

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1 At its previous sessions the Committee had adopted 29 texts; the first text adopted at its Third Session is therefore numbered 30.
2 Adopted by 80 votes to 0, with 3 abstentions, on 28 October 1955.
Work Study and Organisation

4. Technical studies based on scientific principles should be conducted in the light of existing methods of cultivation with a view to increasing productivity and ensuring the most efficient utilisation of labour, plant and capital by measures such as standardisation, planning, processing and co-ordination of work.

5. The Committee emphasises the urgent necessity for providing technical training of workers for skilled and supervisory employment at all levels. It reaffirms the principles embodied in the resolution (No. 7) adopted by the Committee at its First Session in Bandung in 1950.\(^1\)

6. In the selection of staff as supervisors regard should be had to both technical efficiency and natural aptitude for leadership, so as to ensure good human relations at the place of work.

7. Higher productivity should be reflected in benefits to the workers, the distribution of the benefits of increased productivity to be determined by joint consultation between employers and trade unions.

Study of Production Costs

8. In view of the importance of the survey of average production costs, efforts should be made to achieve more uniformity both in the definition and in the contents of production costs for each crop. Average production costs should be made available at regular intervals.

9. The Governing Body should be invited to instruct the Director-General to approach international bodies engaged in the study of particular crops with a view to their considering and defining methods relating to production costs and their particular components and to suggesting methods which should be followed with regard to each crop.

Improvements in Living and Working Conditions

10. Recognising that where there are low standards of living these have adverse effects on both the health of plantation workers and their productivity, the Committee endorses the resolution (No. 5) adopted by the Committee at its First Session\(^2\) and recommends that plantation workers should be assured, by action on the part of governments or of employers or by joint action of governments and employers, in consultation with the workers or their organisations, of—

\(a\) adequate housing for plantations workers who require to live on the plantations where they are employed;

(i) such housing to be in accordance with prescribed standards;

(ii) housing which, at the time of coming into force of legislation prescribing such standards of construction, does not comply to those standards, to be reconstructed to conform with those standards or replaced within a period to be determined by the competent national authorities;

\(b\) standards of hygiene, diet, welfare services and social security not inferior to those which may be prescribed for other categories of workers under national legislation.

Worker-Management Co-operation

11. In view of the rise in the workers' general educational level and technical capacity, management should take steps to promote good and effective employer-worker relations.

12. Measures for attaining such an objective should include the recognition of trade unions and the creation of works committees and such other bodies as may seem desirable in the particular circumstances.


\(^2\) Ibid., pp. 175-176.
13. Workers thus organised should be associated, through their representatives, in the planning of the social and living conditions and in the execution of such plans, as well as in the application of new methods of work resulting from technological improvements.

14. Workers should be encouraged and, where necessary, assisted to establish organisations which favour their economic welfare and cultural development.

*Studies relating to Small Undertakings*

15. In view of the importance of the production from small undertakings, the Governing Body of the International Labour Office is invited to instruct the Office, in preparing future studies, to give appropriate attention to small undertakings.

**Resolution (No. 31) concerning Possible Measures within the Countries and Industries Concerned for Stabilising Employment and Earnings of Plantation Workers**

The Committee on Work on Plantations of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and Having met at Geneva in its Third Session from 17 to 28 October 1955, Adopts this 28th day of October 1955 the following resolution:

The Governing Body of the International Labour Office is invited to draw the attention of governments to the following conclusions:

1. Where the employment and earnings of plantation workers are unstable, for reasons beyond the control of workers, because alternative sources of employment are not available, the plantations and the governments concerned should endeavour to remedy this instability so as to ensure the maintenance of an adequate standard of living for workers and their families.

2. Appreciable progress towards these objectives has been made in certain plantations and areas by means of action taken within the plantations themselves and by the governments concerned.

3. It is urgent that such measures should be continued, developed and extended to cover the widest possible area and as many plantations as possible, and should be applied on small-holdings as well as larger plantations.

4. Wherever seasonal variations in the level of activity cause instability of employment and earnings for plantation workers, the possibility of spreading work more evenly throughout the year, though limited by climatic and other factors, should receive careful consideration, having regard to the wishes of the workers.

5. Among measures capable of promoting the stability of employment or providing alternative sources of employment, and consequently of helping to ensure greater stability of earnings for workers, attention is drawn to the following measures which may be taken either by plantations or by governments or by both as appropriate:

(a) processing of plantation crops and by-products; co-operation between plantations in the establishment of processing plants may be desirable;

(b) measures to increase the internal consumption of plantation products;

(c) intensification of research into additional uses of plantation products;

(d) measures which can be undertaken within the countries concerned to promote price stabilisation;

(e) schemes for the development of the national economy designed to provide new avenues of employment;

(f) diversification of production including diversification on plantations where possible;

(g) the growing of subsidiary crops with different seasonal peaks from those of the main crop;

1 Adopted by 76 votes to 0, with 6 abstentions, on 28 October 1955.
(h) the growing of food crops for workers;
(i) public works activities such as building and road-making projects;
(j) construction programmes on plantations;
(k) establishment or improvement of employment services;
(l) development of vocational training facilities to assist workers to become qualified for new types of employment.

6. Statutory measures or collective agreements which guarantee either (a) a minimum wage, (b) a minimum number of hours of employment per day or pay in lieu thereof, or (c) a minimum number of normal working days per week or per month, or pay in lieu thereof, deserve careful consideration.

7. Measures to maintain the incomes of workers in cases of sickness, maternity and accidents at work contribute to the stabilisation of employment of plantation workers; in this connection attention is drawn to the resolution (No. 15) concerning maternity care and to the resolution (No. 16) concerning sick pay adopted by the Committee at its Second Session.¹

8. It is desirable that as long a period of notice as possible should be given before employment is terminated and that provision should be made for cases where the employment of permanent or long-term workers is terminated through no fault of their own. In order to make such provision it is recommended that consideration be given in the countries concerned either to the introduction of pension or provident fund schemes or to other measures appropriate in the circumstances.

9. The problem of promoting stability of employment and earnings for plantation workers has international aspects which fall outside the Committee's terms of reference, but on which it would be desirable that the competent authorities, including the International Labour Organisation, in so far as it may be appropriate, should take or continue suitable action.

Suggestions (No. 32) for the Governing Body concerning the Effect Given to Conclusions Adopted at the Previous Sessions of the Committee ²

1. The Working Party on the Effect Given to Conclusions Adopted at the Previous Sessions of the Committee examined the conclusions which had been adopted by the Committee and the information supplied by governments on the effect given to these conclusions.³

2. The Committee decided to invite the Governing Body of the International Labour Office—
(a) to express its thanks to those governments which had provided full information with regard to the resolutions listed in Group III of the appendix to the Working Party's report ⁴;
(b) to request the above-mentioned governments to provide, where necessary, information to supplement the information which has been provided, and to bring their information up to date, for submission to the Fourth Session;
(c) to request those governments which have not yet furnished full information on these resolutions, or which have furnished no information, to furnish full information for submission to the Committee at its Fourth Session;
(d) again to draw the attention of the governments concerned to paragraph (c) of the resolution (No. 23) ⁵ adopted by the Committee at its Second Session.

² Paragraphs 1 and 2 of these suggestions were adopted unanimously by 83 votes, and paragraph 3 by 82 votes to 0, with 1 abstention, on 28 October 1955.
⁴ See pp. 201-202 below.
and to request the governments to arrange for the information, referred to in paragraphs (b) and (c) above, be prepared in consultation and, if possible, in agreement with the employers' and workers' organisations concerned; such consultation to be carried out by methods acceptable to those organisations.

3. Finally, the Committee hopes that it will be possible for metropolitan governments to arrange for a similar procedure to be followed in respect of their non-metropolitan territories, where appropriate.

Memorandum (No. 33) concerning the Possibility of Plantation Labour Questions Being Considered by the International Labour Conference

1. Having considered the request of the Governing Body for its views with respect to a possible subject or subjects relative to plantation labour suitable for inclusion in the agenda of a future session of the International Labour Conference;

2. Recalling that the Committee has examined at its several sessions the subjects relating to plantation labour listed in the appendix hereto, and has requested the Governing Body to arrange for studies of further subjects with a view to discussion by the Committee at future sessions;

3. Considering that these subjects have already been dealt with in Conventions or Recommendations of general application adopted by the International Labour Conference;

4. Considering that with regard to problems concerning plantation labour the International Labour Conference might follow the method which it used when adopting the Labour Standards (Non-Metropolitan Territories) Convention, 1947, (No. 83) (without, of course, restricting the instrument to non-metropolitan territories);

5. The Committee invites the Governing Body to place on the agenda of an early session of the International Labour Conference an item concerning plantation labour with a view to codifying the provisions of the existing Conventions and Recommendations into a Convention directly applicable to plantations.

Resolution (No. 34) concerning Trade Unions on Plantations

The Committee on Work on Plantations of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and Having met at Geneva in its Third Session from 17 to 28 October 1955, Recalling the resolution (No. 25) concerning trade unions on plantations which was unanimously adopted by the Committee at its Second Session (Havana, 1953), and Considering that the International Labour Office has not so far carried out the study on the right of plantation workers to organise and to bargain collectively, Adopts this 28th day of October 1955 the following resolution:

1. The Governing Body of the International Labour Office is invited to instruct the Office to prepare, with the co-operation of governments, employers' and workers' organisations concerned, a survey of the freedom of association and the right to organise and bargain collectively of plantation workers, including a description of

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1 Adopted on a record vote by 50 votes to 24, with 14 abstentions, on 28 October 1955.
3 The appendix is not reproduced here. The subjects in question are those listed in Group III of the classification of the conclusions adopted at the previous sessions of the Committee (see p. 202 below).
5 Adopted by 80 votes to 0, with 1 abstention, on 28 October 1955.
the historical aspects, the economic and social background, the possible obstacles to the growth of trade unions, information on government policy and trade union programmes.

2. The Governing Body is further invited to instruct the Office to submit this survey for consideration at the Fourth Session of the Committee.

Resolution (No. 35) concerning the Composition of the Committee on Work on Plantations

The Committee on Work on Plantations of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and Having met at Geneva in its Third Session from 17 to 28 October 1955, Noting with satisfaction the decision of the Governing Body to invite non-metropolitan territories to be represented by independent tripartite observer delegations, Taking note of the fact that such tripartite observer delegations attended from only three non-metropolitan territories; and Noting further the valuable contribution made by the said observer delegations to the work of the Committee at its Third Session, Adopts this 28th day of October 1955 the following resolution: The Governing Body of the International Labour Office is invited—

(a) to continue the practice instituted at the present session of arranging for the attendance of observer delegations from non-metropolitan territories at sessions of the Committee, and

(b) to consider, having regard to the constitutional issues involved, whether the present provisions in force in respect of the rights and status of such delegations from non-metropolitan territories are best suited to forward the work of the Committee.

Resolution (No. 36) concerning the Desirability of Information in Regard to the Conditions of Plantation Workers in Africa

The Committee on Work on Plantations of the International Labour Organisation, Having been convened by the Governing Body of the International Labour Office, and Having met at Geneva in its Third Session from 17 to 28 October 1955, Considering that the development of a wage economy in African territories is proceeding with ever-increasing speed, and Considering that it is desirable that as full information as is possible be obtained on the condition of plantation workers in Africa, Adopts this 28th day of October 1955 the following resolution:

The Governing Body of the International Labour Office is invited again to call on governments of States Members which have not supplied information to do so, and is further invited to consider bearing in mind in planning the future work of the Organisation the special problems presented by the rate of economic and social development of Africa.

Proposals (No. 37) concerning the Agenda of the Fourth Session of the Committee on Work on Plantations

The Governing Body of the International Labour Office is invited to consider placing the following items on the agenda of the Fourth Session of the Committee on Work on Plantations:

1 Adopted unanimously by 82 votes on 28 October 1955.
2 Adopted by 60 votes to 0, with 21 abstentions, on 28 October 1955.
3 Adopted unanimously by 81 votes on 28 October 1955.
1. Promotion and development of the co-operative movement for plantation workers.

2. Methods of wage regulation on plantations including small-holdings
   (a) through collective bargaining, (b) by statutory wage-fixing machinery.

3. Extension of social security to plantation workers and their families.

Memorandum (No. 38) to the Governing Body of the International Labour Office
concerning Standing Orders for the Committee

The Committee on Work on Plantations of the International Labour Organisation,
Having been convened by the Governing Body of the International Labour
Office, and
Having met at Geneva in its Third Session from 17 to 28 October 1955,
Adopts this 28th day of October 1955 the following memorandum:

(a) to adopt in respect of future sessions of the Committee the Standing Orders
    for Industrial Committees;

(b) to make applicable to the Committee the Document for the Guidance of
    Industrial Committees.

Report of the Subcommittee on Living and Working Conditions
and Productivity on Plantations

1. The Subcommittee on Living and Working Conditions and Productivity on
   Plantations was set up by the Committee on Work on Plantations at its third plenary
   sitting on 18 October 1955, and was composed of 30 members, ten from each group.

2. The Subcommittee appointed its Officers as follows:
   Chairman: Mr. S. AZIZULHUQ (Government member, Pakistan).
   Vice-Chairmen: Mr. R. NOLEN (Employers’ member, Indonesian).
     Mr. V. J. DEFALE (Workers’ member, Belgian).
   Reporter: Mr. J. H. GALBRAITH (Government member, United Kingdom).

3. The Subcommittee held seven sittings.

General Discussion

4. The Subcommittee commenced its work with a general discussion based on
   the report prepared by the Office on living and working conditions and productivity
   on plantations.

5. Speakers from the Employers’ side criticised certain points in the report.
   They pointed out that the question of the relationship between living and working
   conditions and productivity, a study of which had been requested in the relevant
   resolution, had not been satisfactorily developed. The report referred throughout
   to the “plantation system” without any specific definition of the meaning of this
   term. It dealt only with large estates, contrary to the definition of “plantation”
   adopted at the Second Session of the Committee (1953), and with four crops only
   (e.g. tea, coffee, sugar cane and rubber). It referred also to the growing appreciation
   of the constructive role which trade unions can play but had not given sufficient
   attention to the problems raised by trade unions associated with political figures
   and parties which were unwilling to co-operate with employers. The report was
   moreover incomplete in that it did not do justice to the employers’ efforts in
   improving conditions of workers.

1 Adopted unanimously by 82 votes on 28 October 1955.
2 Adopted by 80 votes to 0, with 1 abstention, on 28 October 1955.
3 Report II, op. cit.
6. Although it was felt, on the Workers' side, that the report did not cover certain aspects of the subjects, e.g. conditions in Africa, it has nevertheless brought out clearly the salient features of the problems involved in living and working conditions and productivity. They felt that in Chapter VII, “Possible Measures for Improving Living and Working Conditions and Productivity on Plantations”, the report raised extremely important points which, if followed, could contribute to the formulation of concrete proposals on the subjects under consideration.

7. In general, the main points which received attention in the course of the general discussion were the following.

Significance of Productivity.

8. All the three sides agreed that a rise in the level of productivity was desirable. In the view of speakers from the Workers' side means such as improvement of agricultural operations, selection of plants, improvement of soil, organisation of work on scientific lines, mechanisation, etc., should be utilised in order to render both capital and labour more productive. Attention was, however, drawn to the danger in certain areas of increasing unemployment as a result of mechanisation, and to the need to ensure the employment of the workers so affected. In their view also, the raising of productivity should lead to improvements in the living and working conditions of labour, and to an increase in other benefits, otherwise workers would be apprehensive. The general tendency among workers was to link productivity to unemployment and to consider it essential that steps should be taken to ensure that the workers receive their just share from an increase in productivity in the form of wages and social services and amenities. On the other hand, low wages and inadequate conditions lead inevitably to inefficiency and stagnation or even deterioration of the industry.

Living and Working Conditions.

9. Speakers from the Workers' side pointed out that if the plantation industry is to develop in a healthy manner there must be a continuous improvement in living and working conditions. Reference was made to the inadequate housing conditions on estates, to the insufficient social and medical services, and to the lack of educational and training facilities in a number of countries and territories. It was pointed out by Workers' members that although the question of productivity was receiving considerable attention in advanced countries, it had however to be considered in the case of underdeveloped countries, where most plantations exist, from a different standpoint. The existing great differences in productivity were related to differences in living conditions. Undernutrition and malnutrition and endemic diseases, for example, were among the causes of the low level of productivity. Thus the fundamental problems were related to health and nutrition, housing, transport facilities, social security, education and adequate wages. Another aspect of the problem of improving productivity was that of human relations, in which trade unions could play a constructive role.

10. On the Employers' side it was pointed out that many of the points mentioned were adequately dealt with either on employers' initiative or in accordance with social and labour legislation enacted by the State.

11. A number of speakers from the Government side informed the Subcommittee of the various measures taken to regulate living and working conditions on plantations in their own countries. The United Kingdom Government member considered that there were three main aspects of living and working conditions of plantation workers that seemed to have a direct bearing upon their productivity: diet, health and housing.

Scientific Research.

12. The significance of the application of science to the processes of production and its bearing on the productivity of the industry as a whole was recognised by speakers from the three groups. The extent of the work already done in the field of research was pointed out by some Government members, and examples were
quoted to illustrate the large number of research centres in existence. Reference was made to the considerable expenditure by governments and by industry for research purposes in a number of territories, e.g. in the West Indies and Africa. The difficulty that small producers encounter and the need for government help in this respect was also mentioned. In this connection it was pointed out that in East Africa research stations had been set up whose facilities were freely extended to small producers. It was also pointed out that a large number of estates carry on research in experimental stations of their own. All these efforts, it was recognised, were responsible for the considerable changes in methods, for the rise in volume of output and for the expansion of cultivation.

Trade Unions.

13. Some speakers from the Employers' side criticised the present attitude of trade unions on plantations. Although the establishment of responsible unions was generally welcomed, they felt obliged to point out that in many cases unions had been used for political purposes. A statement from the speech of the Secretary-General of the Fifth Conference of American States Members of the International Labour Organisation (Petropolis, 1952) was read in support of this view.

14. The Workers' members pointed out that a strong and well organised trade union movement was fundamental to the future progress both of the plantation manpower and the industry as a whole. If trade unions were used for political purposes, it was often because workers' demands were not adequately met. The Workers' members emphasised the importance that should be given to ensuring that the workers' representatives on works committees and similar bodies should be elected from among candidates nominated by the trade unions. It was suggested by the United Kingdom Workers' member that the policy of his Government in helping the development of trade unions in non-self-governing territories should be followed by other metropolitan powers.

Submission of Draft Proposals

15. The Employers' members submitted a draft memorandum concerning the relationship between the living and working conditions and productivity on plantations to serve as a basis for discussion and in order to enable the Committee to adopt certain conclusions on the subject. The form of a memorandum was thought appropriate for the subject. In presenting this draft, the Employers' members pointed out that the seven points mentioned in Chapter VII of Report II were related to each other and should be considered together. Two points however had not been included in the draft memorandum, namely stabilisation of prices and alternative employment opportunities, as they were considered to be outside the problem of the relationship between living and working conditions and productivity.1

16. The Workers' members also submitted a draft resolution concerning measures for improving living and working conditions and productivity on plantations. It was pointed out by the Workers' members that some of the points treated in this draft resolution were in agreement with passages in the draft memorandum submitted by the Employers' members. But that draft was in their view too brief, and they felt that it was necessary to be as precise as possible.

17. After an exchange of views, the Subcommittee decided to set up a Working Party, presided over by the Chairman, composed of four members from each group.

Discussion in the Working Party

18. The Working Party considered the two draft proposals submitted by the Employers' and Workers' members and, after discussion, unanimously recommended draft conclusions on living and working conditions and productivity in plantations.

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1 See paragraph 23 below.
19. The Subcommittee considered the draft conclusions submitted by the Working Party and approved them unanimously paragraph by paragraph, after minor drafting amendments. The Subcommittee then unanimously approved the draft conclusions as a whole.

20. The Workers' members on the Subcommittee expressed their regret that it had not been found possible to agree to the inclusion in the conclusions of the Working Party of their draft proposals regarding stabilisation of prices of plantation commodities, since in their view price stabilisation was of fundamental importance for improving living and working conditions and productivity on plantations. They requested that these proposals should be contained in the report of the Subcommittee. These proposals were as follows:

Without prejudice to the principle of the guaranteed minimum wage, which must be maintained even during crises, it is highly desirable that more effective measures should be taken to stabilise prices, in order to counteract the retarding influence of the fall of prices of plantation products on those engaged in plantation production and to lessen the suffering caused to the labour force, particularly during crises, and in order to satisfy the urgent need for stability as a basis for introducing the necessary improvements in methods and techniques of plantation production.

On the international level measures for stabilising prices should include the conclusion of commodity agreements and the promotion of effective methods for enlisting the co-operation of all the principal producing and consuming countries in their operation.

International commodity agreements should include fair labour standard clauses providing the bases for the protection of labour's interests, particularly in matters of employment and earnings. Workers' organisations should participate in both the formulation and operation of commodity agreements.

On the national level measures should be taken to establish compensatory funds to be financed by governments and the industry concerned, in order to prevent loss of earnings and to compensate workers in periods of falling prices and during crises.

21. The Costa Rican Government member expressed his regret that neither the Working Party nor the Subcommittee had discussed the workers' proposals relating to the stabilisation of prices of plantation products. He considered that this question was closely linked with that of living and working conditions and productivity, and consequently that the Subcommittee was competent to adopt conclusions on the subject.

22. The United Kingdom Government member explained that he had opposed the inclusion of reference to measures to combat fluctuations in prices since he considered that this was outside the scope of the subject before the Subcommittee, namely living and working conditions and productivity on plantations. Moreover, with respect to the second and third paragraphs of the proposals made by the Workers' members, the Governing Body, at its 123rd Session (Geneva, November 1953), had decided that the international aspect of stabilisation of prices should be excluded from the scope of the other item on the agenda of the present session, "Possible Measures within the Countries and Industries Concerned for Stabilising Employment and Earnings of Plantation Workers". He submitted that this decision of the Governing Body referred a fortiori to the consideration of international aspects of stabilisation of prices by the Subcommittee on living and working conditions and productivity.

23. The Employers' members were in agreement with the United Kingdom Government member. While recognising the importance of the question of stabilisation of prices, they could not accept that it was relevant to a consideration of the relationship between living and working conditions and productivity on plantations. Moreover, this matter had already been considered by the Committee at its Second
Session in 1953 at which the resolution (No. 29) concerning the need for international action in the field of commodity regulation had been adopted. This resolution combined with the resolution concerning the economies of underdeveloped countries adopted by the International Labour Conference in 1953 had fully dealt with the subject so far as the I.L.O. was concerned.

Adoption of Report and Draft Conclusions

24. At its seventh sitting, on 28 October 1955, the Subcommittee unanimously adopted the report and the draft conclusions.

(Signed) S. Azizul Huq, Chairman.
(Signed) J. H. Galbraith, Reporter.

Report of the Subcommittee on Possible Measures within the Countries and Industries Concerned for Stabilising Employment and Earnings of Plantation Workers

1. The Subcommittee on Possible Measures within the Countries and Industries Concerned for Stabilising Employment and Earnings of Plantation Workers was set up by the Committee on Work on Plantations at its third plenary sitting on 18 October 1955, and was composed of 30 members, ten from each group.

2. The Subcommittee appointed its Officers as follows:
Chairman: Mr. M. Lotfy (Government member, Egypt).
Vice-Chairmen: Mr. R. G. D. Houghton (Employers' member, United Kingdom).
Mr. B. K. Nair (Workers' member, Indian).
Reporter: Mr. J. Van der Ploeg (Government member, Netherlands).

3. During the course of its proceedings the Subcommittee also appointed a working party consisting of the Chairman and the Reporter and three members from each group.

4. The Subcommittee held six sittings.

Terms of Reference

5. The Subcommittee was asked to consider the third item on the agenda of the Committee: "Possible measures within the countries and industries concerned for stabilising employment and earnings of plantation workers." The Subcommittee had before it a report prepared by the Office.

General Discussion

6. It was stated on behalf of the Employers' group that the Office report contained certain inaccuracies, and the view was expressed that it would have been much more useful if it had included information relating to a wider variety of plantation crops. It was suggested that the Office be asked to prepare a table showing price fluctuations according to crops, and to indicate to what extent price fluctuations have affected the volume of employment. This information should be given at the various price levels which have obtained, and the table should cover

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3 For the text of the conclusions (No. 30) as adopted by the Committee see p. 185 above.
4 Adopted unanimously by 75 votes on 28 October 1955.
all the crops referred to in the definition of the term "plantation" adopted by the Committee at its previous session for the purpose of determining the scope of its work.

7. A suggestion was later made on behalf of the Workers' group to the effect that the Office might be asked to revise the report presented to the Subcommittee, this revision to include surveys of the prices of and markets for as many plantation crops as possible and an attempt to relate fluctuations in employment to fluctuations in prices. It was also suggested that, without prejudice to this proposal, a special and comprehensive survey should be made of the market for sugar in relation to employment on sugar plantations.

8. The Employers' group felt that the Office report exaggerated the extent of instability of employment and earnings of plantation workers. It was difficult to attempt to prescribe remedies without having much more information regarding the nature and extent of instability. On many plantations in many countries stable year-round employment was provided. In other cases workers sought employment on plantations only for short periods, and desired to return to their own holdings. Instability of employment and earnings, where it did occur, was by no means confined to plantations—it affected many other branches of economic activity as well.

9. The Workers' group felt that the Office report presented a substantially accurate picture and did not exaggerate the instability of employment and earnings on plantations. Plantation workers were deserving of help and sympathy. Many of them were uprooted from a totally different environment, and they needed protection and help in adjusting themselves to work on plantations. Plantations were often situated in remote areas where there was no alternative employment, and many workers were consequently entirely dependent on the employment and wages provided by plantations. For these workers and their families, loss of plantation employment was a disaster. Wages were as a rule on a bare subsistence level, often they did not cover the needs of workers' dependants, and they did not enable workers to make any provision for their old age. A special responsibility for the welfare of plantation workers rested with employers, because of the special circumstances and conditions of work on plantations. Governments also had responsibilities for the welfare of plantation workers, especially in those countries and territories where the trade union movement was still in an early stage of development.

10. In reply to these points, members of the Employers' group stated that employers desired stability of employment and earnings on plantations, and would continue to do all in their power to promote it. They were very much concerned to promote the welfare of workers. Conditions of employment on plantations were frequently more favourable than any conditions previously experienced by workers. Wages were frequently much above the subsistence level, and enabled substantial remittances to be sent home by workers. Special attention was devoted to health services for plantation workers.

11. On behalf of the Workers' group, the assurance that employers were concerned for the welfare of plantation workers and accepted responsibilities in this connection was welcomed. It was felt that this provided a basis for agreement regarding measures that might be taken to counteract instability of employment and earnings. Measures which employers had insisted were impossible in the past, such as the guaranteed wage scheme applied on Indian tea plantations, had been found to be possible when trade unions had become strong enough to demand them. Wherever, as was often the case, there was a large margin between the price of a product and the labour costs incurred in producing it, it should be possible to improve the conditions of workers considerably without making plantations unprofitable.

12. Certain Government members stated that their governments were aware of the grave social problems existing on certain plantations, and that many of the suggestions regarding possible measures that might be taken by governments for stabilising employment and earnings of plantation workers put forward in the Office
report were already part of their general economic policies. Among such measures already adopted by the Government of the United Kingdom, mention was made of steps taken with a view to diversifying production in the territories concerned. The French Labour Code covering the French overseas territories included regulations concerning lay-off notice and dismissal wages. Measures were also taken to promote the growing of food for workers and the development of local food-processing industries in the French overseas territories. The Chinese Government member attached special importance to the stabilisation of prices of plantation crops as a means of stabilising the employment and earnings of plantations workers. Though he recognised that the international aspects of this problem were outside the terms of reference of the Subcommittee, he felt that the Subcommittee should express the desire that appropriate international action should be taken by the competent authorities. The Workers' group agreed with this.

13. In the course of the general discussion, attention was devoted to the eight points suggested on pages 73-74 of the Office report as general conclusions emerging from the report. It was pointed out that these were very general in character, and that it was difficult to know how far they applied to other plantation crops besides those on which the report concentrated attention. Employers' members suggested that to point 1 ("the primary source of much instability is the seasonality of production of plantation crops, which in varying degrees results in seasonal fluctuations in the demand for and employment of labour and in the aggregate earnings of workers") a statement should be added to the effect that many workers sought only seasonal employment on plantations, and wished to return to their own holdings at the end of the season. The Employers' members expressed the view, moreover, that in some territories the encouragement of seasonal plantation workers to take full-time employment to the detriment of food production on their own holdings might have serious repercussions on the economy of the country.

14. It was decided to take the list of points suggested on pages 74-76 of the Office report as a basis for further discussion. In the course of discussion of these points, it was stated on behalf of the Employers' group that many of the measures suggested would encounter great difficulties in some countries, and that it was extremely difficult to suggest universal remedies. On behalf of the Workers' group, it was argued that the fact that difficulties were inevitable was the justification for convening international meetings to discuss such problems, and that difficulties provided no excuse for failure to explore all possibilities for action.

15. After a brief discussion it was decided to request the Working Party to prepare draft conclusions for consideration by the Subcommittee.

Discussion in the Working Party

16. The Working Party had before it two texts, one submitted by the Chairman and the other by the Workers' group. Most of the points in these two documents, with agreed amendments, and some additional points, were later brought together in one document submitted by the Working Party to the Subcommittee.

17. There was a lengthy discussion on paragraph 5 of the document submitted by the Workers' members, to which they attached great importance. The Employers' members of the Working Party considered that several of the matters raised in this paragraph were social security measures which fell outside the Subcommittee's terms of reference. It was pointed out that in a draft resolution submitted to the Steering Committee, the Workers' group had proposed that the Governing Body should be requested to place the question of social security on plantations on the agenda of the Committee at its next session. It was felt by Employers' members of the Working Party that this suggestion deserved careful and sympathetic consideration, and that its acceptance would enable these matters to be fully discussed at the Committee's next session. The Workers' members maintained that the term "stabilisation of earnings" should be interpreted broadly to mean measures to counteract all contingencies making for instability of earnings. For example, if a worker could not take a holiday without loss of earnings, the absence of provisions
for paid holidays was a source of instability of earnings. No agreement could be reached in the Working Party on these points and the Workers' members indicated their intention of proposing in the Subcommittee the adoption of two paragraphs additional to those submitted by the Working Party, in order to cover these points. These proposals by the Workers' group were then considered.1

18. There was some discussion on the question whether the list of points in paragraph 5 of the Working Party document should be presented under two headings, distinguishing between measures recommended to plantations and measures recommended to governments. It was felt that this distinction was difficult to maintain and that a single list of points would be preferable.

19. Paragraph 9 of the Working Party document, relating to dismissal gratuities, gave rise to lengthy discussion. Workers' members attached great importance to this subject. Employers' members drew attention to the danger that a worker might get himself dismissed in order to become entitled to a gratuity, and felt that while the payment of dismissal wages might be beneficial in certain circumstances, more often such arrangements would tend to make for greater and not less instability of employment.

Consideration by the Subcommittee of the Draft Conclusions Proposed by the Working Party

20. When the conclusions proposed by the Working Party were presented to the Subcommittee, the Chairman stated that agreement had been reached in the Working Party on all paragraphs in the Working Party document except paragraph 9. Paragraphs 1 to 8 and 10 were accepted by the Subcommittee with some minor amendments, and the Working Party was asked to meet again and make another attempt to reach agreement on paragraph 9.

Further Discussion in the Working Party

21. In was eventually agreed to discard paragraph 9 in the form proposed by the Working Party and to expand paragraph 8 to read as in the draft resolution. The French Employers' member stated, however, that the use of the word “pension” in paragraph 8 seemed to him improper; he considered that the notion of a pension was related to old age, and that it would have been better to have used the word “indemnity”.

22. The Workers' members stated that in the interests of unanimity they were willing to withdraw the additional proposals submitted by them.2 These proposals were withdrawn not because the Workers' group did not attach great importance to them, but in recognition of the conciliatory spirit displayed by the Employers' members in agreeing to the expanded version of paragraph 8 in the draft resolution, and in the hope that the Committee would have an opportunity of discussing the whole subject of social security at its next session.

23. The Employers' members stated that they would prefer that the conclusions of the Subcommittee should take the form of a memorandum; the Workers' members preferred a resolution. The Employers' members agreed that the conclusions should be embodied in a resolution if they were adopted unanimously by the Subcommittee, but not otherwise.

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1 The proposals were as follows:

1. Measures providing for paid holidays for plantation workers contribute to the stability of their earnings, since in the absence of such measures a worker who takes a holiday suffers a loss of income. Consideration should be given to making such provision wherever possible, especially for workers having long-term contracts.

2. Measures contributing to the long-term stability and security of plantation workers' earnings, such as the payment of gratuities on retirement and the establishment of provident funds and pension schemes, are of great importance and should be applied wherever possible.

2 See paragraph 17 above.
Adoption of Report and Draft Resolution

24. At its sixth sitting, on 24 October 1955, the Subcommittee unanimously adopted the present report and the proposed resolution concerning possible measures within the countries and industries concerned for stabilising employment and earnings of plantation workers.1

(Signed) M. LOTFY,
Chairman.

(Signed) J. VAN DER PLOEG,
Reporter.

Report of the Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee2

1. The Working Party on the Effect Given to the Conclusions of the Previous Sessions of the Committee was set up by the Committee on Work on Plantations at its third plenary sitting on 18 October 1955 and was composed of nine members, three from each group.

2. The Working Party unanimously appointed its Officers as follows:

Chairman and Reporter: Mr. R. H. OAKELEY (Government member, United Kingdom).

Vice-Chairmen: Mr. C. M. ELENBAAS (Employers' member, Netherlands).

Mr. R. LECOQ (Workers' member, Belgian).

3. The Working Party held five sittings.

Terms of Reference

4. The terms of reference of the Working Party were—

(a) to examine the information given in the report concerning the effect given to the conclusions of previous sessions, i.e. Report I, Item 1 (a) and (b), Effect Given to the Conclusions of the Previous Sessions3;

(b) to classify the conclusions adopted at previous sessions with the object of facilitating examination of the effect which had been given to them;

(c) to indicate the subjects on which sufficient information had been provided and those on which the Committee would wish to receive further information at its next session.

5. The Working Party had before it the report mentioned in paragraph 4 prepared by the International Labour Office as well as the texts of the conclusions adopted at previous sessions of the Committee.4

General Discussion

6. The Working Party had before it also a document prepared by the Office containing a draft classification of the conclusions adopted at previous sessions of the Committee.

7. The Working Party adopted this document as a basis for its discussions and proceeded to classify the conclusions in the light of the following main criterion: Did the particular conclusion call for information from governments and should, therefore, the governments which had not hitherto supplied adequate information be invited to do so?

1 For the text of the resolution (No. 31) as adopted by the Committee, see p. 187 above.
2 Adopted by 73 votes to 0, with 4 abstentions, on 28 October 1955.
3 General Report, Report I, Item 1 (a) and (b), op. cit.
4 For the conclusions of the First Session (Nos. 1 to 11) see Official Bulletin, Vol. XXXIII, 1950, No. 4, pp. 168-182; for the conclusions of the Second Session (Nos. 12 to 29) ibid., Vol. XXXVI, 1953, No. 2.
I. CONCLUSIONS WHICH MAY BE LEFT OUT OF ACCOUNT IN ACCORDANCE WITH THE ABOVE-MENTIONED CONSIDERATIONS

8. The Working Party noted the information given by the Secretary-General with regard to resolutions Nos. 11, 17, 25, 26 and 27, which did not call for action by governments. The Working Party expressed the hope that the Office would keep under active consideration the studies asked for in these resolutions and that it would submit to the Governing Body proposals made in these resolutions concerning items for the agenda of future sessions of the Committee.

9. Regarding resolution No. 17 concerning the loss of efficiency and productivity caused by ill-health among plantation workers, the Working Party considered that in view of the nature of the subject of the resolution it would be advisable for the Office to obtain first-hand information from the countries and territories concerned.

10. With regard to resolution No. 27 (resolution concerning the place of plantations in the general economy of the countries concerned) the Workers' members of the Working Party expressed the hope that information regarding this subject be made available to the Committee at its next session.

11. The Working Party considered that the second paragraph of resolution No. 2 concerning the regulation of employment on plantations should be included in Group I as this paragraph suggested a study to be undertaken by the Office, a proposal which had been dealt with in paragraph 2 of the recommendations contained in text No. 24 adopted by the Committee at its Second Session. The Working Party was of the opinion that the remainder of resolution No. 2 should be placed in Group III referred to below.

II. CONCLUSIONS WHICH MAY BE LEFT OUT OF ACCOUNT BECAUSE THEY DO NOT CALL FOR FUTURE ACTION

12. The Working Party considered that there was no need for governments to supply information on resolutions Nos. 4, 8, 19, 20, 22, 23, 28 and 29 and text No. 24. Resolutions Nos. 19 and 28 formed the subject matter of reports submitted to the present session, resolutions Nos. 4, 8 and 20 had been superseded by other resolutions of the Committee, and resolutions Nos. 22, 23 and 29 and text No. 24 would be classed under this heading on account of their subject matter.

13. Equally, it was agreed that there was no need for governments to supply information regarding paragraph 10 of resolution No. 5 and paragraph 4 of resolution No. 6, as the matters covered had been dealt with in paragraphs 3 and 4 of the Committee's recommendation in text No. 24. The Working Party was of the opinion that all the paragraphs of resolutions Nos. 5 and 6 other than those referred to above should be placed in Group III referred to below.

III. CONCLUSIONS NOT CLASSIFIED UNDER GROUP I OR GROUP II

14. The Working Party considered resolutions Nos. 1, 2 (except paragraph 2), 3, 5 (except paragraph 10), 6 (except paragraph 4), 7, 9, 10, 12, 13, 14, 15, 16, 18 and 21. It was agreed to suggest that governments which had already furnished full information with regard to these resolutions be invited to supply any further information that might be available on recent developments and that governments which had not replied, including new members, and those which had furnished only summary information, be invited to give full information for submission to the Committee at its next session. The Working Party's suggestions on this matter were appended to its report.

15. The draft of the above-mentioned suggestions contained the following subparagraph:

(e) in cases where agreement with the employers' and workers' associations cannot thus be obtained, to request the governments to obtain the views of such employers' and workers' organisations as exist and as are concerned, and to forward a brief record of those views with their replies;
The Workers' group expressed the hope that the Working Party would agree to the inclusion of this subparagraph. The Employers' group stated that they were unable to agree. The Government members reserved their position. After discussion the Working Party agreed that the subparagraph in question be referred to a plenary sitting of the Committee on Work on Plantations for decision.

16. The draft of the suggestions referred to in paragraph 14 above contained the following subparagraph:

\[(f)\] to invite the attention of governments to the Governing Body's decisions concerning the effect to be given to the conclusions of Industrial Committees (June/July 1949 and May 1954), and, further, with reference to subparagraph (a) of paragraph 2 of the decision of June/July 1949, to suggest to governments that, when their competent authority proceeds to examine the resolutions of this Committee, it would be desirable for them to consult such appropriate tripartite bodies as may exist.

The Employers' group were willing to accept the first part of the subparagraph, i.e.

\[(f)\] to invite the attention of governments to the Governing Body's decisions concerning the effect to be given to the conclusions of Industrial Committees (June/July 1949 and May 1954),

but were not able to agree to the remainder. The Government members reserved their position with regard to the second part of the subparagraph. The Workers' group pressed for the inclusion of the subparagraph as a whole. It was found impossible to reach agreement on this matter and the Working Party decided that the subparagraph should be referred to a plenary sitting of the Committee on Work on Plantations for decision.

17. The classification of the conclusions adopted at the previous sessions of the Committee will be found in the appendix to this report.

18. This report and the appendices\(^1\) attached thereto were adopted unanimously by the Working Party on 27 October 1955.

(Signed) R. H. Oakeley,  
Chairman and Reporter.

APPENDIX

Classification of the Conclusions Adopted at the Previous Sessions of the Committee\(^2\)

**GROUP I**: Conclusions which do not call for information from governments, because they contain only a request for action by the Office.

No. 2. Resolution concerning the regulation of employment on plantations (paragraph 2).

No. 11. Resolution concerning employment conditions of plantation staff.

No. 17. Resolution concerning loss of efficiency and productivity caused by ill-health among plantation workers.

No. 25. Resolution concerning trade unions on plantations.

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1 The second appendix, containing the suggestions of the Working Party, is not reproduced here. For the text of the suggestions (No. 32) as adopted by the Committee see p. 188 above.

2 Adopted unanimously by 78 votes on 28 October 1955.
No. 26. Resolution concerning the agenda of a future session of the Committee on Work on Plantations.

No. 27. Resolution concerning the place of plantations in the general economy of the countries concerned.

GROUP II: Conclusions which do not call for further action.¹

No. 4. Resolution concerning the regulation of wages of plantation workers.

No. 5. Resolution concerning workers' housing on plantations (paragraph 10).

No. 6. Resolution concerning the supply of food, clothing and other necessities and the nutritional standards of plantation workers (paragraph 4).

No. 8. Resolution concerning health and social security of plantation workers.

No. 19. Resolution concerning methods of stabilising employment and earnings of plantation workers.

No. 20. Resolution concerning additional payments.

No. 22. Resolution concerning the scope of the work of the Committee on Work on Plantations.

No. 23. Resolution concerning action taken by the governments to give effect to the conclusions of the First Session of the Committee.

No. 24. Recommendations concerning studies and inquiries to be undertaken by the International Labour Office.

No. 28. Resolution concerning living and working conditions and productivity on plantations.

No. 29. Resolution concerning the need for international action in the field of commodity regulation.

GROUP III: Conclusions concerning subjects on which the Committee wishes to receive further information at its next session.

No. 1. Resolution concerning recruitment and engagement of labour for plantations.

No. 2. Resolution concerning the regulation of employment on plantations (except paragraph 2).

No. 3. Resolution concerning hours of work, the weekly rest and holidays for plantation workers.

No. 5. Resolution concerning workers' housing on plantations (except paragraph 10).

No. 6. Resolution concerning the supply of food, clothing and other necessities and the nutritional standards of plantation workers (except paragraph 4).

No. 7. Resolution concerning the education and training of plantation workers.

No. 9. Resolution concerning industrial relations on plantations.

No. 10. Resolution concerning labour inspection on plantations.

No. 12. Resolution concerning the establishment of medical care services.

No. 13. Resolution concerning medical examination and care of recruits.

No. 14. Resolution concerning sanitation and water supply on plantations.

No. 15. Resolution concerning maternity care.

No. 16. Resolution concerning sick pay.

No. 18. Resolution concerning job classification.

No. 21. Resolution concerning the regulation of wages on plantations.

¹ For reasons stated in paragraphs 12 and 13 of the Working Party's report.
Report of the Working Party to Examine the Possibility of Plantation Labour Questions Being Considered by the International Labour Conference

Composition and Officers of the Working Party

1. The Working Party to Examine the Possibility of Plantation Labour Questions Being Considered by the International Labour Conference was set up by the Committee on Work on Plantations at its third plenary sitting on 18 October 1955 and was composed of 12 members, four from each group.

2. The Working Party unanimously appointed its Officers as follows:
   Chairman and Reporter: Mr. U SEIN (Government member, Burma).
   Vice-Chairmen: Col. J. A. T. PERERA (Employers' member, Ceylonese).
                 Mr. I. GONZÁLEZ TELLECHEA (Workers' Member, Cuban).

3. The Working Party held four sittings.

4. The Working Party was asked to consider the request made by the Governing Body that the Committee on Work on Plantations should give its views to the Governing Body with respect to the subjects relating to conditions of plantation workers that would be most suitable for consideration by the Conference.

5. The Working Party had before it—
   (a) the general report prepared by the International Labour Office, Part III of which was devoted to this matter;
   (b) a working paper prepared by the Office at the request of the Committee on Work on Plantations containing a list of the relevant resolutions adopted at the First (1950) and Second (1953) Sessions of the Committee on Work on Plantations, and indicating the international labour Conventions and Recommendations which contained provisions on subjects that had been dealt with in these resolutions;
   (c) a draft resolution concerning the adoption by the International Labour Conference of a Convention on plantation labour submitted by the Indian Government member; and
   (d) a communication received from the Costa Rican Government delegate proposing that the subject of housing conditions and minimum health standards on plantations be recommended to the Governing Body as an item on the agenda of a future session of the International Labour Conference for the purpose of the adoption of international labour standards on these matters.

General Discussion

6. A general exchange of views took place, on whether it was desirable to recommend that an item on plantation labour be placed on the agenda of a future International Labour Conference and if so, whether it should relate to one or more specific subjects of the kind proposed in the communication from the Costa Rican Government delegate or whether there should be a general instrument dealing with a number of subjects in the way suggested in the draft resolution proposed by the Indian Government member. Consideration was also given to the possibility of establishing criteria to be applied when deciding upon the choice of subjects.

7. In the course of the discussion views were expressed on the extent to which the subjects referred to in the communication from the Costa Rican Government delegate were already covered by existing international instruments and the extent to which such subjects might lend themselves to separate treatment for plantation workers only. At the third sitting, the United Kingdom Government member said

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1 Adopted unanimously by 80 votes on 28 October 1955.
2 General Report, Report I, Item 1 (c), op. cit.
that the view taken by members at this and previous sittings had been that the work of the Committee had not disclosed a specific subject in respect of plantation labour which would lend itself to separate treatment in an international instrument. The Employers' members drew attention to the fact that the subject of medical care, for instance, was dealt with in a comprehensive text (the Medical Care Recommendation, 1944 (No. 69)\(^1\)) adopted by the International Labour Conference. This Recommendation applied to all members of the community and appeared on a rapid examination to deal with all aspects of medical care. The Employers' members felt, therefore, that it was unnecessary for this subject to be discussed again by the International Labour Conference in relation to plantation workers only. The suggestion was made that a handbook might be issued showing the rights and obligations of plantation workers, plantation employers and governments under existing Conventions and Recommendations.

8. At this point in the discussion two further documents were placed before the Committee:
   (a) a proposed text for a draft memorandum, submitted by the Employers' members of the Working Party;
   (b) proposed amendments to the above submitted by the Workers' members.

9. With regard to their amendments, the Workers' members expressed the view that the task of the Working Party was not to enter into details of a possible international instrument but merely to indicate to the Governing Body the best method that would permit the International Labour Conference to discuss an item concerning plantation labour. The resolutions adopted hitherto by the Committee dealt with a number of subjects which were covered by provisions scattered over many existing general Conventions and Recommendations but it was not clear which provisions applied to plantation workers. When difficulties had arisen in the past, for example, in regard to the application of general labour standards to non-metropolitan territories, the Conference had adopted the Labour Standards (Non-Metropolitan Territories) Convention, 1947, which clarified this.\(^2\) The Workers' members, therefore, considered that a similar procedure could be adopted for plantation labour, without, of course, restricting the instrument to non-metropolitan territories. They felt, moreover, that there was no reason to delay action by the Governing Body or the Conference until further studies had been made.

10. The United Kingdom Government member opposed the proposed amendment as there appeared to be a considerable difference of views among the members as to the way in which the undoubted problems of plantations in respect of labour should be dealt with. Certain members considered that these problems should be dealt with—where action was called for—by measures which would apply generally to all workers and that attention should be drawn to existing Conventions and Recommendations, while others held the view that employment on plantations should now be regulated by one specific instrument, restating, where necessary, provisions already included in existing Conventions and Recommendations. The United Kingdom Government member said that he had been requested by the Belgian Government representative to draw the Working Party's attention to the views expressed by the Belgian Government delegate in plenary sitting, which were similar to the views of the United Kingdom Government. The United Kingdom Government member considered that the broad definition of the scope of the Committee's work placed difficulties in the way of framing an international instrument sufficiently precise in its application.

11. The Employers' members felt, with regard to the amendment proposed, that it was unnecessary to burden the Conference with an examination of the kind required, particularly as many matters affecting plantation labour were covered by existing Conventions and Recommendations. Plantations must, in their view,

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\(^2\) Ibid., Vol. XXX, 1947, No. 1, pp. 28-47.
be regarded in the light of the Committee's own definition and an international instrument to cover plantation workers alone would be justified only if their conditions differed substantially from those of other workers. This was not the case and therefore the action proposed would constitute a highly undesirable precedent. No useful purpose would be served by codifying existing provisions. Where legitimate doubts existed as to the application of a particular instrument to plantation workers, some international authority or a body such as the Committee on the Application of Conventions and Recommendations of the International Labour Conference might be consulted. Action by the International Labour Conference should, in their opinion, be taken only in cases where a question peculiar to plantation labour was susceptible of consideration in respect of, and application to, plantation workers generally and then only after the subject had been fully discussed by the Committee. Employers' members stressed that no consideration could usefully be given to or opinion expressed on the question posed by the Governing Body until there had been an examination of the extent to which existing Conventions and Recommendations of general application applied to plantation workers especially as regards matters which had already been discussed by this Committee.

12. The amendment proposed by the Workers' members was voted upon and carried by 6 votes to 5, with no abstentions.

13. The Indian Government member pointed out that in pursuance of the initiative taken by the Government representative of India in the Governing Body, he had proposed the draft resolution, but in view of the opposition to that resolution he suggested that the memorandum submitted by the Costa Rican Government delegate might be taken as a basis for discussion, as housing and health formed excellent subjects for international regulations with special reference to plantation labour. He expressed regret that even this reasonable proposal did not find unanimous support in the Working Party. It was only after all chances of a compromise had been explored without success that the Indian Government member voted for the amendment submitted by the Workers' members. In his view this was the minimum acceptable to the Government of India.

14. The substantive motion, i.e. the first three paragraphs of the draft submitted by the Employers' members, with the addition of the two paragraphs proposed by the Workers' members, was then voted upon and carried by 6 votes to 5, with no abstentions.

15. The draft resolution proposed by the Indian Government member was then withdrawn.

16. At the meeting of the Working Party at which the draft report was being considered, the Chinese Government member stated that he had been unable to be present at the preceding sitting but supported the proposed memorandum.

17. The report of the Working Party, together with the appendix\(^1\), were adopted unanimously on 28 October 1955.

(Signed) U SEIN, 
Chairman and Reporter.

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\(^1\) The appendix is not reproduced here. For the text of the memorandum (No. 33) as adopted by the Committee see p. 189 above.
COMMUNICATION TO GOVERNMENTS OF THE CONCLUSIONS AND REPORTS
ADOPTED BY THE COMMITTEE

On 9 April 1956 the following communication was sent to the governments of States Members of the Organisation:


Sir,

I have the honour to inform you that the Governing Body of the International Labour Office, at its 131st Session (Geneva, March 1956), considered the reports, resolutions, memoranda, conclusions, suggestions and proposals adopted by the Committee on Work on Plantations at its Third Session (Geneva, 17-28 October 1955). The Governing Body authorised me to transmit these texts to governments informing them that it did not express any view on the contents thereof and inviting them to communicate the texts to the employers' and workers' organisations concerned.

The Note on the Proceedings of the Third Session of the Committee on Work on Plantations, which contains the reports of the Subcommittees and Working Parties together with the texts of the resolutions, memoranda, conclusions, suggestions and proposals adopted by the Committee on Work on Plantations, is forwarded herewith to enable you to arrange for these conclusions to be examined.

In this connection, it may be recalled that at its First Session the Committee on Work on Plantations suggested that the procedure for dealing with the conclusions of this Committee should be the same as that followed in respect of the conclusions of the Industrial Committees of the I.L.O., and that this recommendation was endorsed by the Governing Body. The procedure in question is based on suggestions made by the Governing Body at its 109th Session (Geneva, June-July 1949) with a view to securing effective consideration for the conclusions of these Committees.

In regard to the conclusions of the Third Session of the Committee on Work on Plantations, the Governing Body took the following decisions:

1. The Governing Body authorised me to draw the attention of governments to the conclusions (No. 30) concerning living and working conditions and productivity on plantations and to the resolution (No. 31) concerning possible measures within the countries and industries concerned for stabilising employment and earnings of plantation workers.2

2. With respect to the suggestions (No. 32) concerning the effect given to the conclusions adopted at the previous sessions of the Committee,3 the Governing Body authorised me to thank governments which had provided full information and to request them to bring it up to date, where necessary, when communicating information to the Office for the Fourth Session of the Committee, and also to request governments which had not furnished full information or any information at all to furnish such information for the Fourth Session of the Committee. The Governing Body further authorised me to draw the attention of governments to paragraph (c) of resolution No. 23 which asks governments to arrange for information regarding action taken or proposed on matters dealt with in the Committee's resolutions to be prepared in consultation and, if possible, in agreement with the employers' and workers' organisations concerned, such consultation to be carried out by methods acceptable to those organisations. The conclusions concerning subjects on which the Committee wishes to receive information at its Fourth Session are as follows:

Resolution (No. 1) concerning recruitment and engagement of labour for plantations;

Resolution (No. 2) concerning the regulation of employment on plantations (except paragraph 2);

Resolution (No. 3) concerning hours of work, the weekly rest and holidays for plantation workers;

Resolution (No. 5) concerning workers' housing on plantations (except paragraph 10);

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1 See pp. 185-187 above.
2 See p. 187 above.
3 See pp. 188-189 above.
Resolution (No. 6) concerning the supply of food, clothing and other necessities and the nutritional standards of plantation workers (except paragraph 4);
Resolution (No. 7) concerning the education and training of plantation workers;
Resolution (No. 9) concerning industrial relations on plantations;
Resolution (No. 10) concerning labour inspection on plantations;
Resolution (No. 12) concerning the establishment of medical care services;
Resolution (No. 13) concerning medical examination and care of recruits;
Resolution (No. 14) concerning sanitation and water supply on plantations;
Resolution (No. 15) concerning maternity care;
Resolution (No. 16) concerning sick pay;
Resolution (No. 18) concerning job classification; and
Resolution (No. 21) concerning the regulation of wages on plantations.

3. The Governing Body decided to consider at a later session the resolution (No. 34) concerning trade unions on plantations¹, the resolution (No. 35) concerning the composition of the Committee on Work on Plantations² and the resolution (No. 36) concerning the desirability of information in regard to the conditions of plantation workers in Africa.²

4. The Governing Body decided to adopt the Standing Orders for Industrial Committees in respect of future sessions of the Committee on Work on Plantations and also to make applicable to it the Document for the Guidance of Industrial Committees as suggested by the Committee in Memorandum No. 38.³

5. Finally, the Governing Body decided to consider at a later session the proposals (No. 37) concerning the agenda of the Fourth Session of the Committee on Work on Plantations.⁴

I shall communicate with governments in due course with a view to requesting them to furnish information on the action taken, or proposed to be taken, on the conclusions of the Committee.

I have the honour to be, etc.,

For the Director-General:
(Signed) C. W. JENKS,
Assistant Director-General.

¹ See pp. 189-190 above.
² See p. 190 above.
³ See p. 191 above.
⁴ See pp. 190-191 above.
Composition of the Industrial Committees, the Advisory Committee on Salaried Employees and Professional Workers, and the Committee on Work on Plantations

COUNTRIES REPRESENTED ON 1 NOVEMBER 1955

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Note on Publication

As material published in the Official Bulletin varies from year to year according to the activities of the I.L.O., this periodical appears at irregular intervals and the number of issues is not constant. To meet certain practical needs (e.g. for the texts adopted by the annual Conference) individual issues may be published out of turn before all the earlier issues have been completed.
Honduras and the International Labour Organisation

Honduras was readmitted as a Member of the International Labour Organisation on 1 January 1955. The communications exchanged in this connection are reproduced below.

Letter from the Minister of External Relations of Honduras to the Director-General of the International Labour Office

(Translation)

Tegucigalpa, D.C., 22 September 1954.

Sir,

I have the honour to inform you on behalf of the Government of the Republic of Honduras that the Republic of Honduras hereby formally accepts the obligations of the Constitution of the International Labour Organisation, as at present in force, including the provisions of the Constitution of the International Labour Organisation Instruments of Amendment, 1946 and 1953, and solemnly undertakes fully and faithfully to perform each and every one of the provisions thereof.

The Government of the Republic of Honduras, in communicating the above through me to the Director-General, wishes to make it clear, and accordingly requests the International Labour Office, that the above-mentioned acceptance be considered as taking effect as from 1 January 1955 and not as at the date of receipt of this acceptance. This declaration and this request are based on strictly financial considerations which the International Labour Organisation will, it is hoped, take into full consideration.

I have the honour to be, etc.,

(Signed) J. E. VALENZUELA,
Minister for External Relations.

Letter from the Director-General of the International Labour Office to the Minister for External Relations of Honduras

(Translation) New York, 7 October 1954.

Sir,

I have the honour to acknowledge the receipt of your letter of 22 September 1954 which was forwarded to me in New York and in which you informed me that the Republic of Honduras formally accepted the obligations of the Constitution of the International Labour Organisation as at present in force, including the provisions of the Constitution of the

---

1 Honduras was a Member of the I.L.O. from the inception of the Organisation. When Honduras left the League of Nations no special communication was sent to the I.L.O. In these circumstances, and since the notice of withdrawal from the League of Nations took effect on 10 July 1938, this country has not since that date been listed among the States Members of the International Labour Organisation.
International Labour Organisation Instruments of Amendment, 1946 and 1953, and solemnly undertook fully and faithfully to perform each and every one of the provisions thereof. In your above-mentioned communication you requested, moreover, that, for strictly financial reasons, the said acceptance be considered as taking effect as from 1 January 1955 only and not at the date of receipt of this acceptance.

I am exceedingly pleased at this news since, as you well know, the International Labour Organisation strives for universality as a way of bringing about social justice in the world. Moreover, the States Members of the I.L.O., both in general and in regional conferences, have repeatedly expressed their desire, by means of resolutions to this effect, that your country, as well as Nicaragua and Paraguay—the only countries of America which are not Members of the Organisation—join the Organisation.

It is with the greatest pleasure that I will communicate to the other States Members of the Organisation the fact that the Republic of Honduras, which was a Member of the I.L.O. from its early days, is now re-entering the Organisation. I do not doubt, in view of the interest which your Government has shown on various occasions by sending observers to meetings of the Organisation, that the co-operation between the I.L.O. and this country will be even more fruitful. It goes without saying that I will do everything in my power to ensure that the bonds between the two may become ever closer and relations ever more cordial.

In my own name, as well as in the name of the International Labour Office, it gives me pleasure to welcome the Republic of Honduras into the I.L.O. very sincerely.

I have the honour to be, etc.,

(Signed) David A. Morse,
Director-General.

As indicated in the letters reproduced above the readmission of Honduras into the Organisation took effect on 1 January 1955.

The States Members of the International Labour Organisation were notified of the readmission of Honduras into the International Labour Organisation by letter dated 28 October 1954.
128th Session of the Governing Body of the International Labour Office

The 128th Session of the Governing Body was held in Geneva from Tuesday, 1 to Friday, 4 March 1955, under the chairmanship of Mr. R. Ago.

The agenda of the session was as follows:

1. Approval of the minutes of the 127th Session.
6. Proposals for dealing with problems of some of the industries for which the establishment of Industrial Committees has been requested.
7. Proposal submitted by the Workers' group for the establishment of a Tripartite Committee of the Governing Body to examine article 3, paragraph 5, of the Constitution of the International Labour Organisation.
8. Reports of the Financial and Administrative Committee.
15. Proposals for the convocation of the Fifth Session of the Permanent Agricultural Committee.
17. Proposed American Regional Technical Meeting on Co-operation.
19. Agenda of the Fourth Session of the Committee of Experts on Social Policy in Non-Metropolitan Territories.
20. Composition of committees.
22. Programme of meetings.
23. Appointment of Governing Body representatives on various bodies.
24. Date and place of the 129th Session of the Governing Body.
The Governing Body was composed as follows:

Chairman: Mr. R. Ago.

Government group:
- Argentina: Mr. M. R. Pico.
- Australia: Mr. R. L. Harry.
- Burma: Mr. Maung Maung.
- Canada: Mr. A. H. Brown.
- China: Mr. Tuan Mao-lan.
- Colombia: Mr. L. González Barros.
- Egypt: Mr. H. M. Asfahan.
- France: Mr. P. Ramadier.
- Federal Republic of Germany: Mr. M. Sauerborn.
- India: Mr. V. Sahay.
- Italy: Mr. R. Purpura.
- Japan: Mr. K. Tatsuke.
- Netherlands: Mr. A. A. van Rhijn.
- Norway: Mr. K. J. Øksnes.
- Turkey: Mr. A. N. Azak.
- Union of Soviet Socialist Republics: Mr. A. A. Arutjunian.
- United Kingdom: Sir Guildhaume Myrddin-Evans.
- United States: Mr. J. E. Wilkins.
- Uruguay: Mr. J. Sanguineti.
- Venezuela¹: Mr. V. Montoya.

Employers' group:
- Mr. L. Alcalá Sucre (Venezuelan).
- Mr. G. Bergenström (Swedish).
- Mr. P. Campanella (Italian).
- Mr. W. Gemmill (Union of South Africa).
- Mr. M. G. Ghayour (Iranian).
- Mr. W. L. McGrath (United States).
- Mr. J. M. Montero Zorrilla (Uruguayan) (substitute for Mr. J. B. Pons).
- Sir Richard Snedden (United Kingdom).
- Mr. N. H. Tata (Indian).
- Mr. P. Waline (French).

Workers' group:
- Mr. Aftab Ali (Pakistani).
- Mr. R. Bothereau (French).
- Mr. A. Cofiño García (Cuban).
- Mr. G. P. Delaney (United States).
- Mr. A. E. Monk (Australian).
- Mr. E. Nielsen (Danish).
- Mr. S. de A. Pequeno (Brazilian).
- Mr. W. Richter (German, Federal Republic).
- Sir Alfred Roberts (United Kingdom).
- Mr. K. P. Tripathi (Indian).

¹ Appointed by the Government of Cuba to act as its deputy at the 128th Session, in accordance with article 3, paragraph 3 (a), of the Standing Orders.
The following regular members were absent:

**Government group:**
- *Argentina:* Mr. H. D. J. Ferro.
- *Cuba:* Mr. G. de Blanck.
- *India:* Mr. S. T. Merani.

**Employers' group:**
- Mr. G. A. Allana (Pakistani).
- Mr. J. B. Pons (Uruguayan).

The following deputy members, or substitute deputy members, were present:

**Government group:**
- *Chile:* Mr. H. Díaz Casanueva.
- *Indonesia:* Mr. I. Soepomo.
- *Liberia:* Mr. K. S. Tamba.
- *Mexico:* Mr. E. Calderón Puig.
- *Portugal:* Mr. M. A. Fernandes.
- *Sweden:* Mr. L. Hulström (substitute for Mr. P. Eckerberg).
- *Switzerland:* Mr. M. Kaufmann.
- *Syria:* Mr. F. El Lahham.

**Employers' group:**
- Mr. E. G. Erdmann (German, Federal Republic) (substitute for Mr. C. H. Winkler).
- Mr. F. Yllanes Ramos (Mexican).
- Mr. A. G. Fennema (Netherlands).
- Mr. A. Mishiro (Japanese).
- Mr. C. Kuntschen (Swiss).
- Mr. F. A. P. Muro de Nadal (Argentine).
- Mr. J. O'Brien (Irish).
- Mr. S. Moriel (Israeli).

**Workers' group:**
- Mr. J. d'Alessio Gordiola (Uruguayan).
- Mr. N. de Bock (Belgian).
- Mr. A. Kachicho (Syrian).
- Mr. S. H. Khalaf (Egyptian).
- Mr. Liang Yung-chang (Chinese).
- Mr. J. Möri (Swiss).
- Mr. G. Pastore (Italian).
- Mr. A. Sánchez Madariaga (Mexican).
- Mr. A. Vermeulen (Netherlands).

The following representatives of States Members of the Organisation were present as observers:

- *Brazil:* Mr. F. B. Franco Netto.
- *Costa Rica:* Mr. A. P. Donnadieu.

The following representatives of international governmental organisations were present:

- *United Nations:* Mr. A. Pelt, Mr. P. Amor, Mr. E. Chossudovsky, Mr. M. Milhaud.
Food and Agriculture Organisation: Mr. P. Sinard.
World Health Organisation: Dr. A. L. Bravo, Dr. T. S. Sze.
Interim Commission for the International Trade Organisation: Mr. J. Royer, Mr. W. E. Roth.
Council of Europe: Mr. F. Tennbjerg.
Intergovernmental Committee for European Migration: Mr. E. K. Rahardt, Miss S. Baverstock.

The following representatives of international non-governmental organisations were present as observers:

International Confederation of Free Trade Unions: Mr. H. Patteet.
International Co-operative Alliance: Mr. M. Boson.
International Federation of Christian Trade Unions: Mr. A. Vanistendael, Mr. G. Eggermann.
International Organisation of Employers: Mr. G. Emery, Mr. R. Lagasse, Mr. J. Vanek, Mr. W. Dudley-Martin.
World Federation of Trade Unions: Mr. M. Bras, Mr. T. Drinkwater.

Declaration of Loyalty by Mr. Abbas Ammar

The Governing Body took note of the declaration of loyalty of Mr. Abbas Ammar, Assistant Director-General, who was present for the first time in that capacity at a session of the Governing Body.

Record of the First European Regional Conference
(Geneva, 24 January-5 February 1955)

For this item on the agenda see Official Bulletin, Vol. XXXVIII, 1955, No. 2, pp. 77-92. The decisions taken by the Governing Body at its 128th Session with regard to the conclusions of the Conference will be found on p. 92.

Record of the Eighth International Conference of Labour Statisticians
(Geneva, 23 November-3 December 1954)

For this item see Official Bulletin, Vol. XXXVII, No. 7, 31 Dec. 1954, pp. 318-334. The decisions taken by the Governing Body at its 128th Session with regard to the conclusions of this Conference will be found on p. 334.

Report of the Committee of Experts on Conditions of Work in the Fishing Industry
(Geneva, 25 October-4 November 1954)

The Governing Body endorsed without discussion the conclusions of this meeting. It consequently referred the questions of the minimum age of entry of fishermen, the medical examination of fishermen on entry and periodically thereafter, and the articles of agreement of fishermen, on which the Committee of Experts had adopted draft international instruments, to the 18th Session of the Joint Maritime Commission with a view to the consideration of the inclusion of these items in the agenda of the next Maritime Session of the International Labour Conference.
The Director-General would communicate the report of the Committee of Experts to the governments of States Members, together with a questionnaire requesting their views on the provisions of the three draft international instruments adopted by the Committee, and of the general principles which, in the Committee's view, should be included in an international instrument on accident insurance for fishermen. The governments would also be asked whether they would favour the adoption of international instruments on these four subjects by an early session of the International Labour Conference in the form of Conventions or Recommendations. In addition, it was decided that the Office would continue the study of certain other aspects of the conditions of employment of fishermen, and that the Director-General would submit suggestions for future action to a later session of the Governing Body.

REPORT OF THE PANEL OF THE CORRESPONDENCE COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

(Geneva, 29 November-10 December 1954)

The Governing Body took note of this report and of the various measures proposed by the Director-General to give effect to the recommendations of the Panel.

PROPOSALS FOR DEALING WITH PROBLEMS OF SOME OF THE INDUSTRIES FOR WHICH THE ESTABLISHMENT OF INDUSTRIAL COMMITTEES HAS BEEN REQUESTED

The Governing Body noted that the Director-General would submit a document on this subject to the 129th Session of the Governing Body.

PROPOSAL SUBMITTED BY THE WORKERS' GROUP FOR THE ESTABLISHMENT OF A TRIPARTITE COMMITTEE OF THE GOVERNING BODY TO EXAMINE ARTICLE 3, PARAGRAPH 5, OF THE CONSTITUTION OF THE INTERNATIONAL LABOUR ORGANISATION

At its 127th Session (Rome, November 1954) the Governing Body had before it a proposal by the Workers' group to establish a tripartite committee to examine article 3, paragraph 5, of the Constitution, which relates to the appointment of Employers' and Workers' representatives. The Employers' group had supported this proposal but consideration of the question was deferred at the wish of the Government group. During the 128th Session, at the request of the same group, consultations were pursued on this subject between representatives of the three groups. As a result of these consultations the following text was submitted to the Governing Body by the Government group:

The Governing Body,
I. Having noted—
(i) that at the 127th Session of the Governing Body in November 1954 the Workers' group tabled for consideration the draft of a resolution proposing that "the Governing Body establish a tripartite committee, whose terms of reference shall be to examine article 3, paragraph 5, of the Constitution, which provides for the appointment of Workers' and Employers' representatives, and to make proposals for such amendments as would ensure that Workers' and Employers' representatives could only be appointed after nomination by organisations of workers and employers which are free and independent of their governments";

(ii) that the Employers' group at the same session expressed support for this draft resolution;

(iii) that strong opposition to the draft resolution was, after consideration, expressed in the Government group,

II. Having considered the above facts, and

III. Taking cognisance of discussions which, as a consequence of these divergent views, have taken place between representatives of the Government, Employers' and Workers' groups respectively,

adopts at its 128th Session in March 1955 the following resolution:

The Governing Body—

(a) Considering that the maintenance of the tripartite system of representation, which is a unique feature of the I.L.O., is essential to the effective functioning of the Organisation;

(b) Considering that problems of the application of this principle arise owing to the fact that the relationships between governments on the one hand and employers' and workers' organisations on the other hand vary from country to country;

Decides—

(1) to request the Director-General to arrange for the preparation of a report covering the membership of the I.L.O. regarding the extent of the freedom of employers' and workers' organisations from government domination or control; the report to be prepared by a committee of independent persons specially appointed for the purpose by the Director-General, after consultation with the Officers of the Governing Body; and it being understood that every effort will be made to submit the report to the Governing Body by the end of October 1955;

(2) to consider immediately, in the light of the results of the report whether any and, if so, what steps might be taken as a matter of urgency to deal with the situation disclosed therein.

This proposal was adopted by 36 votes to 0, with 3 abstentions.

REPORTS OF THE FINANCIAL AND ADMINISTRATIVE COMMITTEE

The Governing Body endorsed the conclusions of its Financial and Administrative Committee and approved an expenditure budget of 7,395,729 dollars for the financial year 1956. This budget, which shows an increase of about 650,000 dollars over that for 1955, should enable the Organisation to devote closer attention to problems concerning industrial relations, freedom of association and the suppression of forced labour, to undertake supplementary operational activities, particularly in the fields of workers' education and advisory services, and, finally, to strengthen certain services in the Office in order to provide the additional facilities required as a result of the increase in the number of Members of the Organisation.

The decision concerning the budget estimates was taken by 38 votes to one, with one abstention.

The Governing Body also approved a number of transfers within the 1954 budget, as well as various minor amendments to the Staff Regulations of the International Labour Office.

REPORT OF THE ALLOCATIONS COMMITTEE

The Governing Body noted the proposals of the Canadian Government concerning scales of contribution for the period 1957 to 1959; it also took certain decisions concerning the contribution of Albania.

REPORT OF THE COMMITTEE ON FREEDOM OF ASSOCIATION

The Governing Body had before it the 15th Report of the Committee on Freedom of Association which was adopted unanimously, subject to the opposition of the U.S.S.R. Government representative.

The Governing Body deferred to its 129th Session consideration of a suggestion submitted in this report relating to the insertion of a special question in the forms of reports for ratified Conventions, the effect of this question being to help in the drawing of more precise conclusions regarding the impact of Conference decisions upon national legislation.

The Governing Body approved the forms of annual reports on the following Conventions: Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67); and Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85).

The Governing Body also decided to make certain modifications in its own Standing Orders as a consequence of the coming into force on 20 May 1954 of the Instrument of Amendment of the Constitution of the International Labour Organisation, 1953, which raised the number of members of the Governing Body from 32 to 40.

Finally, the Governing Body amended article 22 of its Standing Orders to read as follows:

A Financial and Administrative Committee shall be appointed consisting of the Chairman of the Governing Body, who shall be Chairman of the Committee, and such other members as the Governing Body shall appoint, with the representatives of the Governments, Employers and Workers having an equal number of votes.

REPORT OF THE INTERNATIONAL ORGANISATIONS COMMITTEE

Slavery, the Slave Trade and Other Forms of Servitude

The Governing Body endorsed the conclusions of its International Organisations Committee and accordingly welcomed the adoption by the United Nations of a supplementary Convention on Slavery, the Slave Trade and Other Forms of Servitude; it also authorised the Director-General to communicate to the United Nations comments on a draft submitted by the Government of the United Kingdom.

The Governing Body also took note of information submitted in the report on various subjects relating in particular to collaboration between the I.L.O. and the Commission for Technical Co-operation in Africa South of the Sahara, and to the participation of the I.L.O. in the projected international conference on the peaceful uses of atomic energy.

REPORT OF THE COMMITTEE ON INDUSTRIAL COMMITTEES

The Governing Body took the following decisions on the basis of the recommendations submitted by its Committee on Industrial Committees:

Fifth Session of the Iron and Steel Committee
Fifth Session of the Metal Trades Committee

The Director-General would communicate to governments the reports, conclusions, suggestions, resolutions and proposals adopted by the Fifth Session of the

Iron and Steel Committee and the Fifth Session of the Metal Trades Committee informing them that the Governing Body did not express any view on the content thereof and inviting them to transmit these documents to the employers’ and workers’ organisations concerned. Many of the documents would also be communicated to the Secretary-General of the United Nations.

Inland Transport Committee

At its 127th Session (Rome, November 1954), the Governing Body had requested the Director-General to ascertain from the governments of European States Members of the International Labour Organisation whether they would be willing to participate in negotiations for the preparation of an international instrument concerning the social security of workers engaged in international transport. Having considered the preliminary conclusions of this inquiry the Governing Body requested the Director-General—

(a) to undertake the preparation of such studies and texts of a draft instrument as might serve as a basis for international negotiations between the Members interested;

(b) to arrange to hold, towards the end of 1955, a preparatory meeting for the purpose of considering the text of a draft instrument; governments of the Members interested would be invited to send social security experts at their own expense; in addition, four representatives of employers’ or operators’ organisations and four representatives of workers’ organisations, nominated by the Employers’ group and the Workers’ group of the Governing Body respectively, would be invited at the expense of the Office.

Advisory Committee on Salaried Employees and Professional Workers

The agenda of the Fourth Session of the Advisory Committee on Salaried Employees and Professional Workers was fixed as follows:

I. General Report, dealing particularly with—
   (a) action taken in the various countries in the light of the conclusions adopted at previous sessions of the Committee;
   (b) steps taken by the Office to follow up the studies and inquiries proposed by the Committee;
   (c) recent events and developments affecting salaried employees and professional workers.

II. Non-manual workers and collective bargaining.

III. Working conditions of technical and supervisory staff in industry, excluding management.

In addition, the Director-General was requested to submit to the next session of the Committee on Industrial Committees a document concerning the structure of the Advisory Committee and the ways and means best calculated to increase its efficiency.

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2 Ibid., No. 6, 20 Dec. 1954, pp. 189-208.
Composition of the Committee on Work on Plantations

Pakistan had requested that it should continue to be a member of the Committee on Work on Plantations. This application was not before the 127th Session of the Governing Body when the membership of the Committee on Work on Plantations was reviewed. However, as the Governing Body had laid down 20 as the maximum number of members of this Committee, and as the present number of members was 17, it was decided that Pakistan would continue to be a member of the Committee on Work on Plantations.

Report of the Technical Assistance Committee

The Governing Body endorsed the recommendations of its Technical Assistance Committee and accordingly agreed on the methods by which the evaluation of the technical assistance programme should be carried out.

Proposals for the Convocation of the Fifth Session of the Permanent Agricultural Committee

The Governing Body accepted with gratitude the French Government's invitation to hold the Fifth Session of the Permanent Agricultural Committee in Paris and decided that it should be held from 1 to 10 September 1955. The agenda of the meeting was fixed as follows:

I. Placement problems and employment services in agriculture.
II. Working and living conditions of sharecroppers, tenant farmers and similar categories of semi-independent or self-employed agricultural workers.
III. Advice on future practical work of the I.L.O. in the field of agriculture.

Proposed Working Group of Experts on Family Living Studies

The Governing Body authorised the convening in 1955 of a Working Group of Experts on Family Living Studies and fixed the terms of reference of the meeting as follows:

I. To advise on the objectives of family living studies.
II. To suggest the scope of such studies in terms of geographic range, income groups, etc.
III. To recommend in broad outline the methodology to be employed.
IV. To recommend the special procedures to be employed in making family living studies in less well-developed countries.
V. To propose the basic features to be covered in the development of a basic plan for making family living studies.

The decision on the composition of the meeting was deferred to the 129th Session of the Governing Body.

Proposed American Regional Technical Meeting on Co-operation

The Governing Body adopted the Director-General's proposals on this subject, and thus approved the convening in an American country, at the end of 1955,
of an American Regional Technical Meeting on Co-operation, which would last for ten days and would be composed of representatives appointed by the governments of the American States Members of the International Labour Organisation. It also authorised the Director-General to invite Nicaragua and Paraguay, which are not Members of the International Labour Organisation, to be represented at the meeting by observers, and to invite the International Co-operative Alliance and the International Federation of Agricultural Producers, as the non-governmental organisations having a particular interest in co-operation, to be represented at the meeting by observers.

The agenda of the meeting was fixed as follows:

I. Study of co-operative problems and methods, and of programmes for the development of co-operation in American countries.

II. Comparative study of co-operative legislation in America.

III. Co-operative education and training.

The Director-General would submit to a later session of the Governing Body proposals concerning the date and place of the meeting.

PROPOSED ASIAN TECHNICAL CONFERENCE ON INDUSTRIAL TECHNICAL EDUCATION AND APPRENTICESHIP

The Governing Body accepted with gratitude the invitation of the Government of Burma to hold this meeting in Rangoon. In order to clarify the scope of the meeting it was decided that its title should be changed to: "Asian Technical Conference on Vocational Training for Industry".

The Conference would be held from 28 November to 10 December 1955 and would include those member States of the Organisation which participate in the Asian Regional Conference.

The agenda of the meeting would be as follows:

I. Exchange of views on the present state of development of vocational training for industry in Asian countries.

II. Problems of organisation and administration of vocational training for industry in the light of the needs of industry and national industrial development plans.

III. Organisation and administration of apprenticeship and other in-plant training as an integral part of the arrangements for training for industry.

IV. Recruitment and training of teachers and instructors for vocational training for industry.

V. Training of supervisors for industry.

AGENDA OF THE FOURTH SESSION OF THE COMMITTEE OF EXPERTS ON SOCIAL POLICY IN NON-METROPOLITAN TERRITORIES

The Governing Body fixed the agenda of the Fourth Session of the Committee as follows:

I. Industrial relations in non-metropolitan territories.

II. Wage systems and policies in non-metropolitan territories.
III. Initial measures of social security in non-metropolitan territories:

(a) workmen's compensation;
(b) other measures.

It was decided that the meeting should last two weeks and should be held at the end of 1955. Proposals concerning the exact date and place of the meeting would be submitted later.

COMPOSITION OF COMMITTEES

No proposals were laid before the Governing Body under this item.

REPORT OF THE DIRECTOR-GENERAL

Obituary

The Governing Body requested the Director-General to convey to the Cuban Government its sincere condolences on the death of Mr. Luis Valdés-Roig, former substitute representative of the Cuban Government on the Governing Body.

The Governing Body paid tribute to the memory of the late Thacher Winslow, Director of the Washington Branch Office, and requested the Director-General to convey its deep sympathy to the wife and family of Mr. Thacher Winslow.

Composition of the Governing Body

The Governing Body noted that the Government of Norway had appointed as its regular representative, for the period 1954-57, Mr. K. J. Öksnes, Permanent Secretary, Ministry of Social Affairs, and as its substitute representative Mr. H. Heldal, Principal, Ministry of Social Affairs.

Application of the German Democratic Republic for Membership of the International Labour Organisation

The Governing Body took note of the correspondence between the Minister of Foreign Affairs of the German Democratic Republic and the Director-General concerning the decision taken by the Government of the German Democratic Republic to apply for membership of the International Labour Organisation.

Communication from the Miners' International Federation

The Governing Body took note of a resolution of the Miners' International Federation calling upon the Governing Body to intercede with the governments of colonial and semi-colonial countries with a view to their implementing the conclusions and carrying out the programme of the International Labour Organisation, and requesting it to approach the authorities of the underdeveloped areas in order that these make all efforts in conjunction with the International Labour Organisation to raise the standards of workers in their countries.

Revision of the Agreement concerning the Social Security of Rhine Boatmen

The Governing Body decided that it would be desirable to request the Administrative Centre for the Social Security of Rhine Boatmen—
(a) to prepare, with the participation of a tripartite delegation of Luxembourg and in consultation with the International Labour Office and the Central Commission for Rhine Navigation, a draft of a revised text which would take into account the points mentioned in the resolution adopted in May 1953 by the representatives of the competent authorities of the Contracting Parties to the Agreement, other points raised by the Administrative Centre for the Social Security of Rhine Boatmen, and such other questions as might arise; and

(b) to communicate the draft of the revised Agreement to the Director-General so that he might obtain the views of the governments concerned thereon.

The Director-General would at the appropriate time call a conference of the governments concerned to consider the adoption of a revised Agreement concerning the Social Security of Rhine Boatmen, which would then be open for signature. The Director-General was authorised to invite the Central Commission for Rhine Navigation to be represented at the conference.

Possible Establishment of an I.L.O. Committee on Forced Labour

The Governing Body unanimously decided to defer consideration of the above question to its 129th Session, and requested the Director-General to submit a new paper which would take into account the views expressed by the three groups.

Request from the Spanish Government to Send a Tripartite Delegation of Observers to the 38th Session of the International Labour Conference

By 23 votes to 17, with no abstentions, the Governing Body adopted the proposal made by Mr. González Barros, Colombian Government representative, that the Spanish Government should be invited to send a delegation of observers to attend the 38th Session of the International Labour Conference.

Participation of the Saar Territory in I.L.O. Meetings

At the request of the Government of the Saar, transmitted by the French Government representative on the Governing Body, the Governing Body as in previous years authorised the Director-General to invite a tripartite delegation representing the Saar Territory to take part as observers in all meetings of the Organisation of interest to the Saar Territory.

Participation of Non-Metropolitan Territories as Observers at the 38th Session of the International Labour Conference

In accordance with decisions taken at its 124th Session¹ the Governing Body agreed that the following territories, in addition to Nigeria, should be invited to send tripartite observer delegations to the 38th Session of the International Labour Conference: Gold Coast, Sierra Leone, Singapore, Barbados and Jamaica.

PROGRAMME OF MEETINGS FOR 1955

The Governing Body approved or confirmed the meetings listed below for the year 1955:

Petroleum Committee (Fifth Session) ........................................... Caracas, 25 April-7 May.
Opening of the 38th Session of the International Labour Conference .. Geneva, 1 June.
Permanent Agricultural Committee (Fifth Session) ........................ Paris, 1-10 September.
Working Group of Experts on Family Living Studies ..................... Geneva, early September ¹ (ten days).
Panel of the Correspondence Committee on Occupational Safety and Health ................................. Geneva, September ¹ (ten days).
Textiles Committee (Fifth Session) ........................................... Geneva, 26 September-8 October.
Committee on Work on Plantations (Third Session) ........................ Geneva, 17-29 October.
Joint Maritime Commission (18th Session) .................................. — Last quarter ² (one week).
Meeting of Experts on Prevention and Suppression of Dust in Mining, Tunnelling and Quarrying .................................................... Geneva, 21-26 November.
American Regional Technical Meeting on Co-operation .................. — End of year (ten days). ²
Committee of Experts on Social Policy in Non-Metropolitan Territories (Fourth Session) ................................. — December (two weeks). ²

APPOINTMENT OF GOVERNING BODY REPRESENTATIVES ON VARIOUS BODIES

The Governing Body made the following appointments:

Textiles Committee (Fifth Session, Geneva, 26 September-8 October 1955)
Chairman and representative of the Government group: Mr. Hauck (France).
Representative of the Employers' group: Mr. Bergenström.
Substitute: Mr. Kuntschen.

¹ Exact date to be decided later.
² Place and exact date to be decided later.
Representative of the Workers' group: Sir Alfred Roberts.
Substitute: Mr. Pequeno.

Committee on Work on Plantations (Third Session, Geneva, 17-29 October 1955)

Chairman and representative of the Government group: Mr. Ferro (Argentina).
Representative of the Employers' group: Mr. Fennema.
Substitute: Mr. O'Brien.
Representative of the Workers' group: Mr. Aftab Ali.
Substitute: Mr. Cofiño.

Permanent Agricultural Committee (Fifth Session, Paris, 1-10 September 1955)

Representative of the Government group: Mr. Purpura (Italy).
Representative of the Employers' group: Mr. Ghayour.
Substitute: Mr. Waline.
Representative of the Workers' group: Mr. De Bock.
Substitute: Mr. Bothereau.

Petroleum Committee (Fifth Session, Caracas, 25 April-7 May 1955)

Representative of the Employers' group: Substitute: Mr. Yllanes Ramos.

Permanent Inter-American Committee on Social Security
(Sixth Session, Caracas, 14-26 March 1955)
and Inter-American Conference on Social Security
(Fifth Session, Caracas, 16-26 March 1955)

Representative of the Employers' group: Mr. J. Pons (instead of Mr. Yllanes Ramos, previously appointed).
Substitute: Mr. Alcalá Sucre.

It was agreed that the proposals of the Workers' group should be communicated to the Director-General later.

DATE AND PLACE OF THE 129TH SESSION OF THE GOVERNING BODY

It was decided that the 129th Session of the Governing Body should be held in Geneva on 27 and 28 May 1955. The committees of the Governing Body would meet from 23 to 25 May; group meetings would be held on 26 May.
The 129th Session of the Governing Body of the International Labour Office was held in Geneva on Friday and Saturday, 27 and 28 May, and on Friday, 24 June 1955, under the chairmanship of Mr. R. Ago.

The agenda of the session was as follows:

1. Approval of the minutes of the 128th Session.
2. Report on discrimination in the field of employment and occupation.
4. Proposals for action to deal with the problems of some of the industries for which the establishment of Industrial Committees has been requested.
7. Effect to be given to the resolutions and other conclusions adopted by the European Regional Conference.
8. Possible establishment of an I.L.O. Committee on Forced Labour.
9. Establishment of a special list of non-governmental organisations.
15. Composition of committees and of various meetings.
17. Programme of meetings.
18. Appointment of Governing Body representatives on various bodies.
20. Date and place of the 130th Session of the Governing Body.
21. Supplementary Item: Reports of the Representatives of the Governing Body at the Fifth Session of the Petroleum Committee (Caracas, April-May 1955).

At the sittings held on 27 and 28 May the Governing Body was composed as follows:

Chairman: Mr. R. Ago (Italy).

Government group:
- Argentina: Mr. H. D. J. Ferro.
- Australia: Mr. R. L. Harry.
- Burma: Mr. Maung Maung.
Canada: Mr. H. ALLARD.
China: Mr. LEE Yen-ping.
Colombia: Mr. L. GONZÁLEZ BARROS.
Cuba: Mr. J. E. CAMEJO ARGUDÍN.
Egypt: Mr. H. M. ASFAHANY.
France: Mr. P. RAMADIER.
Federal Republic of Germany: Mr. M. SAUERBORN.
India: Mr. S. T. MERANI.
Italy: Mr. R. PURPURA.
Japan: Mr. K. TATSUKE.
Netherlands: Mr. A. A. VAN RHIJN.
Norway: Mr. K. J. ÓKSNES.
Turkey: Mr. N. AZAK.
Union of Soviet Socialist Republics: Mr. A. A. ARUTIUNIAN.
United Kingdom: Sir Guildhaume MYRDDIN-EVANS.
United States: Mr. J. E. WILKINS.
Uruguay: Mr. J. NOGUEIRA.

Employers' group:
Mr. G. A. ALLANA (Pakistani).
Mr. G. BERGENSTRÖM (Swedish).
Mr. P. CAMPANELLA (Italian).
Mr. J. DÍAZ SALAS (Chilean) (substitute for Mr. J. B. PONS).
Mr. W. GEMMILL (Union of South Africa).
Mr. W. L. McGrath (United States).
Sir Richard SNEDDEN (United Kingdom).
Mr. N. H. TATA (Indian).
Mr. P. WALINE (French).
Mr. C. H. WINKLER (German, Federal Republic).

Workers' group:
Mr. R. BOTHEREAU (French).
Mr. A. COFIÑO GARCÍA (Cuban).
Mr. G. P. DELANEY (United States).
Mr. J. MŌRI (Swiss).
Mr. E. NIELSEN (Danish).
Mr. S. de A. PEQUENO (Brazilian).
Mr. W. RICHTER (German, Federal Republic).
Sir Alfred ROBERTS (United Kingdom).
Mr. S. THONDAMAN (Ceylonese).
Mr. K. P. TRIPATHI (Indian).

The following members attended the sitting on 24 June only:

Government group:
Canada: Mr. A. H. BROWN.
China: Mr. TUAN Mao-lan.

Employers' group:
Mr. M. GHAYOUR (Iranian).
Mr. S. I. McKENZIE (New Zealand) (substitute for Mr. W. GEMMILL).
The following regular members were absent:

**Employers' group:**
- Mr. L. Alcalá Sucre (Venezuelan).

**Workers' group:**
- Mr. Aftab Ali (Pakistani).
- Mr. A. E. Monk (Australian).

The following deputy members, or substitute deputy members, were present at all or part of the session:

**Government group:**
- Ceylon: Mr. T. F. Jayawardene.
- Chile: Mr. H. Díaz Casanueva.
- Indonesia: Mr. Samjono.
- Liberia: Mr. K. S. Tamba.
- Mexico: Mr. E. Calderón Puig.
- Portugal: Mr. A. Ribeiro da Cunha.
- Sweden: Mr. P. Eckerberg.
- Switzerland: Mr. M. Kaufmann.
- Syria: Mr. R. Sioufi.

**Employers' group:**
- Mr. Aye (Burmese).
- Mr. A. G. Fennema (Netherlands).
- Mr. A. Mishiro (Japanese).
- Mr. C. Kuntschen (Swiss).
- Mr. F. Muro de Nadal (Argentine).
- Mr. J. O'Brien (Irish).
- Mr. A. R. Hamada (Egyptian).
- Mr. P. Van Lint (Belgian).
- Mr. H. Dundar (Turkish).

**Workers' group:**
- Mr. J. D'Alessio (Uruguayan).
- Mr. A. Becker (Israeli).
- Mr. N. De Bock (Belgian).
- Mr. J. Böhm (Austrian).
- Mr. A. Kachicho (Syrian).
- Mr. S. H. Khalaf (Egyptian).
- Mr. A. Kyriakopoulos (Greek).
- Mr. Liang Yung-chang (Chinese).
- Mr. O. Lindblom (Finnish).
- Mr. A. Vermeulen (Netherlands).

The following Government deputy member was absent and not replaced by a substitute:

**Venezuela**: Mr. V. Montoya.

The following representatives of States Members of the Organisation were present as observers:

**Brazil**: Mr. J. A. Barboza-Carneiro.
**Costa Rica**: Mr. A. Donnadieu.
**Denmark**: Mr. H. H. Koch.
The following representatives of international governmental organisations were present:

**United Nations**: Mr. G. PALTHEY.

**Food and Agriculture Organisation**: Mr. P. SINARD.

**Council of Europe**: Mr. F. TENNFJORD.

**Intergovernmental Committee for European Migration**: Miss S. BAVERSTOCK.

The following representatives of international non-governmental organisations were present as observers:

**International Confederation of Free Trade Unions**: Mr. H. PATTEET.

**International Co-operative Alliance**: Mr. M. BOSON.

**International Federation of Christian Trade Unions**: Mr. G. TESSIER (substitute, Mr. G. EGGERMANN).

**International Organisation of Employers**: Mr. G. EMERY.

**World Federation of Trade Unions**: Mr. G. CASADEI.

**REPORT ON DISCRIMINATION IN THE FIELD OF EMPLOYMENT AND OCCUPATION**

The Director-General was requested to submit a revised version of this report for consideration at the 130th Session of the Governing Body.

**AGENDA OF THE 40th (1957) SESSION OF THE INTERNATIONAL LABOUR CONFERENCE**

The Governing Body requested the Director-General to submit to its 130th Session law and practice reports on the five following questions:

- Discrimination in the field of employment and occupation.
- Conditions of employment of plantation workers.
- Regulation of the employment of children and young persons in agriculture.
- Payment by results.
- Organisation of occupational health services in places of employment.

On the first of these questions a report had already been submitted to the Governing Body at the present session. However, after a brief procedural debate the question was adjourned to the 130th Session (November 1955). It was agreed that the report might be regarded as a law and practice report for the purpose of discussing the agenda of the 40th Session of the Conference.

Moreover, it was decided that if the report on reduction of hours of work prepared by the Office was ready in time it would be considered by the Governing Body at its 130th Session, it being understood that there would be nothing to prevent this report being treated as a law and practice report should the Governing Body so decide at that time.

**PROPOSALS FOR ACTION TO DEAL WITH THE PROBLEMS OF SOME OF THE INDUSTRIES FOR WHICH THE ESTABLISHMENT OF INDUSTRIAL COMMITTEES HAS BEEN REQUESTED**

After a discussion dealing mainly with budgetary and procedural considerations and as a result of a series of votes, the Governing Body took the following preliminary decisions.

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1 See above.
2 See below, p. 327.
Two ad hoc technical meetings would be held in 1957, for the timber industry and for mines other than coal mines respectively (proposal adopted by 20 votes to 17, with 1 abstention). The Director-General would make definite proposals at a later date concerning the agenda of the two meetings, the composition of which would be tripartite (proposal adopted by 27 votes to 12, with 1 abstention). The Governing Body would fix the number of delegates from each group to be included in each national delegation at a later session. The Director-General would submit to it in due course proposed lists of countries to be invited to the meetings.

**REPORT OF THE ASIAN ADVISORY COMMITTEE**

*(Sixth Session, Geneva, 7 and 8 March 1955)*

The Governing Body noted the conclusions adopted by the Asian Advisory Committee at its Sixth Session and, in accordance with the proposal of the Committee, decided that its Seventh Session would be held in Geneva, on 7 and 8 November 1955, in connection with the 130th Session of the Governing Body. The agenda of the session would be as follows:

I. Agricultural credit in Asia.

II. Contribution of the I.L.O. to community organisation and development in Asian countries.

III. Social aspects of economic development programmes in Asian countries, with special reference to capital formation and productivity in agriculture.

**REPORT OF THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS**

*(25th Session, Geneva, 21 March-2 April 1955)*

The Governing Body noted this report. It referred to its Committee on Standing Orders and the Application of Conventions and Recommendations a point raised by the Committee of Experts regarding the wording of report forms on two important Conventions (Labour Inspection Convention, 1947, and Freedom of Association and Protection of the Right to Organise Convention, 1948), on which governments had been requested to submit reports some years ago but would again be requested to do so in 1956.

**EFFECT TO BE GIVEN TO THE RESOLUTIONS AND OTHER CONCLUSIONS ADOPTED BY THE EUROPEAN REGIONAL CONFERENCE**

The Governing Body had before it the report of a group of experts which had met in Geneva from 23 to 25 May 1955 to advise the Office in connection with an inquiry into wages and related elements of labour cost in European countries which it was proposed to hold to give effect to the conclusions of the First European Regional Conference. It was agreed that members of the Governing Body would have an opportunity of commenting on this document at the next session.

Moreover, subject to the dissent of the Government representative of the U.S.S.R., the Governing Body approved the composition of a group of experts on the social aspects of problems of European economic co-operation set up to give effect to the conclusions of the European Regional Conference. It was decided that the group would meet in Geneva for one week in September 1955 at a time most convenient to the experts.
POSSIBLE ESTABLISHMENT OF AN I.L.O. COMMITTEE ON FORCED LABOUR

This question gave rise to a new discussion as a result of which a Working Party was constituted to consider the problem and seek a solution which might meet with general agreement.

At its sitting held after the 38th Session of the International Labour Conference the Governing Body had before it a proposal by its Working Party, worded as follows:

The Governing Body—

(1) Authorises the Director-General to establish an independent ad hoc Committee on Forced Labour, which shall analyse material received by the Organisation dealing with the use and extent of forced labour throughout the world and submit its conclusions to the Director-General for transmission to the Governing Body and for inclusion in his Reports to the 1956 and 1957 Sessions of the Conference;

(2) Requests the Director-General to inform the Secretary-General of the United Nations of this decision with a view to seeking his collaboration in the work of the Committee.

Subject to the dissent of the Government representative of the U.S.S.R., who opposed the establishment of the Committee, and to certain reservations with regard to the terms of reference and methods of work of the proposed Committee, the Governing Body adopted the Working Party’s proposal.

ESTABLISHMENT OF A SPECIAL LIST OF NON-GOVERNMENTAL ORGANISATIONS

After a first discussion of this subject the Governing Body requested the Director-General to submit revised proposals taking into account the observations made in the course of the preliminary discussion.

REPORT OF THE COMMITTEE ON STANDING ORDERS AND THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

The Governing Body referred back to the Committee for reconsideration various proposals concerning arrangements for the discussion of the Director-General’s Report at the International Labour Conference, and the organisation of the work of the Conference Committee on the Application of Conventions and Recommendations. It also referred back to the Committee suggestions concerning the procedure for the examination of credentials at regional conferences and the provisions of the Standing Orders of the Governing Body on voting procedure.

The Governing Body approved the forms of annual report on the following Conventions: Social Policy (Non-Metropolitan Territories) Convention, 1947; Social Security (Minimum Standards) Convention, 1952; Maternity Protection Convention (Revised), 1952.

The Governing Body decided that the following question should in future be inserted in all the forms of annual report on ratified Conventions, as paragraph 2 of question I: “Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit of, or as a result of, ratification.”

It was also decided that governments should be requested to furnish for 1956, under article 19 of the Constitution, reports on the following Conventions and Recommendations: Labour Inspection Convention, 1947; Labour Inspection Recommendation, 1947; Labour Inspection (Mining and Transport) Recommendation.

1 See above, p. 222.

**Sixteenth Report of the Committee on Freedom of Association**

The Governing Body had before it the 16th Report of its Committee on Freedom of Association, which was adopted without opposition and with one abstention.¹

**Report of the Committee on Industrial Committees**

The Governing Body took the following decisions to give effect to the recommendations of its Committee on Industrial Committees.

*Fourth Session of the Chemical Industries Committee*

The Director-General would communicate to governments the reports, resolutions, memorandum and suggestions adopted by the Chemical Industries Committee at its Fourth Session,² informing them that the Governing Body did not express any view on the content thereof and inviting them to transmit these documents to the employers’ and workers’ organisations concerned. The Director-General would also draw the attention of governments to certain of these documents and would give effect to the suggestions made in a resolution concerning the classification of dangerous substances, suggestions concerning the effect given to the conclusions adopted at previous sessions and a memorandum on further action by the International Labour Organisation in regard to industrial diseases in the chemical industries.³

*Questions of Interest to Salaried Employees and Professional Workers*

**Advisory Committee on Salaried Employees and Professional Workers.**

It was decided that the terms of reference and the structure of the Advisory Committee on Salaried Employees and Professional Workers should not be modified for the time being, but that the Director-General would give close attention to any further developments in this matter and report on it again, if necessary, to the Committee on Industrial Committees in the light of the experience gained at future sessions of the Advisory Committee.

*Supervisory and Managerial Staff.*

Consideration would be given to the participation of supervisory and managerial staff in the work of the various Industrial Committees, and to the possibility of convening special sessions of these Committees for the study of problems of concern to salaried employees, technicians, foremen, engineers and supervisory and managerial staff when the Governing Body fixed the agenda for future sessions of the various Industrial Committees.

*Performers’ Rights.*

The Governing Body took a number of decisions on the procedure governing co-operation between the International Labour Office and the International Union

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² For these texts see ibid., No. 4, pp. 133-155.
for the Protection of Literary and Artistic Works (the Berne Union) in the matter of performers' rights. A Working Party was to meet from 31 October to 8 November 1955 to discuss the question; the I.L.O. delegation at that meeting would consist of three members appointed by the Governing Body and two persons appointed by the Director-General, who would maintain close relations with the international organisations of performing artists, manufacturers of phonographic records and broadcasting organisations both during the preparatory work before the meeting of the Working Party and also during and after the meeting.

_Fifth Session of the Textiles Committee_

It was decided that the Organisation for European Economic Co-operation should be invited to send an observer to the Fifth Session of the Textiles Committee.

_Third Session of the Committee on Work on Plantations_

The Governing Body authorised the Director-General to invite a number of non-metropolitan territories with a particular interest in this field to send observer delegations to the Third Session of the Committee on Work on Plantations, on the same conditions as apply to such delegations attending the sessions of the International Labour Conference.

_Fifth Session of the Building, Civil Engineering and Public Works Committee_

It was decided that the Fifth Session of the Building, Civil Engineering and Public Works Committee should be held in Geneva from 13 to 25 February 1956.

_Reconvened Fifth Session of the Petroleum Committee_

The Fifth Session of the Petroleum Committee, convened in Caracas on 25 April 1955, was adjourned on 2 May without any of its subcommittees met or any of the items on its agenda having been discussed.

In this connection the Governing Body took note of the joint report of the two members of the tripartite delegation of the Governing Body who remained in Caracas until the session was adjourned, namely Sir Guildhaume Myrddin-Evans, representing the Government group, and Mr. Allana, representing the Employers' group, and of the supplementary report of Mr. Vermeulen, representing the Workers' group.

_REPORT OF THE INTERNATIONAL ORGANISATIONS COMMITTEE_

The Governing Body endorsed the conclusions of its International Organisations Committee and accordingly took the following decisions.

_Full Employment_

The Governing Body determined the various points to be included in a brief for the representative of the International Labour Organisation attending the next session of the Economic and Social Council, which would again discuss full employment policy on that occasion. The brief drew attention to the various measures that could be taken by the I.L.O. within its own field of activity as a contribution to securing full employment. Note was taken of the abstention of the representative of the U.S.S.R. Government in this connection.

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1 See below, p. 241.
2 The Governing Body decided to reconvene the session in April 1956, in Geneva.
Relations between the International Labour Organisation and the Food and Agriculture Organisation

The Governing Body took note of an understanding supplementary to the Agreement between the I.L.O. and the F.A.O. This understanding, reached in accordance with article 8 of the Agreement, which provides that the two Directors-General may enter into such supplementary arrangements as may be found desirable in the light of operating experience, dealt with vocational training in agriculture, migration for land settlement, co-operative societies and rural industries.

Expanded Programme of Technical Assistance

The 18th report of the Administrative Committee on Co-ordination, which was submitted for information to the Governing Body, drew attention to the fact that, while the members of the Administrative Committee on Co-ordination participating in the Expanded Programme have an individual responsibility for the implementation and administration of the part of the Programme corresponding to their agencies' activities, they have a collective responsibility for the Programme as a whole. This responsibility implies that they should be consulted personally and should take collective decisions concerning major questions of policy which may arise with regard to the operation of the Programme. The report went on to define the arrangements governing such relations. The Governing Body endorsed the principles and arrangements so defined. A number of Government members reserved the position of their governments on the Economic and Social Council.

Proposed Establishment of an Organisation for Trade Co-operation

The Director-General was invited to follow further developments in the establishment and operation of the organisation for trade co-operation which is to supersede the present machinery for administering the General Agreement on Tariffs and Trade (G.A.T.T.). He would take suitable steps at the appropriate time to ensure effective co-operation and consultation between the new organisation, if and when it came into existence, and the International Labour Organisation. Note was taken of the abstention of the representative of the U.S.S.R. Government on this decision.

Reports of the Financial and Administrative Committee

The Governing Body in general endorsed the conclusions of its Financial and Administrative Committee and took a number of decisions concerning the financing of various meetings, as well as of the Committee on Forced Labour to be established by the I.L.O.,1 and the Committee on the Extent of the Freedom of Employers' and Workers' Organisations.2 Note was taken of the opposition of the U.S.S.R. Government representative to the decisions on these two points. The Governing Body also decided to reappoint Mr. Uno Brunskog (Sweden) as auditor for a further period until 1 April 1957, and the members of the Investments Committee set up under the I.L.O. Staff Pensions Fund regulations for a further period until 31 December 1956. In addition, it decided to submit to the International Labour Conference draft resolutions concerning the contributions payable to the I.L.O. Staff Pensions Fund and the United Nations Joint Staff Pension Fund, and for the

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1 See above, p. 230.
appointment of Mr. R. G. Simmons (United States) and Sir John Forster (United Kingdom) as deputy judges of the Administrative Tribunal of the I.L.O. for a period of three years. Finally, the Governing Body approved the application of the Statute of the Administrative Tribunal to the European Organisation for Nuclear Research, in accordance with paragraph 5 of article II of that Statute.

COMPOSITION OF COMMITTEES AND OF VARIOUS MEETINGS

Committees

The Governing Body took the following decisions on this subject:

Correspondence Committee on Juvenile Employment

Reappointments.¹

Mr. Antoine Lawrence (French).
Mr. Lourenço Pereira da Cunha (Brazilian).
Mr. Jean Quercy (French).
Mrs. Elżbieta Rutkowska (Polish).
Mr. Nicolas Theodorou (Greek).
Mr. Léon-Eli Troclet (Belgian).
Mr. Paulus de Vries (Netherlands).
Mr. Michel Wallin (Belgian).

Permanent Agricultural Committee

New Appointments.

Mrs. Irene Grosz (Polish), Member of the Central Committee, Peasants' Mutual Assistance Union.
Mr. Pedro García Oliver (Argentine), Director of the Production Confederation (Employers' expert, to replace Mr. Da Silva Prado (Brazilian)).

Committee of Experts on Indigenous Labour

New Appointment.

Mr. Julio Pereira Arroyo (Peruvian), Director-General of Indigenous Affairs.

Reappointments.

Mr. Ernest Beaglehole (New Zealand).
Mr. Walter Dupouy (Venezuelan).
Mr. Everardo Gallardo (Mexican).
Mr. Victor Gabriel Garcés (Ecuadorean).
Mr. Alimdad Khan (Pakistani).
Mr. Horace Miner (United States).
Mr. Elizardo Pérez (Bolivian).
Shri L. M. Shrikant (Indian).
Mr. Francisco Antonio Vélez Arango (Colombian).

Committee of Experts on Social Policy in Non-Metropolitan Territories

Reappointments.

Mr. M. de Coppet (French).
Colonel Alvaro E. Neves da Fontoura (Portuguese).

¹ All appointments and reappointments are for a period of three years.
Mr. Ignacio Pinto (Dahomey).
Mr. R. C. Ramage (United Kingdom).
Mr. William Van Remoortel (Belgian).
Mrs. Audrey Richards (Uganda).

New Appointments.

Father Louis Bruyns, S. J. (Belgian), Professor at the African University, Leopoldville, Director of the “Social Solidarity Organisation” in the Belgian Congo (in succession to the late Father Charles).

Mr. Antoine Lawrence (French Guinea), member of the Economic Council; Vice-President of the Committee on Human Problems of the Commissioner-General of the Modernisation and Equipment Plan for Overseas Territories; Professor at the Free College of Social and Economic Sciences.

Mr. S. M. Renner (Sierra Leone), City Councillor of Freetown; member of the Council’s Education Subcommittee; Chairman of the Mining Wages Board of Sierra Leone.

Mr. M. Rivierez (French Equatorial Africa), Senator for Ubanghi Shari; representative of the Council of the Republic on the Superior Labour Council for the Overseas Territories.

Mr. A. Santos Lima (Portuguese West Africa), Intendant of the Civil Administration of Portuguese Guinea.

Correspondence Committee on Occupational Safety and Health

Deaths.

The Governing Body took note of the death of Dr. T. E. Howell (United Kingdom) and of Professor S. V. Gudjonsson (Danish).

New Appointments.

Mr. W. Binks (United Kingdom), Director, Radiological Protection Service, Downs Nursery Hospital, Sutton, Surrey; Secretary of the International Commission on Radiological Protection.

Dr. J. B. Adamson (United Kingdom), H.M. Principal Medical Inspector of Mines, Ministry of Fuel and Power.

Mr. R. G. D. Anderson (Canadian), General Manager, Industrial Accident Prevention Associations of Ontario, Toronto.

Mr. T. J. Casey (Canadian), Chief Inspector of Mines, Government of Nova Scotia, Halifax.

Mr. Charles F. Dalziel (United States), Associate Professor of Electrical Engineering, University of California, Berkeley.

Dr. R. Ch. Francois (French), Vice-President of the Medical Committee, Electricity and Gas of France, Paris.

Judge J. Grenier (Canadian), President of the Quebec Workmen’s Compensation Commission, Quebec.

Mr. S. S. Grewal (Indian), Chief Inspector of Mines, Dhanbad.

Mr. B. Hummel (Czechoslovak), Engineer, Chief of the Central Mining Office. Professor G. Lehmann (German, Federal Republic), Director of the Max-Planck Institute for Occupational Physiology, Dortmund.

Mr. A. McIntosh (Canadian), Chief Factory Inspector and Director of Industrial Accident Prevention, Department of Labour, Government of Manitoba, Winnipeg.

Mr. F. Mann (United Kingdom), H.M. Senior Electrical Inspector of Factories, Ministry of Labour and National Service.
Dr. L. Noro (Finnish), Director of the Institute of Occupational Health.
Mr. H. T. Ramsay (United Kingdom), Acting Director, Safety in Mines Research Establishment, Ministry of Fuel and Power.
Mr. J. Sorela (Czechoslovak), Engineer, Chief of the Labour Protection and Safety Division of the Trade Union Council of Slovakia.
Dr. E. A. Watkinson (Canadian), Chief, Occupational Safety and Health Division, Department of National Health and Welfare, Ottawa, Ontario.
Mr. A. Winstanley (United Kingdom), Deputy Chief Inspector of Mines.
Dr. O. Zorn (German, Federal Republic), Chief Physician, Medical and Neurological Clinic and Polyclinic of the Bergmannsheil Hospital of the Mutual Accident Insurance Association for the Mining Industry.

Reappointments.

Mr. Cyril Ainsworth (United States).
Mr. L. Alayza Grundy (Peruvian).
Mr. A. J. Amor (United Kingdom).
Mr. Lars Andre (Swedish).
Dr. Enrique Arreguin, Jr. (Mexican).
Mr. Arne Baggerud (Norwegian).
Mr. C. Berry (United States).
Dr. F. Bezemer (Netherlands).
Mr. A. C. Blackman (United States).
Mr. Roland P. Blake (United States).
Mr. J. J. Bloomfield (United States).
Professor Paul Bonnevie (Danish).
Mr. Harry Botham (New Zealand).
Mr. Pierre Bouyeure (French).
Mr. A. L. Brentwood (Australian).
Mr. Hugo de Brito Firmeza (Brazilian).
Mr. Ludwig Bruckner (Austrian).
Dr. Arne Bruusgaard (Norwegian).
Dr. Karl Buchegger (Austrian).
Dr. G. C. E. Burger (Netherlands).
Mr. Zey Bueno (Brazilian).
Mr. E. C. Cabral (Pakistani).
Professor Dr. Scipione Caccuri (Italian).
Mr. Classen (German, Federal Republic).
Mr. A. Clerici (Italian).
Dr. J. Grant Cunningham (Canadian).
Dr. C. N. Davis (United Kingdom).
Dr. E. L. Diamond (United Kingdom).
Professor Pietro Didonna (Italian).
Mr. R. E. Donovan (United States).
Dr. H. E. Downes (Australian).
Professor Philip Drinker (United States).
Mr. L. N. Duguid (United Kingdom).
Mr. C. D. D. Durham (Australian).
Professor R. Fabre (French).
Mr. Julio Figueroa Fernández (Chilean).
Dr. C. M. Fletcher (United Kingdom).
Professor Sven Forssman (Swedish).
Dr. Freytag (German, Federal Republic).
Mr. Robert Gerstenberg (German, Federal Republic).
Dr. M. W. Goldblatt (United Kingdom).
Mr. K. L. Goodall (United Kingdom).
Dr. Leonard Greenburg (United States).
Mr. P. de Haart (Netherlands).
Mr. R. Harvey (Australian).
Mr. Odd Herseth (Norwegian).
Dr. Henryk Hummel (Polish).
Mr. A. E. Jarvenpää (Finnish).
Dr. Robert A. Kehoe (United States).
Professor Earl J. King (United Kingdom).
Dr. D. Kremer (German, Federal Republic).
Mr. P. Lafarge (French).
Professor P. Lambin (Belgian).
Professor R. E. Lane (United Kingdom).
Professor F. R. Lang (Swiss).
Mr. André Lange (French).
Dr. A. J. Lanza (United States).
Mr. H. Lesueur (French).
Mr. Wills MacLachlan (Canadian).
Mr. L. J. Malfait (Belgian).
Mr. N. S. Mankiker (Indian).
Mr. Franz Maresch (Austrian).
Professor Pierre Mazel (French).
Dr. E. R. A. Merewether (United Kingdom).
Mr. A. Meyers (Belgian).
Dr. E. L. Middleton (United Kingdom).
Mr. Baltasar Moas (Cuban).
Professor Dr. F. Molfo (Italian).
Professor J. L. Nicod (Swiss).
Dr. A. J. Orenstein (Union of South Africa).
Professor Giovanni Pancheri (Italian).
Mr. G. Parmentier (French).
Mr. Jacques Pluyette (French).
Professor A. Policard (French).
Mr. Holger Poulsen (Danish).
Mr. de Putter (Netherlands).
Professor Ing. Francesco Roma (Italian).
Dr. Jan Roubal (Czechoslovak).
Mr. René de Saedeleer (Belgian).
Mr. Sven Sandin (Swedish).
Dr. R. R. Sayers (United States).
Dr. Oskar Schneider (German, Federal Republic).
Mr. Reginald M. Schoen (New Zealand).
Mr. Riccardo Sigillo (Italian).
Mr. Humberto de Sousa Reis (Portuguese).
Mr. H. Starland (Swedish).
Mr. Edmund Steinberg (Union of South Africa).
Dr. Franz Stocker (Austrian).
Mr. E. J. Sturgess (United Kingdom).
Dr. Werner Sulzer (Swiss).
Professor Dr. J. Teisinger (Czechoslovak).
Mr. F. W. Tideswell (United Kingdom).
Dr. Ismaël Urbandt (Argentine).
Dr. A. Uytdenhoef (Belgian).
Mr. André Vallaud (French).
Dr. A. S. W. Verster (Union of South Africa)
Mr. Yvon Verwilst (Belgian).
Professor E. C. Vigliani (Italian).
Mr. C. Viquerat (Swiss).
Dr. A. J. Vorwald (United States).
Mr. Oscar Wallner (Swedish).
Mr. N. C. Winkel (Netherlands).

Committee of Experts on the Application of Conventions and Recommendations

New Appointments.

Dr. Afonso Rodrigues Queiro (Portuguese), Professor of International Law at the University of Coimbra; member of the Chamber of Corporations; member of the International Institute of Administrative Sciences; member of the Hispano-Luso-American Institute of International Law (to replace Mr. Helio Lobo, who had resigned).

Professor Beitzke (German, Federal Republic), Professor of Law at the University of Göttingen (to replace Dr. Friedrich Sitzler, who had resigned).

Various Meetings

Working Group of Experts on Family Living Studies

The Governing Body approved the composition of the Working Group of Experts on Family Living Studies and decided that the latter should meet in Geneva from 14 to 23 September 1955.

Panel of the Correspondence Committee on Occupational Safety and Health

The Governing Body approved the composition of the panel of the Correspondence Committee on Occupational Safety and Health, to be held in Geneva from 12 to 22 September 1955, and authorised the Director-General to invite the Permanent International Committee for Acetylene, Fusion Welding and Allied Industries and the International Organisation for Standardisation to be represented at the meeting by observers.

Meeting of Experts on the Prevention and Suppression of Dust in Mining, Tunnelling and Quarrying

The Governing Body approved the list of experts to attend the forthcoming Meeting of Experts on the Prevention and Suppression of Dust in Mining, Tunnelling and Quarrying. In addition, at the request of the groups concerned, the Governing Body authorised the Director-General to invite to the meeting, with the approval of the Officers of the Governing Body, two experts from workers’ circles and two experts from employers’ circles. The High Authority of the European Coal and Steel Community would be invited to be represented by an observer.
REPORT OF THE DIRECTOR-GENERAL

Composition of the Governing Body

The Government of Cuba has appointed as its substitute representative Mr. J. E. Camejo Argudín, Minister Plenipotentiary resident in Geneva.

The Government of Japan has appointed as its substitute representative Mr. S. Kaide, Counsellor, Ministry of Labour, to replace Mr. Y. Oshima.

Mr. C. H. Winkler has informed the Chairman of the Governing Body and the Director-General of his decision to relinquish his seat as Employers' deputy member of the Governing Body with effect from the end of the 129th Session.

It was noted that at the 39th Session of the International Labour Conference the Employers' electoral college would be required to fill the seat vacated by Mr. Winkler.

Participation of Non-Metropolitan Territories as Observers in the Work of the 38th Session of the International Labour Conference

The Governing Body decided that, in addition to the other territories already invited as a result of decisions taken at its 128th Session, Malta should be invited to send a tripartite observer delegation to the 38th Session of the International Labour Conference.

Working Group of Experts on the International Standard Classification of Occupations

The Eighth International Conference of Labour Statisticians recommended the establishment of a committee of experts to review the conclusions which it had itself arrived at in connection with the international standard classification of occupations, and to make suggestions for the further development of the classification. The Governing Body endorsed these conclusions and the Director-General's proposals, and accordingly approved the composition of a working group to meet in Geneva from 17 October to 5 November 1955, its terms of reference to include aiding the Office in preparing a final draft of the international standard classification of occupations for submission to the Ninth International Conference of Labour Statisticians, and in preparing definitions of the scope of the groups included and recommending practical measures for the application of the classification, taking into account the needs of countries at different levels of economic development.

Sixth Regional Conference of American States Members of the International Labour Organisation

The Governing Body approved the proposals submitted to it with regard to the Sixth Regional Conference of American States Members of the International Labour Organisation. It requested the Director-General to convey its cordial appreciation to the Cuban Government for its generous invitation to hold the Conference in Havana and decided that it should take place from 3 to 15 September 1956. In addition to the Director-General's Report the agenda of the Conference would consist of the following items: the role of employers and workers in programmes to raise productivity; labour-management relations; and co-operative societies.

1 See above, p. 222.
Obituary

The Governing Body requested the Director-General to convey its sincere condolences to the families of Mr. Narayan Malhar Joshi, Mr. Radi Abou Seif Radi and Mr. James E. Herbert, who had died since the 128th Session.

Programme of Meetings

American Regional Technical Meeting on Co-operation

The Governing Body noted that the Government of Mexico, one of the Latin American countries where the co-operative movement is extensively developed, had invited the American Regional Technical Meeting on Co-operation to be held in Mexico City. It requested the Director-General to convey its thanks to the Mexican Government for its generous invitation. The meeting would take place from 7 to 17 December 1955.

Committee of Experts on Social Policy in Non-Metropolitan Territories (Fourth Session)

The French Minister of Labour had informed the Director-General that the French Government would be pleased to invite the Committee of Experts on Social Policy in Non-Metropolitan Territories to hold its Fourth Session in Dakar. The Governing Body requested the Director-General to convey its thanks to the French Government. It was decided that the Fourth Session of the Committee of Experts on Social Policy in Non-Metropolitan Territories should be held in Dakar from 5 to 17 December 1955. The Governing Body would be represented by a tripartite delegation composed as follows: Government group, Mr. Ramadier (France); Employers’ group, Mr. Gemmill (substitute, Mr. Fennema); and a representative of the Workers’ group to be appointed later.

In accordance with the recommendation of the Committee of Experts at its Third Session, the Caribbean Commission, the South Pacific Commission and the Commission for Technical Co-operation in Africa South of the Sahara would be invited to be represented at the Fourth Session by observers.

Joint Maritime Commission (Eighteenth Session)

The Governing Body noted that the French Government had invited the 18th Session of the Joint Maritime Commission to be held in Paris, and requested the Director-General to convey its thanks to the French Government. The dates fixed for the meeting were 24 to 29 October 1955. The Governing Body referred to the Joint Maritime Commission for consideration a resolution concerning the welfare of seamen adopted by the Merchant Navy Boards of Denmark, Norway and Sweden.

As a result of the decisions taken by the Governing Body at its present session the programme of meetings published above is modified as follows:

1955

Group of Experts on Social Aspects of European Economic Co-operation . . Geneva, September (one week).
Panel of the Correspondence Committee on Occupational Safety and Health Geneva, 12-22 September.

1 See above, p. 223. The present table does not show meetings previously indicated, the arrangements for which are unchanged by decisions taken by the Governing Body at this session.
Joint Maritime Commission, 18th Session Paris, 24-29 October.
Asian Advisory Committee, Seventh Session ......................... Geneva, 7-8 November.
Committee of Experts on Social Policy in Non-Metropolitan Territories, Fourth Session ......................... Dakar, 5-17 December.
American Regional Technical Meeting on Co-operation ................ Mexico City, 7-17 December.

1956

Petroleum Committee, Fifth Session—Reconvened ...................... Geneva, April.
Coal Mines Committee, Sixth Session —, May.
Sixth Regional Conference of American States Members of the International Labour Organisation ................ Havana, 3-15 September.

APPOINTMENT OF GOVERNING BODY REPRESENTATIVES ON VARIOUS BODIES

The Governing Body made the following appointments:

Representation of the I.L.O. at the Tenth Regular Session of the General Assembly of the United Nations

The Chairman of the International Organisations Committee (Sir Guildhaume Myrddin-Evans).
Employers' group: Mr. Tata.
Workers' group: Mr. Delaney.

Governing Body Delegation to the Working Party on Performers' Rights

Government group: Mr. Kaufmann.
Employers' group: Mr. Kuntschen.
Workers' group: Mr. Möri.
Building Subcommittee

The Government group nominated Mr. Harry (Australia) as substitute member of the Building Subcommittee.

Election of the Officers of the Governing Body for 1955-56


The Governing Body unanimously re-elected as its Vice-Chairmen Mr. P. Waline and Sir Alfred Roberts, who were already serving as Employers' and Workers' Vice-Chairmen.

Date and Place of the 130th Session of the Governing Body

It was decided that the 130th Session of the Governing Body should be held in Geneva from Tuesday, 15 to Friday, 18 November 1955. Its Committees would meet from Wednesday, 9 to Monday, 14 November and, if necessary, on Saturday, 19 November 1955.
38th Session of the International Labour Conference

The 38th Session of the International Labour Conference was held at Geneva from 1 to 23 June 1955.


The International Labour Office has also published the *Record of Proceedings* of the session, which reproduces a communication to the governments of member States of the Organisation concerning the agenda of the Conference with the accompanying memorandum; it also contains lists of the members of delegations and committees, the Officers of the Conference and members of the secretariat, the stenographic record of the discussions, and appendices containing the reports of the Conference Committees and the texts adopted by the Conference.

The letter communicating these texts to the governments of the member States is reproduced below.1


Sir,

I have the honour to forward to you herewith certified copies of the texts of the following Convention and Recommendations adopted by the International Labour Conference at its 38th Session, held in Geneva from 1 to 23 June 1955:

Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104);
Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99);
Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100).

In accordance with article 19 of the Constitution of the International Labour Organisation the Convention is communicated to you for ratification, and the Recommendations with a view to effect being given to them by national legislation or otherwise.

Additional copies of these texts are being forwarded to you under separate cover and I shall be glad to supply further copies at your request.

In transmitting these texts, I venture to draw your attention to the procedure laid down in article 19 of the Constitution of the International Labour Organisation, the provisions of which are set forth in the memorandum adopted by the Governing Body at its 124th Session. Two copies of this document are enclosed herewith.

I should be grateful if, in accordance with the provisions of article 19 of the Constitution, you would be good enough to keep me informed of the measures taken by your Government to submit the Convention and Recommendations adopted by the Conference at its 38th Session to the competent authorities within the time limits prescribed by the Constitution. I also venture to hope that you will communicate to me all the information requested in the memorandum adopted by the Governing Body.

The information communicated to me on these matters will be reviewed in a report to an early session of the Conference, in pursuance of article 23, paragraph 1, of the Constitution.

I have the honour to be, etc.,

For the Director-General:

(Signed) C. W. Jenks,
Assistant Director-General.

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1 For the decisions of the Governing Body on action to be taken on the resolutions adopted by the Conference see below, pp. 328.
Conference for the Translation into German of International Labour Conventions and Recommendations, 1955 ¹
(Freudenstadt, 19-23 September 1955)

Final Protocol ²
(Translation)

I

Representatives of the Governments of the Federal Republic of Germany, of Austria and of Switzerland and representatives of the International Labour Office met from 19 to 23 September 1955 in Freudenstadt in a German Translation Conference. The agenda of the Conference was as follows: the official German translation of the Holidays with Pay Recommendation, 1954 (No. 98); a question concerning a modification to the German text of Article 4, paragraph 1, of the Sickness Insurance (Sea) Convention, 1936; the official German translation of the Constitution of the International Labour Organisation as at present in force, including the Declaration of Philadelphia concerning the Aims and Purposes of the International Labour Organisation.

The following took part in the proceedings:

For the Government of the Federal Republic of Germany:
Mr. Stephany, Director, Ministry of Labour.
Mr. Thomas, Counsellor, Ministry of Labour.

For the Austrian Government:
Mr. Hammerl, Chief of Section.
Mr. Krenn, Counsellor.

For the Swiss Government:
Mr. Kaufmann, Director of the Federal Office of Industry, Arts and Crafts, and Labour.
Mr. Jost.

For the International Labour Office:
Mr. Dobbernack.
Mr. Wolf.

The Conference was held under the chairmanship of Mr. Dobbernack.

II

The Conference established the official German translation of the Holidays with Pay Recommendation, 1954 (No. 98).

¹ Footnotes to this document have been added to make for easier reading of the English text of this protocol translated from the German; they do not, of course, appear in the original text.
On the proposal of the representatives of the Federal Republic of Germany the official German text of Article 4, paragraph 1, of the Sickness Insurance (Sea) Convention, 1936 (No. 56) was modified to read as follows:

1. Befindet sich der Versicherte im Ausland und hat er infolge von Krankheit seinen Anspruch auf die Heuer, ohne Rücksicht darauf, ob sie vorher ganz oder zum Teil zu zahlen war, verloren, so ist das Krankengeld, auf das er Anrecht hätte, wenn er nicht im Ausland gewesen wäre, bis zu seiner Rückkehr in das Gebiet des Mitgliedes ganz oder teilweise seiner Familie auszuzahlen.¹

This change had already been suggested in writing by the Government of the Federal Republic of Germany prior to the meeting of the Freudenstadt Conference. The Austrian and Swiss Governments had agreed to have the question placed on the agenda. Mr. Dobbernack informed the Conference that the International Labour Office had considered the proposal of the Government of the Federal Republic of Germany and had reached the conclusion that if the suggested change was adopted the German text would correspond more exactly to the original French and English versions. The Austrian and Swiss delegations agreed on this point. The three delegations expressed the desire that the International Labour Office publish a corrigendum to the volume Übereinkommen und Empfehlungen, 1919-1952.

The Conference considered the official German translation of the Constitution of the International Labour Organisation which had been adopted in a first reading at the 1954 Translation Conference. Several changes were introduced in the 1954 text and a final version was established.

The new German text follows the original French and English versions of the Constitution as in force at the time of the meeting of the Conference. In accordance with the desire expressed by the representatives of the three Governments concerned drafting changes were introduced in the various official German texts previously published. The Government representatives made it clear that it was their intention that the new German text should supersede the texts published previously. Each of the Governments concerned shall consider whether and how the new German text should be published in their official publications.

The Conference decided that the formula “industrial organisations which are most representative/les organisations professionnelles les plus représentatives” in Article 3, paragraph 5, of the Constitution should, as in the past, be translated by the words “massgebende Berufsverbände”, since the German word “massgebende” is in itself sufficient to express the superlative used in the French and English versions, and since moreover there is no superlative in German for that particular adjective.²

¹ The previous German text said: “When the insured person is abroad and by reason of sickness has lost his right to wages in whole or in part . . .”, whereas the English text says “his right to wages whether previously payable in whole or in part” (the French text says “son droit au salaire, même partiel”). The new German text says literally “his right to wages whether previously payable in whole or in part”.
² In other words, the term “massgebende” means both “representative” and “most representative”. Earlier German translations had not found a solution to this particular problem nor was this possible at Freudenstadt. Article 3, paragraph 5, of the Constitution will therefore always have to be read in the light of the original French and English versions.
The International Labour Office will submit to each of the three Governments concerned five copies of the official German texts, as approved by the German Translation Conference, of Recommendation No. 98 and of the Constitution of the International Labour Organisation, including the Declaration of Philadelphia.

Since Recommendation No. 98 must be submitted to the competent authority by 24 December 1955 the Conference urgently desires that the German text of this Recommendation, as adopted at Freudenstadt, should reach the Governments by 15 October 1955; the Governments would also like to have a period of ten days allowed for the submission of observations on obvious errors, misprints and so forth. Once the texts are finalised, and by 10 November 1955 at the latest, they will be sent to the Governments concerned as follows:

- to the Government of the Federal Republic of Germany: 40 copies;
- to the Austrian Government: 10 copies;
- to the Swiss Government: 10 copies.

The German text of the Constitution, including the Declaration of Philadelphia, should also be in the hands of the three Governments by 15 October 1955. Each of the three Governments will, by 15 January 1956, inform the other Governments, as well as the I.L.O., whether they have any further observations to make on this text and what they are. The representatives of the three Governments expressed the desire that the International Labour Office should thereafter publish the final version.

The Governments concerned expressed the desire that the next German Translation Conference, which will have on its agenda the preparation of the official German translation of the instruments adopted by the 38th Session of the International Labour Conference, should meet in 1956, if possible at the middle of April. The representatives of the Austrian Government invited the Conference to meet at Vienna.

The Governments concerned once more express their thanks to the International Labour Office for its very valuable help in the preparation of this year's German Translation Conference. It was particularly helpful that the Office had made available, some time before the meeting of the Conference, amended drafts taking into account the observations and suggestions submitted by the Governments after they had received initial drafts of the same texts.

Freudenstadt, 23 September 1955.

For the Government of the Federal Republic of Germany:
(Signed) STEPHANY.
THOMAS.

For the Government of the Republic of Austria:
HAMMERL.
KRENN.

For the Government of the Swiss Confederation:
KAUFMANN.
W. JOST.

For the International Labour Office:
W. DOBBERNACK.
Francis WOLF.
Judgments Given by the Administrative Tribunal of the International Labour Organisation

Text of the Judgment Given in the Case of:
Niestlé against International Institute of Intellectual Co-operation

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL
(Arbitral jurisdiction)

Judgment No. 16.

Fifth Ordinary Session, April 1955
Sitting of 26 April 1955

In the matter of: Mrs. Alice Niestlé against: International Institute of Intellectual Co-operation.

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint made against the International Institute of Intellectual Co-operation on 3 December 1954 by Mrs. Alice Niestlé, formerly an official of the Institute from 1926 to 1939, the said complaint having as its object the reparation of prejudice resulting for the complainant: (1) from the non-payment of a termination indemnity; (2) from failure to reappoint her at the time of the resumption by the Institute of its activities at the beginning of 1945 and until the end of 1946; (3) from failure to present her candidature to the United Nations Educational, Scientific and Cultural Organisation at the time of the transfer to that Organisation of the functions of the Institute;

Considering the memorandum of reply deposited on 6 January 1955 on behalf of the Institute represented by its liquidator, Mr. Jean Burnay, Counsellor of State;

Considering the conclusions exchanged by the representatives of the parties during the hearing and in particular the additional submission of the complainant concerning the revalorisation of the sum claimed to be due as a result of her termination;

Whereas the facts in the case are the following:

(1) By letter of 14 April 1926 the Director of the Institute appointed the complainant to the post of clerk, pointing out that “cette désignation, comme toutes celles des fonctionnaires de l’Institut de cette catégorie, avait un caractère provisoire et révocable” and that, in case of termination, she had a right to two months’ notice only; these conditions were accepted by the complainant by letter of 15 April 1926;

(2) By letter of 20 September 1939 Mr. Henri Bonnet, Director of the Institute, informed Mrs. Niestlé that to his regret he was obliged to terminate her, circumstances requiring him to maintain only a limited staff in the Institute; the Director accordingly communicated to her the two months’ notice provided in her letter of appointment and addressed to her a cheque representing two months’ salary; the letter of the Director was accompanied by a certificate stating in particular that the complainant had served in the Institute in the post of clerk; this letter also contained the following passage:

1 Unofficial translations.
Lorsque l'activité de l'Institut permettrait de reconstituer ses services existants, il demeure entendu que votre poste vous serait offert de préférence à toute autre candidature. Je conserve le ferme espoir que cette éventualité se réalisera, même au cours de la période exceptionnelle qui vient de commencer.

(3) Four days later, namely 24 September 1939, Mrs. Niestlé acknowledged receipt of the said letter, of the cheque and of the certificate without protest except in so far as she requested that the certificate be corrected since she considered that she had the right to the title "chief clerk";

(4) By letter of 3 October 1939 the Director replied to the complainant that this correction could not be made, since she had enjoyed no such promotion (it is to be observed that Article 5 of the Staff Regulations of the Institute requires the approval of the Directors’ Committee for the appointment of officials of the grade of chief clerk; the Tribunal has not been informed that such a decision was taken);

(5) By letter of 15 February 1939 the complainant again protested, referring to a certificate delivered to her on 17 February 1937 by the Head of the Administrative Services of the Institute and by virtue of which she had been employed as a chief clerk;

(6) By letter of 24 March 1939 the Director of the Institute replied to the complainant that this certificate, issued for a purpose of which he was ignorant (it appears that the certificate was issued to accommodate her) could not be considered as being an appointment;

(7) By letter of 27 February 1940 the complainant reluctantly acquiesced, thus annulling the only reservation made by her at the time when she was notified of her termination;

(8) In 1940 the Ministry of Foreign Affairs of France, which undertook the administrative management of the Institute, had allocated to all terminated officials an indemnity of 100 francs for each year of service; there was therefore available to the complainant the sum of 1,600 French francs which were placed to her credit but which could not be transferred to the beneficiary since in the meantime she had left France for Switzerland without giving her new address;

(9) At the end of hostilities an agreement negotiated between the Director of the Institute and the Secretariat of the League of Nations transferred to the latter, for transmission to the United Nations and eventually to U.N.E.S.C.O., the assets which under the Regulations of the Institute were to devolve upon the League of Nations should the Institute be dissolved; another agreement between the Institute and U.N.E.S.C.O. specified that the latter organisation would give particular consideration to the candidatures of former officials of the Institute with a view to appointments to its own staff; from 1945 to the end of 1946, during which period the liquidation began, the activities of the Institute were temporarily resumed; Mrs. Niestlé did not offer her candidature either to the Institute or later to U.N.E.S.C.O.;

(10) In 1947 only, following an audit and on the basis of information received, it appears, from the Institute's Auditor, the residence of the complainant became known to the Institute and it became possible to transmit to the complainant the cheque for 1,600 francs mentioned above;

(11) The complainant gave a receipt on 25 May 1947 "sans préjudice des dispositions qui pourraient être prises pour le dédommagement équitable des fonctionnaires lors du vote de la loi (française) qui devra consacrer la suppression de l'Institut". This cheque was however only paid in 1953, together with interest
from 1947, since the bank account of the Institute had been blocked by a sequestration executed on the request of certain creditors;

(12) The complainant protested both to the liquidator as well as to the Director-General of U.N.E.S.C.O. averring the contemptuous nature of the sum paid to her; the former replied that it was not for him to give a decision as to a termination indemnity, having limited himself to determination of the amount of a cheque which had not been cashed, and the latter that there could be no question of reconsideration of the conditions of the termination in 1939 without any reservation on the part of the complainant, the 1,600 francs representing only unpaid salary for the year 1940.

IN LAW:

A. Considering that by acquiescing on 27 February 1940 in the reply given to her by the Director of the Institute (according to which reply the claim made by the complainant at the time of her termination that the termination certificate should state her grade as that of chief clerk was not founded), the complainant abandoned the only grievance which she claimed at the time against the Institute;

That in so doing she waived the means of appeal open to her under the Staff Regulations of the Institute;

B. Considering that the existence of the promise made to the complainant in 1947 is proven, under which promise it remained understood that her post would be offered to her in preference to any other candidature at such time as the activities of the Institute should permit it to reconstitute its existing services;

That this appointment was subject: (1) to the resumption by the Institute of its activities; (2) to the re-establishment of the service to which the complainant belonged;

That, if the Institute resumed its activities temporarily from 1945 to 1946, it has not been shown that the service to which the complainant belonged was re-established, the defendant denying this allegation and the complainant basing her arguments solely upon a declaration of the witness Weiss which is not in conclusive terms;

That if it is true that the Institute did not seek out its former collaborators in 1945 it is besides demonstrated that in not notifying to the Institute her changes of address the complainant failed to show a continuing desire to take advantage of the promise of favourable treatment made to her at the time of her termination, this failure compromising the realisation of such promise;

That it is shown that it was by chance, in 1947 only, that the Institute was tardily informed of the address of the complainant;

That even at that time the complainant did not present the claims which she now submits concerning her employment, and limited herself to making reservations as to the amount of the indemnity;

That, even in 1952, when it became known to her through a notice in the press that a liquidator appointed by U.N.E.S.C.O. invited any persons who considered that they were so entitled to present their claims within as short a period as possible, she took certain steps but again limiting herself to raising the question of the small amount of the sum granted to her as an indemnity, without mentioning her alleged right to re-employment;

That the complainant does not, at any moment, appear to have thought of putting her candidature to the Institute on her own initiative, at the time that the latter temporarily resumed its functions, nor later to U.N.E.S.C.O.;
That therefore the request for an indemnity on the grounds of failure to re-employ her is not founded;

C. Considering that, as regards the indemnity of 1,600 francs accorded to the complainant in French francs, the salary of the complainant whilst in the Institute's service was equally fixed in French francs and was regularly paid to her in that currency; that there can therefore be no question of substituting Swiss francs for French francs as was submitted during the hearing, the complainant invoking her Swiss nationality and the fact that she had transferred her domicile to Switzerland;

That, on this point, the submission of the complainant, as presented today, is entirely without basis;

That, besides, the devaluation of currency is a state of things to which all are subject and remains subject, in law, to the principle that in the absence of a revalorisation clause—such a clause soon being considered in many countries as contrary to public policy and therefore invalid—the currency agreed upon or adopted remains such, "le franc reste le franc" (see Judgment No. 19 of the Administrative Tribunal of the League of Nations);

Considering, besides, that the delay incurred in the disposal of the small sum due to the complainant results from the fact that her address was not known to the Institute for a reason engaging the responsibility of the complainant herself;

D. Considering, finally, that the complainant now submits that she had a right to the application of Article 35 of the Staff Regulations of the Institute, which reads as follows:

An official whose contract of service is terminated under Article 30 or Article 31 of the present Regulations shall be allowed compensation calculated on the basis of two months’ salary per year’s service, but the said compensation shall not be less than three months’ salary or more than a year’s salary.

The provisions of this article shall not affect the application of the Regulations regarding the granting of pensions or retired pay provided for in Article 26 of the present Regulations.

That she cannot seriously claim to have been ignorant of the existence of these Regulations up to the time that she brought her complaint before the Tribunal;

That, in general, the Regulations were applicable to all officials of the Institute from the time of their adoption by the Governing Body of that organisation, in 1931;

That in her statement, the complainant, claiming the grade of chief clerk, states in error that in this capacity the Regulations gave to her the right to termination with an indemnity proportional to the duration of her services calculated on the basis of Article 35 quoted above; that the Regulations apply to officials of all grades;

That, in strict law, the complainant was entitled to receive the indemnity provided for in the said Article 35;

But that her complaint submitted today is clearly out of time;

That the Tribunal expresses, however, the wish that, respecting equity, the Institute accord to the complainant the indemnity provided for in Article 35;
ON THE GROUNDS AS AFORESAID:

The Tribunal,
Declares that in law, the action is unfounded;
And
Rejecting any wider or contrary conclusions, consequently dismisses the claims of the complainant.

In witness of which judgment, pronounced in public sitting on 26 April 1955 by His Excellency Mr. Albert Devèze, President, Professor Georges Scelle, Vice-President and Jonkheer van Rijckevorsel, Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert Devèze.
Georges Scelle.
A. van Rijckevorsel.

Certified true copy:
Francis Wolf, Registrar of the Administrative Tribunal.

Text of the Judgment Given in the Case of:
Duberg against United Nations Educational, Scientific and Cultural Organisation

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 17.
Fifth Ordinary Session, April 1955
Sitting of 26 April 1955

In the matter of: Mr. Peter Duberg against: United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,
Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 5 February 1955 by Mr. Peter Duberg, an official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken by the Director-General on 13 August 1954 and to enjoin the Director-General to renew the contract of the complainant and to pay him the sum of one franc in respect of damages and legal costs;
Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 19 March 1955;
Having had referred to it a statement submitted in his own name on 20 April 1955 by Mr. Pierre Henquet, Chairman of the Staff Association of U.N.E.S.C.O.;
Considering the pleadings exchanged by the representatives of the parties during the hearing and in particular the statement by the complainant that his alternative claim for damages would amount to the sum of 67,300 dollars;
Considering that the complaint is receivable in form;
Considering that the facts of the case are the following:
(1) The complainant took up his duties with the defendant Organisation on 2 June 1949;
At the time when the decision complained of was taken, the complainant was the holder of a fixed-term contract of one year's duration expiring on 31 December 1954;

In February 1953 the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations", whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant did not answer this questionnaire;

In February 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953, amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant also did not reply;

In June 1954 the complainant received an invitation, dated 18 June, to appear on 15 July before the Loyalty Board meeting at the United States Embassy in Paris;

By letter dated 13 July 1954 the complainant informed the Director-General of the reasons of conscience on which he based his refusal to appear;

By letter dated 13 August 1954 the Director-General informed the complainant that he would not offer him a new contract on the expiry of the contract at that time in force. This letter stated, inter alia:

... In the light of what I believe to be your duty to the Organisation, I have considered very carefully your reasons for not appearing before the International Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organisation.

I have, therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires ...;

By a letter dated 23 August 1954 the complainant requested the Director-General to reconsider his decision;

The Chief of the Bureau of Personnel and Management informed the complainant in a letter dated 30 August 1954 of the Director-General's refusal to do so;

By a letter of 10 September 1954 the Director-General received communication of the report of the Loyalty Board (advisory determination) in which it was stated: "It has been determined on all the evidence that there is a reasonable doubt as to the loyalty of Norwood Peter Duberg to the Government of the United States" and that "this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific and Cultural Organisation ";

The complainant was himself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 10 September 1954,
and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director-General of the defendant Organisation;

(12) On 23 September 1954 the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board asking that the above-mentioned decision should be rescinded;

(13) On 2 November 1954 the Appeals Board, by a majority opinion, expressed the opinion that the decision should be rescinded;

(14) By a letter dated 25 November 1954 the Director-General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

(15) Before the Appeals Board had taken its decision the Director-General, on 28 September 1954, set up a Special Advisory Board consisting of members of the staff, whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director-General, and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations";

(16) The complainant appeared and explained his position before this Special Advisory Board. However, in a letter to the Director-General dated 4 October 1954, he expressed certain reservations to the procedure followed and asked for any measures affecting him which might result from this procedure to be cancelled;

(17) By a letter dated 11 October 1954 the Chief of the Bureau of Personnel and Management informed the complainant of the rejection of this request;

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that of a probationary appointment, that is to say of a trial appointment;

That while it is the case that U.N.E.S.C.O. Staff Rule 104.6 issued in application of the Staff Regulations stipulates that "a fixed-term appointment shall expire, without notice or indemnity, upon completion of the fixed term . . .", this text only deals with the duration of the appointment and in no way bars the Tribunal from being seized of a complaint requesting the examination of the validity of the positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director-General, by a general measure of which the whole staff was informed on 6 July 1954, "decided that all professional staff members whose contracts expire between now and 30 June 1955 (inclusive) and who have achieved the required standards of efficiency, competence and integrity and whose services are needed, will be offered one-year renewals of their appointments";

That the complainant, having been made the object of an exception to this general measure, holds that the Director-General could not legitimately thus make an exception of him on the sole ground which he invoked against him as justification for the view that he did not possess the quality of integrity recognised in those of his colleagues whose contracts had been renewed, and in the absence of any contestation of his qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted;

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation;
That by virtue of Article II, paragraph 1, of its Statute, the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

A. Considering that the defendant Organisation holds that the renewal or the non-renewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director-General, who is not even required to give his reason therefor;

Considering that, if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal, and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;

Considering, however, that in this matter the question does not affect the issue inasmuch as the Director-General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press;

That this reason is based solely on the refusal of the complainant to co-operate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which he is a citizen, and in particular on his refusal to appear before a commission invested by that Government with the power to investigate his loyalty to that State;

That the Director-General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer him a new appointment, his attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;

B. Considering that if the Director-General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the decision complained of was taken, was as follows:

Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organisation and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiments, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities;
Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant approached the Director-General only at a late date, so that the latter would not have been able to give him advice in sufficient time;

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director-General;

D. Considering that it is undoubtedly true that, if the Director-General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director-General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts;

That in this light the inquiry procedure within the Secretariat to which the Director-General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director-General would “be studied with care” and that he would “certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O.”;

That the objection raised in this regard by the complainant is totally unfounded;

E. Considering that it is quite different when the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which his national Government considers it necessary to subject him;

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organisation towards the achievement of its own, exclusively international, objectives;
That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 72 States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an inquiry in similar or analogous conditions, the attitude adopted by the Director-General would constitute a precedent obliging him to lend his assistance to such inquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence, on the basis of any opposal by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;

Considering, therefore, that the only ground for complaint adduced by the Director-General to justify the application to the complainant of an exception to the general rule of renewal of appointments, that is to say his opposal to the investigations of his own Government, is entirely unjustified;

Considering that it is in vain that it is alleged that the terms of renewal set forth in the Director-General’s circular of 6 July 1954, after enumeration of the standards required, provide that the services of the person concerned must be needed; that this expression cannot mean that the person concerned must be irreplaceable, in that no successor can be found; that it means only that the requirements of the service to which the person concerned is assigned must be permanent and that the said person must give full satisfaction therein and otherwise in all manner in the performance of his duties; that on this last point the appreciations contained in the annual reports of the complainant are entirely laudatory;

Considering that it results therefrom that the decision taken must be rescinded; but that nevertheless the Tribunal does not have the power to order the renewal of a fixed-term appointment, which requires a positive act of the Director-General over whom the Tribunal has no hierarchical authority;

That in the absence of such a power, and unless the Director-General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the discriminatory treatment of which he was the object;
F. Considering that it results from the documents produced by the parties during the hearing that the inquiry made by order of the Director-General himself within the defendant Organisation, the legitimate and regular character of which has been shown above, did not bring any evidence to show that the complainant failed in his duties, as defined in Article 1.4 of the Regulations, during the period that he was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the reports of the Loyalty Board or as a result of its inquiries that the complainant, during his employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was engaged in militant political activities before being appointed to the international service and at a time when he was not bound by the obligations involved in joining this service, unless it has been proved that he had been guilty of dishonourable or criminal acts (actes déshonorants ou criminels);

That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend himself;

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to his integrity, judgment and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed his own interests above the true interest of the Organisation, which interest consists above all in safeguarding erga omnes its independence and impartiality;

ON PREJUDICE:

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;

That not only is such an almost absolute quod plerumque fit but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;

That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and an abuse of rights which consequently involves the obligation to make good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object to the Staff Association recognised by the defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director-General himself;
That redress will be ensured *ex aequo et bono* by the granting to the complainant of the sum set forth below;

Considering that, on the one hand, there should be granted to the complainant the amount of the salary which he would have received had he not been subject to the measure of exception of which he complains, that is to say one year's basic salary;

That, on the other hand, there should be granted to him a second year's basic salary in order to compensate for the moral prejudice and in particular the difficulties which he will encounter in seeking new means of subsistence;

That, in this calculation, there should be added to the salary the statutory amount of children's allowance;

**ON THE GROUNDS AS AFORESAID:**

The Tribunal,

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form;

Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;

In consequence, should the defendant not reconsider the decision taken and renew the complainant's appointment, orders the said defendant to pay to the complainant the sum of 15,500 dollars, plus children's allowance for two years, the whole together with interest at 4 per centum from 1 January 1955;

Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of his defence;

**PRONOUNCING** on the application to intervene made by Mr. Henquet;

Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name;

That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;

Considering that the intervention is founded, in so far as recognised by the present judgment, orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.

In witness of which judgment, pronounced in public sitting on 26 April 1955 by His Excellency Mr. Albert Devèze, President, Professor Georges Scelle, Vice-President, and Jonkheer van Rijckeversel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert Devèze.          Georges Scelle.          A. van Rijckeversel.

Certified true copy:

Francis Wolf,
Registrar of the Administrative Tribunal.
Text of the Judgment Given in the Case of: 
Leff against United Nations Educational, Scientific and Cultural Organisation

INTERNATIONAL LABOUR ORGANISATION 
ADMINISTRATIVE TRIBUNAL

Judgment No. 18.

Fifth Ordinary Session, April 1955
Sitting of 26 April 1955

In the matter of: Mr. David N. Leff against: United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,
Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 5 February 1955 by Mr. David N. Leff, an official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken by the Director-General on 17 August 1954 and to enjoin the Director-General to renew the contract of the complainant and to pay him the sum of one franc in respect of damages and legal costs;
Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 19 March 1955;
Having had referred to it a statement submitted in his own name on 20 April 1955 by Mr. Pierre Henquet, Chairman of the Staff Association of U.N.E.S.C.O.;
Considering the pleadings exchanged by the representatives of the parties during the hearing and in particular the statement by the complainant that his alternative claim for damages would amount to the sum of 66,100 dollars;
Considering that the complaint is receivable in form;
Considering that the facts of the case are the following:

(1) The complainant took up his duties with the defendant Organisation in August 1949;
(2) At the time when the decision complained of was taken, the complainant was the holder of a fixed-term contract of three years' duration expiring on 31 December 1954;
(3) In February 1953 the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations", whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant did not answer this questionnaire;
(4) In March 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953, amending...
Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant also did not reply;

(5) In June 1954 the complainant received an invitation, dated 18 June, to appear on 15 July before the Loyalty Board meeting at the United States Embassy in Paris;

(6) By letter dated 13 July 1954 the complainant informed the Director-General of the reasons of conscience on which he based his refusal to appear;

(7) By a letter of 22 July 1954 the Director-General received communication of the report of the Loyalty Board (advisory determination) in which it was stated: "It has been determined on all the evidence that there is a reasonable doubt as to the loyalty of David Neal Leff to the Government of the United States" and that "this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific and Cultural Organisation;

(8) The complainant was himself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 2 August 1954 and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director-General of the defendant Organisation;

(9) By letter dated 17 August 1954 the Director-General informed the complainant that he would not offer him a new contract on the expiry of the contract at that time in force. This letter stated, inter alia:

... In the light of what I believe to be your duty to the Organisation, I have considered very carefully your reasons for not appearing before the International Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organisation.

I have, therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires...;

(10) By a letter dated 26 August 1954 the complainant requested the Director-General to reconsider his decision;

(11) The Chief of the Bureau of Personnel and Management informed the complainant, in a letter dated 30 August 1954, of the Director-General's refusal to do so;

(12) On 23 September 1954 the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board asking that the above-mentioned decision should be rescinded;

(13) On 2 November 1954 the Appeals Board, by a majority opinion, expressed the opinion that the decision should be rescinded;

(14) By a letter dated 25 November 1954 the Director-General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

(15) Before the Appeals Board had taken its decision the Director-General, on 28 September 1954, set up a Special Advisory Board consisting of members of the staff, whose task was to "examine the cases of certain staff members on the
basis of certain information which has been brought to the knowledge of the Director-General, and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations”;

(16) The complainant appeared and explained his position before this Special Advisory Board. However, in a letter to the Director-General, dated 4 October 1954, he expressed certain reservations to the procedure followed and asked for any measures affecting him which might result from this procedure to be cancelled;

(17) By a letter dated 11 October 1954 the Chief of the Bureau of Personnel and Management informed the complainant of the rejection of this request;

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that of a probationary appointment, that is to say of a trial appointment;

That while it is the case that U.N.E.S.C.O. Staff Rule 104.6 issued in application of the Staff Regulations stipulates that “a fixed-term appointment shall expire, without notice or indemnity, upon completion of the fixed term . . .”, this text only deals with the duration of the appointment and in no way bars the Tribunal from being seized of a complaint requesting the examination of the validity of the positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director-General, by a general measure of which the whole staff was informed on 6 July 1954, “decided that all professional staff members whose contracts expire between now and 30 June 1955 (inclusive) and who have achieved the required standards of efficiency, competence and integrity and whose services are needed, will be offered one-year renewals of their appointments”; 

That the complainant, having been made the object of an exception to this general measure, holds that the Director-General could not legitimately thus make an exception of him on the sole ground which he invoked against him as justification for the view that he did not possess the quality of integrity recognised in those of his colleagues whose contracts had been renewed, and in the absence of any contestation of his qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted;

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation;

That by virtue of Article II, paragraph 1, of its Statute, the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

A. Considering that the defendant Organisation holds that the renewal or the non-renewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director-General who is not even required to give his reason therefor;

Considering that, if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal, and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;
Considering, however, that in this matter the question does not affect the issue inasmuch as the Director-General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press; that this reason is based solely on the refusal of the complainant to co-operate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which he is a citizen, and in particular on his refusal to appear before a commission invested by that Government with the power to investigate his loyalty to that State;

That the Director-General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer him a new appointment, his attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;

B. Considering that if the Director-General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the decision complained of was taken, was as follows:

Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organisation and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiments, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities;

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant approached the Director-
General only at a late date, so that the latter would not have been able to give him advice in sufficient time;

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director-General;

D. Considering that it is undoubtedly true that, if the Director-General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director-General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts;

That in this light the inquiry procedure within the Secretariat to which the Director-General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director-General would “be studied with care” and that he would “certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O.”;

That the objection raised in this regard by the complainant is totally unfounded;

E. Considering that it is quite different when the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which his national Government considers it necessary to subject him;

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 72 States and Governments involved in the defendant Organisation brought against an official, one of its
citizens, an accusation of disloyalty and claimed to subject him to an inquiry in
similar or analogous conditions, the attitude adopted by the Director-General would
constitute a precedent obliging him to lend his assistance to such inquiry and,
moreover, to invoke the same disciplinary or statutory consequences, the same
withdrawal of confidence, on the basis of any opposition by the person concerned to
the action of his national Government;

That if this were to be the case there would result for all international officials,
in matters touching on conscience, a state of uncertainty and insecurity prejudicial
to the performance of their duties and liable to provoke disturbances in the inter-
national administration such as cannot be imagined to have been in the intention
of those who drew up the Constitution of the defendant Organisation;

Considering, therefore, that the only ground for complaint adduced by the
Director-General to justify the application to the complainant of an exception
to the general rule of renewal of appointments, that is to say his opposition to the
investigations of his own Government, is entirely unjustified;

Considering that it is in vain that it is alleged that the terms of renewal set forth
in the Director-General's circular of 6 July 1954, after enumeration of the standards
required, provide that the services of the person concerned must be needed; that
this expression cannot mean that the person concerned must be irreplaceable, in
that no successor can be found; that it means only that the requirements of the
service to which the person concerned is assigned must be permanent and that
the said person must give full satisfaction therein and otherwise in all manner in
the performance of his duties; that on this last point the appreciations contained
in the annual reports of the complainant are entirely laudatory;

Considering that it results therefrom that the decision taken must be rescinded;
but that nevertheless the Tribunal does not have the power to order the renewal
of a fixed-term appointment, which requires a positive act of the Director-General
over whom the Tribunal has no hierarchical authority;

That in the absence of such a power, and unless the Director-General should
consider himself in a position to reconsider his decision in this manner, the Tribunal
is none the less competent to order equitable reparation of the damage suffered
by the complainant by reason of the discriminatory treatment of which he was
the object;

F. Considering that it results from the documents produced by the parties
during the hearing that the inquiry made by order of the Director-General himself
within the defendant Organisation, the legitimate and regular character of which
has been shown above, did not bring any evidence to show that the complainant
failed in his duties, as defined in Article 1.4 of the Regulations, during the period
that he was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the
reports of the Loyalty Board or as a result of its own inquiries that the complainant,
during his employment in the Secretariat of the defendant Organisation, had engaged
in or was engaging in activities that could be shown to constitute misconduct under
the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was
engaged in militant political activities before being appointed to the international
service and at a time when he was not bound by the obligations involved in joining
this service, unless it has been proved that he had been guilty of dishonourable or
criminal acts (actes déshonorants ou criminels);
That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend himself;

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to his integrity, judgment and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed his own interests above the true interest of the Organisation, which interest consists above all in safeguarding *erga omnes* its independence and impartiality;

**ON PREJUDICE:**

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;

That not only is such an almost absolute *quod plerumque fit* but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;

That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and an abuse of rights which consequently involves the obligation to make good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object to the Staff Association recognised by the defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director-General himself;

That redress will be ensured *ex aequo et bono* by the granting to the complainant of the sum set forth below;

Considering that, on the one hand, there should be granted to the complainant the amount of the salary which he would have received had he not been subject to the measure of exception of which he complains, that is to say one year’s basic salary;

That, on the other hand, there should be granted to him a second year’s basic salary in order to compensate for the moral prejudice and in particular the difficulties which he will encounter in seeking new means of subsistence;

That, in this calculation, there should be added to the salary the statutory amount of children’s allowance;

**ON THE GROUNDS AS AFORESAID:**

The Tribunal,

Rejecting any wider or contrary conclusions,
Declares the complaint to be receivable as to form;
Declares that it is competent;
Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;
In consequence, should the defendant not reconsider the decision taken and renew the complainant's appointment, orders the said defendant to pay to the complainant the sum of 12,800 dollars, plus children's allowance for two years, the whole together with interest at 4 per centum from 1 January 1955;
Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of his defence;

PRONOUNCING on the application to intervene made by Mr. Henquet;
Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name;
That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;
Considering that the intervention is founded, in so far as recognised by the present judgment, orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.
In witness of which judgment, pronounced in public sitting on 26 April 1955 by His Excellency Mr. Albert Devèze, President, Professor Georges Scelle, Vice-President, and Jonkheer van Rijckevorsel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert DEVEZE.
Georges SCELLE.
A. VAN RIJCKEVORSEL.

Certified true copy:
Francis WOLF,
Registrar of the Administrative Tribunal.

Text of the Judgment Given in the Case of:
Wilcox against United Nations Educational, Scientific and Cultural Organisation

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 19.

Fifth Ordinary Session, April 1955
Sitting of 26 April 1955

In the matter of: Mrs. Annette Wilcox against: United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,
Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 5 February 1955 by
Mrs. Annette Wilcox, an official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken by the Director-General on 13 August 1954 and to enjoin the Director-General to renew the contract of the complainant and to pay her the sum of one franc in respect of damages and legal costs;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 19 March 1955;

Having had referred to it a statement submitted in his own name on 20 April 1955 by Mr. Pierre Henquet, Chairman of the Staff Association of U.N.E.S.C.O.;

Considering the pleadings exchanged by the representatives of the parties during the hearing and in particular the statement by the complainant that her alternative claim for damages would amount to the sum of 70,300 dollars;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation on 1 June 1950;

(2) At the time when the decision complained of was taken, the complainant was the holder of a fixed-term contract of one year’s duration expiring on 31 December 1954;

(3) In February 1953 the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of “Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations”, whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant completed this questionnaire and returned it on 13 February 1953;

(4) In February 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission, set up by Executive Order No. 10459 of 2 June 1953, amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant did not reply;

(5) In June 1954 the complainant received an invitation, dated 18 June, to appear on 15 July before the Loyalty Board meeting at the United States Embassy in Paris;

(6) By letter dated 16 July 1954 the complainant informed the Director-General of the reasons of conscience on which she based her refusal to appear;

(7) By letter dated 13 August 1954 the Director-General informed the complainant that he would not offer her a new contract on the expiry of the contract at that time in force. This letter stated, inter alia:

... In the light of what I believe to be your duty to the Organisation, I have considered very carefully your reasons for not appearing before the International Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organisation.
I have, therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires ...

(8) By a letter dated 21 August 1954 the complainant requested the Director-General to reconsider his decision;

(9) The Chief of the Bureau of Personnel and Management informed the complainant in a letter dated 30 August 1954 of the Director-General’s refusal to do so;

(10) By a letter of 14 September 1954 the Director-General received communication of the report of the Loyalty Board (advisory determination) in which it was stated that: “It has been determined on all the evidence that there is a reasonable doubt as to the loyalty of Irene Annette Wilcox to the Government of the United States” and that “this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific and Cultural Organisation”;

(11) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 15 September 1954 and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director-General of the defendant Organisation;

(12) On 23 September 1954 the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board asking that the above-mentioned decision should be rescinded;

(13) On 2 November 1954 the Appeals Board, by a majority opinion, expressed the opinion that the decision should be rescinded;

(14) By a letter dated 25 November 1954 the Director-General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

(15) Before the Appeals Board had taken its decision the Director-General, on 28 September 1954, set up a Special Advisory Board consisting of members of the staff, whose task was to “examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director-General, and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations”;

(16) The complainant appeared and explained her position before this Special Advisory Board. However, in a letter dated 5 October 1954 to the Chairman of the Appeals Board of the defendant Organisation, the complainant expressed full reservations to the legality of the procedure of the Board and the measures which might result from it.

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that of a probationary appointment, that is to say of a trial appointment;

That while it is the case that U.N.E.S.C.O. Staff Rule 104.6 issued in application of the Staff Regulations stipulates that “a fixed-term appointment shall expire, without notice or indemnity, upon completion of the fixed term . . .”, this text only deals with the duration of the appointment and in no way bars the Tribunal from
being seized of a complaint requesting the examination of the validity of the positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director-General, by a general measure of which the whole staff was informed on 6 July 1954, "decided that all professional staff members whose contracts expire between now and 30 June 1955 (inclusive) and who have achieved the required standards of efficiency, competence and integrity and whose services are needed, will be offered one-year renewals of their appointments";

That the complainant, having been made the object of an exception to this general measure, holds that the Director-General could not legitimately thus make an exception of her on the sole ground which he invoked against her as justification for the view that she did not possess the quality of integrity recognised in those of her colleagues whose contracts had been renewed, and in the absence of any contestation of her qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted;

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation;

That by virtue of Article II, paragraph 1, of its Statute, the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

A. Considering that the defendant Organisation holds that the renewal or the non-renewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director-General who is not even required to give his reason therefor;

Considering that, if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal, and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;

Considering, however, that in this matter the question does not affect the issue inasmuch as the Director-General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press;

That this reason is based solely on the refusal of the complainant to co-operate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which she is a citizen, and in particular on her refusal to appear before a commission invested by that Government with the power to investigate her loyalty to that State;

That the Director-General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer her a new appointment, her attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;
B. Considering that if the Director-General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the decision complained of was taken, was as follows:

Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organisation and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiments, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities;

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant simply informed the Director-General after the date on which she had been called on to appear, of her decision not to appear;

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director-General;

D. Considering that it is undoubtedly true that if the Director-General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director-General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts;

That in this light the inquiry procedure within the Secretariat to which the Director-General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this
was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director-General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O.";

That the objection raised in this regard by the complainant is totally unfounded;

E. Considering that it is quite different when the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which his national Government considers it necessary to subject him;

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 72 States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an inquiry in similar or analogous conditions, the attitude adopted by the Director-General would constitute a precedent obliging him to lend his assistance to such inquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence, on the basis of any opposal by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;

Considering, therefore, that the only ground for complaint adduced by the Director-General to justify the application to the complainant of an exception to the general rule of renewal of appointments, that is to say her opposal to the investigations of her own Government, is entirely unjustified;
Considering that it is in vain that it is alleged that the terms of renewal set forth in the Director-General’s circular of 6 July 1954, after enumeration of the standards required, provide that the services of the person concerned must be needed; that this expression cannot mean that the person concerned must be irreplaceable, in that no successor can be found; that it means only that the requirements of the service to which the person concerned is assigned must be permanent and that the said person must give full satisfaction therein and otherwise in all manner in the performance of his or her duties; that on this last point the appreciations contained in the annual reports of the complainant are entirely laudatory;

Considering that it results therefrom that the decision taken must be rescinded; but that nevertheless the Tribunal does not have the power to order the renewal of a fixed-term appointment, which requires a positive act of the Director-General over whom the Tribunal has no hierarchical authority;

That in the absence of such a power, and unless the Director-General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the discriminatory treatment of which she was the object;

F. Considering that it results from the documents produced by the parties during the hearing that the inquiry made by order of the Director-General himself within the defendant Organisation, the legitimate and regular character of which has been shown above, did not bring any evidence to show that the complainant failed in her duties, as defined in Article 1.4 of the Regulations during the period that she was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the reports of the Loyalty Board or as a result of its own inquiries that the complainant, during her employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was engaged in militant political activities before being appointed to the international service and at a time when she was not bound by the obligations involved in joining this service, unless it has been proved that she had been guilty of dishonourable or criminal acts (actes déshonorants ou criminels);

That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend herself;

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to her integrity, judgment and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed her own interests above the true interest of the Organisation, which interest consists above all in safeguarding *erga omnes* its independence and impartiality;

**ON PREJUDICE:**

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he or she occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;
That not only is such an almost absolute quod plerumque fit but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;

That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and an abuse of rights which consequently involves the obligation to make good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object to the Staff Association recognised by the defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director-General himself;

That redress will be ensured ex aequo et bono by the granting to the complainant of the sum set forth below;

Considering that, on the one hand, there should be granted to the complainant the amount of the salary which she would have received had she not been subject to the measure of exception of which she complains, that is to say one year's basic salary;

That, on the other hand, there should be granted to her a second year's basic salary in order to compensate for the moral prejudice and in particular the difficulties which she will encounter in seeking new means of subsistence;

ON THE GROUNDS AS AFORESAID:

The Tribunal,
Rejecting any wider or contrary conclusions,
Declares the complaint to be receivable as to form;
Declares that it is competent;
Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;

In consequence, should the defendant not reconsider the decision taken and renew the complainant's appointment, orders the said defendant to pay to the complainant the sum of 15,500 dollars, together with interest at 4 per centum from 1 January 1955;

Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by Mr. Henquet;

Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name;

That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;

Considering that the intervention is founded, in so far as recognised by the present judgment, orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.
In witness of which judgment, pronounced in public sitting on 26 April 1955 by His Excellency Mr. Albert Devèze, President, Professor Georges Scelle, Vice-President, and Jonkheer van Rijckeversel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert Devèze.
Georges Scelle.
A. van Rijckeversel.

Certified true copy:
Francis Wolf,
Registrar of the
Administrative Tribunal.

Text of the Judgment Given in the Case of:
McIntire against Food and Agriculture Organisation of the United Nations

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 13 (A).

Fifth Ordinary Session (Part II), October 1955
Sitting of 24 October 1955

In the matter of: Mr. Gordon McIntire against: Food and Agriculture Organisation of the United Nations.

The Administrative Tribunal of the International Labour Organisation,
Having had referred to it a complaint regarding an issue of execution submitted by Mr. Gordon McIntire, a former official of the Food and Agriculture Organisation of the United Nations, following Judgment No. 13 pronounced on 3 September 1954 with respect to him, the said complaint concerning the delivery by the said Organisation to Mr. McIntire of a Certificate of Service consistent with the said judgement;
Considering the pleadings exchanged by the representatives of the parties;
Considering the certificate offered to the complainant by the defendant Organisation, a text of which is attached hereto;
Unanimously decides that the certificate attached hereto is satisfactory;
That Judgment No. 13 of 3 September 1954 has thus been fully executed;
That consequently the procedure is wholly terminated.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 24 October 1955, by His Excellency Mr. Albert Devèze, President, Jonkheer van Rijckeversel, Judge, Acting Vice-President, and Mr. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert Devèze.
A. van Rijckeversel.
Iasson Stavropoulos.

Certified true copy:
Francis Wolf,
Registrar of the
Administrative Tribunal.
FOOD AND AGRICULTURE ORGANISATION OF THE UNITED NATIONS

CERTIFICATE OF SERVICE

Mr. Gordon McIntire was employed by the Food and Agriculture Organisation of the United Nations at its Headquarters in Rome from 5 June 1952 to 4 June 1953.

Nature of Duties

Mr. McIntire's duties at the time of his recruitment were set forth in the attached “Post Description, Procedures Officer” (Appendix A). In September 1952 a second Procedures Officer and a stenographer were recruited and placed under his supervision. A new section having been set up within the Budget and Administrative Planning Branch towards the end of 1952, the responsibilities of which were defined in the attached statement of functions, policy and procedures Section, dated 18 February 1953 (Appendix B), Mr. McIntire was given charge of this unit from its inception and was permitted to use for internal purposes the title of Chief of Section as from 30 March 1953.

Reason for Leaving

Mr. McIntire appealed against his separation to the Administrative Tribunal of the I.L.O. which, in Judgment No. 13 of 3 September 1954, ruled that the decision was not based on grounds of unsatisfactory service but on personal considerations extraneous to such grounds. In this connection, the judgment makes reference to a letter from the Assistant Secretary of State of the United States of America to the Director-General concerning Mr. McIntire and to the fact that the Director-General did not feel at liberty to disclose its contents to Mr. McIntire or to the Tribunal, in view of the confidential nature of this communication.

Up to the date of notification of termination Mr. McIntire had complied with the provision of Executive Order No. 10422 of the United States Government, requiring him to fill out the “Identification and Personnel Data Form for Employment of United States Citizens” which United States citizens employed by International Organisations of which the United States is a member, are called upon to fill out.

Length of Service

Mr. McIntire was in the effective service of the Organisation from 5 June 1952 to 8 April 1953.

Conduct

Mr. McIntire, while an official of the Organisation, fulfilled his duties with zeal and honesty.

There is no evidence that Mr. McIntire, during his employment with the Organisation, engaged in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules.

APPENDIX A

Description of Duties of Post 6-3—Procedures Officer

1. Responsible for the editing, review and co-ordination of all sections of the Administrative Manual, all Administrative Memoranda, and comparable issuances which constitute the administrative regulations of the Organisation. In this respect, consults with initiating officers, analyses implications from an administrative policy standpoint, and seeks to reconcile differing points of view as required before referral through the Chief of the Branch to the Director of Administration, and, if required, the Deputy Director-General or Director-General.

2. Co-ordinates the operation of the forms control programme by ensuring that all administrative and technical forms receive the appropriate editing, review and clearance in the Branch before transmittal to the Documents Service for reproduction.

3.Reviews internal procedures from all parts of the Organisation routed to the Branch for maintenance of a central record to ensure that there are no basic inconsistencies with prevailing regulations, or the procedures in other divisions and offices.

4. As assigned, reviews documentation or prepares papers for Council and Conference consideration.

5. With considerable latitude for independent action and judgment, functions under the general supervision of the Chief of the Branch, following broad instructions on continuing responsibilities and general instructions on special non-recurring assignments. May receive certain assignments directly from Director of Administration.
APPENDIX B

Budget and Administrative Planning Branch Policy and Procedures Section

Statement of Functions

The main responsibilities of the Policy and Procedures Section are:

(a) To develop, co-ordinate and edit the administrative policy and procedural directives of the Organisation; and

(b) To supervise their issuance and distribution.

These responsibilities involve:


2. Co-ordinating the opinions of officials concerned and securing appropriate clearances of such directives.

3. Collaborating with the Organisation and Methods Section and the Budget Section, with the branches of Administration, and with divisional representatives as appropriate in the review, drafting, reconciliation and clearance of procedural materials.

4. Editing administrative directives to ensure correctness and uniformity of style and format; administrative feasibility; and reconciliation with other established practices or issuances to avoid anomalies or conflicts in policy.

5. Supervising the maintenance of approved distribution lists for administrative directives in the Branch or in the Documents Distribution Unit.

6. Advising on the interpretation of administrative directives, as requested.

7. Preparing documentation on administrative matters for the Director of Administration or the Director-General for submission to the F.A.O. Conference, Council, Committee on Financial Control or other F.A.O. bodies or for inter-agency committees of the United Nations, as required or assigned.

8. Ensuring that the Branch records or relevant administrative materials of the United Nations, the Specialised Agencies and other international bodies are maintained on a current basis, and providing background information on the practices of such agencies as required, from available records.

Text of the Judgment Given in the Case of:

Hartmann against World Health Organisation

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 20.

Fifth Ordinary Session (Part II), October 1955

Sitting of 24 October 1955

In the matter of: Mrs. Grethe Hartmann against: World Health Organisation.

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint submitted against the World Health Organisation on 20 May 1955 by Mrs. Grethe Hartmann, M.D., of Danish nationality, an official of that Organisation from 19 November to 23 December 1950, and from 9 February 1952 to 28 February 1953, the said complaint seeking that the Tribunal be pleased to follow the recommendation of the Board of Inquiry and Appeal of the defendant Organisation of 28 February 1955, and to permit the com-
plainant to appeal as to the substance against the decision to terminate her, and to
permit the taking of evidence and allow witnesses to be heard;

Considering the memorandum of reply to the said complaint submitted by the
defendant Organisation dated 24 June 1955, the said memorandum setting forth
the following principal conclusions:

To declare that the appeal brought by the complainant before the Board of
Inquiry and Appeal of the Headquarters of the World Health Organisation
is not receivable as being out of time,

To declare that the complaint does not show due cause for rescinding the
decision by which her contract was terminated, which decision was duly notified
to her and confirmed,

To pronounce therefore that the present complaint is not receivable and not
founded and must be dismissed;

Considering the pleadings exchanged by the representatives of the parties during
the hearings;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) Having been granted on the first occasion a temporary appointment from
19 November to 23 December 1950, the complainant was offered by the defendant
Organisation a fixed-term contract of two years as a "Medical Specialist" beginning
on 9 February 1952. The duty station was Rotterdam;

(2) From 19 September to 5 October 1952 the complainant was away from
her post for health reasons. Called to Geneva at the end of October she submitted
to a medical examination, as a result of which the medical adviser declared her
unfit to carry out her duties;

(3) Having contested the opinion given in the medical report the complainant
submitted on 10 November 1952 to a further examination before a medical board
consisting of three practitioners of whom one was appointed by the complainant
herself in accordance with the Staff Rules. The report drawn up by the said board
contained the following passage:

Mlle H. is at present incapable of performing her duties satisfactorily. The
board recommends that she be assigned to office work of a medical and scientific
character, which she is capable of performing, for a period of six months at
the term of which period her fitness to take up the duties set forth in her contract
be reconsidered;

(4) On 14 November 1952 the defendant Organisation officially notified the
complainant that her appointment would be terminated on 31 December 1952, but
that at the same time the administration would search for a suitable possibility for
continuing her services;

(5) In fact the administration succeeded in transferring the complainant to
a temporary post at the Geneva headquarters of the Organisation, which post she
occupied from 1 January to 28 February 1953. Since she could not return to the
post to which she had been appointed in the first place, and for which she had
been expressly engaged, and in the absence of any further possibility of transfer,
her appointment terminated on the latter date;

(6) The complainant submits that at that time it was specifically agreed with
the medical adviser of the defendant Organisation that the new examination referred
to in the above-mentioned report of the medical board dated 10 November 1952
could take place in Copenhagen and be carried out by a member of the said board,
namely by the member who had been appointed by the complainant herself and
who resided in Copenhagen, as well as by a psychiatric specialist of Danish nationality. An examination was carried out in Copenhagen and the results communicated
to the defendant Organisation in June 1953;

(7) The complainant having, however, ceased to be an official as from
28 February 1953, the Administration confirmed in a letter dated 1 September 1953
that her appointment had terminated in February by reason of the fact that she
could not return to the post to which she was appointed, and that there was no
possibility of transfer to another post;

(8) One year later only, on 4 September 1954, the complainant made known
for the first time her intention to appeal to the Board of Inquiry and Appeal in
a letter addressed to the Staff Association; in fact, the appeal was brought before
the said Board on 1 November 1954;

(9) By reason of the considerable delay in her seizing the Board of Inquiry
and Appeal, the Director-General of the defendant Organisation notified the com-
plainant of his intention to request the said Board to meet in order to examine the
question of receivability in the light of the provisions of Rule 1030.8 (b) of the
Staff Rules;

(10) The Board of Inquiry and Appeal in its report dated 28 February 1955
declared as follows:

4. Some discussion on the position of sick staff members took place and
it was the general view that circumstances could exist in which a sick staff
member would be unable to be responsible for the observation of time limits
laid down in the Staff Rules. It was also felt to be possible that the appellant,
having exchanged considerable correspondence with the administration, had
some reason to consider that final administrative action had still not been taken.

6. In conclusion: The Board was unable to decide as to the receivability
of Dr. Hartmann's appeal from a procedural standpoint. With a view, however,
of avoiding in case of doubt any attitude that might be interpreted as unfair
to the appellant owing to a vice of procedure.

The Board unanimously recommends:

That the Director-General instruct the Board to ignore any time-limits laid
down that might be held to be applicable in the case of Dr. Hartmann and
proceed to hear the appeal;

(11) However, on 17 March 1955, the Director-General of the defendant
Organisation notified the complainant that he was unable to accept the recom-
mandation of the Board of Inquiry and Appeal. His decision was motivated as
follows:

I find myself unable to accept the recommendation of the Board since it
is not based upon a finding that there were any circumstances clearly justifying
the acceptance of an appeal two years after the act which is being appealed.
To accept the recommendation of the Board under these circumstances would,
it seems to me, be tantamount to abolishing the time-limit for appeals. While
I am desirous of taking into maximum account the interests of the staff, I must
ensure that the administration of the Secretariat is governed by sound and stable
rules, particularly in the case where decisions of the Administration are to be
impugned within specific time-limits; if it was not so, the incertitude created
would render sound administration extremely difficult, if not impossible;

ON THE SUBSTANCE:

A. Considering that Rule 532.3 of the Staff Rules of the defendant Organisa-
tion in force at the time when the said Organisation gave notice of termination
to the complainant—which Rule corresponds in substance to the present Rule
1030.8 (b)—was in the following terms:

A staff member wishing to appeal against such an action [a final action
taken by the administration] must do so in writing within fifteen days after
he has been notified thereof. In so far as practicable the Board [the Board
of Inquiry and Appeal of the defendant Organisation] will open its proceedings
within ten days after receipt of the appeal;

Considering that the complainant had already been notified on 14 November
1952 that her appointment was terminated for health reasons with effect from
31 December 1952 in the following terms:

In accordance with the provisions of Staff Rule 957.3, a Medical Board was
constituted to examine the state of your health. You have been informed of
the decision taken by the Board at its meeting on 10 November 1952, that you
are presently unfit to carry out the duties of your post.

The Board suggested that you might be assigned to a desk-job of a medical
and scientific nature with a possible re-examination after six months.

In view of the Medical Board’s recommendations, I have looked into the
possibility of giving you work as indicated above in the Regional Office for
Europe but I have no suitable assignment which would make it possible for
me to keep you on the strength of this office beyond 31 December 1952. I have
also discussed with Headquarters what possibilities there might be on the
Headquarters’ staff. Unfortunately, at this moment there appears to be no
suitable post to which you could be re-assigned. It is necessary, therefore, that
I advise you officially that your contract with W.H.O. will have to be terminated
on 31 December 1952, and you should regard this letter as official notice of
your termination. We shall, of course, continue to search diligently for a suitable
possibility for continuing your services but I cannot at this moment be at all
encouraging;

Considering that whatever the circumstances might be, the complainant could
not plead ignorance at that time of the Staff Regulations and Rules which were
applicable to her, especially as a copy of these documents had been handed to her
at the time of her appointment and her attention drawn thereto;

Considering that if, as the complainant submitted, she had believed that she
had the right to claim that she undergo a new medical examination at the term of
a six-months’ period running from the date of the medical examination in November
1952, she should in any event have brought her recourse at that time in the event
of a new examination not being accorded;

Considering in addition that the termination of her appointment was confirmed
in subsequent correspondence by a letter from the defendant Organisation dated
1 September 1953 in the following terms:
To make the matter more clear, may I remind you that:

(1) The Medical report of 10 November 1952 placed a limitation on your work except for office employment for a period of 6 months and subject to review thereafter;

(2) A serious attempt was made by the Organisation to find suitable work for you within this limitation but was successful for only part of the period. You will recall that this office kept you on its payroll until end December and that you were then transferred to Headquarters as from 1 January 1953 for a period of 2 months;

(3) *Your contract was terminated because it was not feasible for you to return to the post for which you had been engaged and no other suitable assignment was available*;

Considering finally that the complainant herself, in a letter of 11 December 1952, had already admitted that she knew that her appointment had been terminated since she expressly stated therein: "the state of my health is the official reason for my termination";

B. Considering that it is to no purpose that the complainant relies upon certain correspondence—in particular the correspondence exchanged by her with the Administration, and the correspondence which was exchanged between the complainant’s medical adviser who had participated at the medical examination of November 1952 on the one hand, and one of his colleagues who participated at this same examination on the other hand, as well as the Administration of the defendant Organisation—to show that the decisions which had been notified to her were not of a final nature as required by the Staff Rules;

That the said correspondence does not show more than efforts brought to attempt to persuade the administration to reconsider its decision, efforts which have nothing in common with the proceedings for rescission which the complainant was entitled to bring and of which she did not take advantage;

C. Considering that the decision taken by the Director-General of the defendant Organisation was preceded by a referral to the Board of Inquiry and Appeal competent to advise the Director-General;

That the opinion given by the said Board in no way binds the Director-General and even if the Board had the right to modify certain time limits no complaints can be laid against the Board for not having exercised such option;

That it was for the Director-General to appreciate whether the opinion as formulated sufficed as a basis for his decision;

D. That the complainant takes issue with the Administration for not having drawn her particular attention to the period for submitting an appeal to which she was subject;

That it would indeed have been desirable for the Administration to have so acted, but that no provision of the regulations or rules imposed such a requirement:

**ON THE GROUNDS AS AFORESAID:**

The Tribunal,

Declares that there are no grounds for rescinding the decision of the Director-General dated 17 March 1955;
Dismisses the complaint.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 24 October 1955, by His Excellency Mr. Albert Devèze, President, Jonkheer van Rijckevorsel, Judge, Acting Vice-President, and Mr. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert Devèze.
A. van Rijckevorsel.
Iasson Stavropoulos.

Certified true copy:
Francis Wolf,
Registrar of the Administrative Tribunal.

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Fifth Ordinary Session (Part II), October 1955
Sitting of 17 October 1955

In the matter of: Mrs. Grethe Hartmann against: World Health Organisation.

At the commencement of the public sitting of 17 October 1955 Me Mercier, Counsel for Mrs. Hartmann, requested the Tribunal that Mr. Meyer-Morton be permitted to speak—the precedents of the Tribunal establishing that only counsel being regular members of a Bar and staff members duly authorised by the President are permitted to plead.

After a short consultation, the Tribunal pronounced the following judgment:

PRELIMINARY JUDGMENT

Considering that Me Mercier, a member of the Paris Bar, is acting as Counsel for the claimant;

Considering that Me Mercier requests the Tribunal that Mr. Meyer-Morton be permitted to comment before the Bar in the name of his client, for which comments Me Mercier takes responsibility;

Considering that as an exceptional measure and by reason of the special circumstances in the case, the Tribunal is of opinion that this request should be taken in consideration;

ON THE GROUNDS AS AFORESAID:

The Tribunal permits Mr. Meyer-Morton to give a statement before the Bar in the presence and with the assistance of Me Mercier.

(Signed)
Albert Devèze.
A. van Rijckevorsel.
Iasson Stavropoulos.

Certified true copy:
Francis Wolf,
Registrar of the Administrative Tribunal.
INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 21.

Fifth Ordinary Session (Part II), October 1955
Sitting of 29 October 1955

In the matter of: Mrs. Kathryn Bernstein against: United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,

Having referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 28 June 1955 by Mrs. Kathryn Bernstein, a former official of that Organisation, asking that the Tribunal be pleased to rescind the decision of 18 February 1955 and to enjoin the Director-General to renew her contract for an indefinite period, or in default of reinstatement to pay to the complainant by way of damages a global sum equivalent to three years' gross salary, namely 4,665,000 French francs, together with interest at 4 per centum from the date of termination until payment of the said damages;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 22 July 1955;

Having referred to it a statement submitted in his own name on 3 October 1955 by Mr. Pierre Henquet, Chairman of the Staff Association of U.N.E.S.C.O.;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation in August 1951;

(2) At the time when the decision complained of was taken, the complainant was the holder of a contract of one year's duration expiring on 14 February 1955;

(3) In February 1953 the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations", whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant answered this questionnaire;

(4) In March 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant did not, however, reply;
In June 1954 the complainant received an invitation to appear as from 9 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

By letter dated 13 July 1954 the complainant informed the Director-General of the reasons of conscience on which she based her refusal to appear;

By letter dated 13 August 1954 the Chief of the Bureau of Personnel and Management recalled to the complainant that her appointment would expire on 14 February 1955 and informed her that she would not be offered a new contract. By letter dated 30 August 1954 the Director-General confirmed the above stating, *inter alia*:

... In the light of what I believe to be your duty to the Organisation, I have considered very carefully your reasons for not appearing before the International Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organisation.

I have therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires...;

By letter dated 31 August 1954 the complainant requested the Director-General to reconsider his decision;

The Chief of the Bureau of Personnel and Management informed the complainant in a letter dated 7 September 1954 of the Director-General's refusal to do so;

By a letter of 10 September 1954 the Director-General received a communication of the report of the Loyalty Board (advisory determination), in which it was stated: "It has been determined on all the evidence that there is a reasonable doubt as to the loyalty of Kathryn Bernstein to the Government of the United States" and that "this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific and Cultural Organisation";

On 23 September 1954 the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board asking that the above-mentioned decision should be rescinded;

On 11 February 1955 the Appeals Board by a majority expressed the opinion that the decision should be rescinded;

By a letter dated 18 February 1955 the Director-General of U.N.E.S.C.O. informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

The complainant having been transferred to hospital on 11 February 1955 consequently could not take cognizance of the foregoing decision until leaving hospital on 28 March 1955;

Before the Appeals Board had taken its decision the Director-General, on 28 September 1954, set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis
of certain information which has been brought to the knowledge of the Director-
General and in the light of the standards of employment and conduct prescribed
by the Constitution and Staff Regulations”;

(16) By reason of her ill-health the complainant was not questioned by the
Advisory Board at a sitting, but by the Chief of the Bureau of Personnel and
Management;

(17) On 10 December 1954 the complainant was placed on special leave. The
complainant having brought a further appeal against this decision before the
U.N.E.S.C.O. Appeals Board, the said Appeals Board on 8 June 1955 stated the
opinion that the said decision should be withdrawn; the Director-General on
24 June 1954 rejected this advice. The complainant notified the Tribunal that in
view of her termination she did not intend to formally appeal to the Tribunal
against this second final decision, but she requested that this factor be taken into
consideration as an issue of moral prejudice;

ON RECEIVABILITY:

Considering that whereas the complaint was not submitted within the period
of time of 90 days provided in the Regulations running from the date on which
the decision impugned was taken (18 February 1955), such was due to the transfer
of the complainant to hospital on 11 February 1955;

That whereas the complainant could only take cognizance of this decision at
the conclusion of her hospitalisation, namely 28 March 1955, she brought her
complaint in due form within 90 days from that date;

Considering furthermore that the defendant Organisation does not take issue
against these facts and does not plead non-receivability following the late notification
of the complaint;

Considering that the delay is clearly due to vis major and that, besides, the
complainant fulfilled the requirements of the 90-day period from the time that it
was physically possible for her to introduce an appeal;

That under these circumstances the complaint must therefore be considered as
receivable;

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that
of a probationary appointment, that is to say of a trial appointment;

That while it is the case that U.N.E.S.C.O. Staff Rule 104.6 issued in applica-
tion of the Staff Regulations stipulates that “a fixed-term appointment shall
expire, without notice or indemnity, upon completion of the fixed term . . .”, this
text only deals with the duration of the appointment and in no way bars the Tribunal
from being seized of a complaint requesting the examination of the validity of the
positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director-General by a general measure,
of which the whole staff was informed on 6 July 1954, indicated that staff in the
General Service category who had given satisfactory service and whose services
were required would receive an indefinite appointment unless otherwise provided
in their terms of appointment;

That the complainant, having been made the object of an exception to this
general measure, holds that the Director-General could not legitimately thus make
an exception of her on the sole ground which he invoked against her as justification for the view that she did not possess the quality of integrity recognised in those of her colleagues whose contracts had been renewed, and in the absence of any contestation of her qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted;

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation;

That by virtue of Article II, paragraph 1, of its Statute, and in accordance with the precedents established by the Tribunal in Judgments Nos. 17, 18 and 19 dated 26 April 1955 the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

Considering that the facts in the case are similar the Tribunal considers itself bound to follow the precedents established in the above-mentioned Judgments Nos. 17, 18 and 19;

A. Considering that the defendant Organisation holds that the renewal or the non-renewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director-General who is not even required to give his reason therefor;

Considering that if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;

Considering, however, that in this matter the question does not affect the issue inasmuch as the Director-General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press;

That this reason is based solely on the refusal of the complainant to co-operate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which she is a citizen, and in particular on her refusal to appear before a commission invested by that Government with the power to investigate her loyalty to that State;

That the Director-General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer her a new appointment, her attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;

B. Considering that if the Director-General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;
Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the complainant was notified that her appointment would not be renewed, was as follows:

Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organisation and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiment, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities;

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant simply informed the Director-General after the date on which she had been called on to appear, of her decision not to appear;

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director-General;

D. Considering that it is undoubtedly true that, if the Director-General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director-General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts;

That in this light the inquiry procedure within the Secretariat to which the Director-General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director-General would “be studied with care” and that he would “certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies.
which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O.

E. Considering that it is quite different when the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which his national Government considers it necessary to subject him;

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 74 States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an inquiry in similar or analogous conditions, the attitude adopted by the Director-General would constitute a precedent obliging him to lend his assistance to such inquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence, on the basis of any opposal by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation.

Considering therefore that the only ground for complaint adduced by the Director-General to justify the application to the complainant of an exception to the general rule of renewal of appointments, that is to say her opposal to the investigations of her own Government, is entirely unjustified;

Considering that it is in vain that it is alleged that the terms of renewal set forth in the Director-General's circular of 6 July 1954, after enumeration of the standards required, provide that the services of the person concerned must be needed; that this expression cannot mean that the person concerned must be irreplaceable, in that no successor can be found; that it means only that the requirements of the service to which the person concerned is assigned must be permanent and that the said person...
must give full satisfaction therein and otherwise in all manner in the performance of his or her duties; that on this last point the appreciations contained in the annual reports of the complainant are entirely laudatory;

Considering that it results therefrom that the decision taken must be rescinded; but that nevertheless the Tribunal does not have the power to order the renewal of a fixed-term appointment, which requires a positive act of the Director-General over whom the Tribunal has no hierarchical authority;

That in the absence of such a power, and unless the Director-General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the discriminatory treatment of which she was the object;

F. Considering that it results from the documents produced by the parties during the hearing that the inquiry made by order of the Director-General himself within the defendant Organisation, the legitimate and regular character of which has been shown above, did not bring any evidence to show that the complainant failed in her duties, as defined in Article 1.4 of the Regulations, during the period that she was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the reports of the Loyalty Board or as a result of its own inquiries that the complainant, during her employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was engaged in militant political activities before being appointed to the international service and at a time when she was not bound by the obligations involved in joining this service, unless it has been proved that she had been guilty of dishonourable or criminal acts (actes déshonorants ou criminels);

That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend herself;

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to her integrity, judgment and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed her own interests above the true interest of the Organisation, which interest consists above all in safeguarding erga omnes its independence and impartiality;

ON PREJUDICE:

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he or she occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;

That not only is such an almost absolute quod plerumque fit but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;
That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and an abuse of rights which consequently involves the obligation to make good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object to the Staff Association recognised by the defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director-General himself;

Considering that, should the defendant Organisation not rescind the decision taken, there should be ordered the payment of damages in order to compensate the complainant for material and moral prejudice caused to her by the exception of which she was the object;

That in evaluating such prejudice account may not be taken, as the complainant requests, of her placing on special leave with salary on 10 December 1954, the Director-General having the right within his powers to take such a measure, and which may not be considered in the circumstances as having increased the prejudice suffered;

That the state of health of the complainant may also not be taken into consideration since it is not possible for the Tribunal to determine in what measure her state of health, which was previously delicate, may have been aggravated by the measures taken against her, and since in any case she is at present enjoying the entitlements of the Sickness Fund and continues to have the right to an eventual invalidity benefit;

ON THE GROUNDS AS AFORESAID:

The Tribunal,
Rejecting any wider or contrary conclusions,
 Declares the complaint to be receivable as to form;
 Declares that it is competent;
 Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;

In consequence, should the defendant not reconsider the decision taken and renew the complainant’s appointment, orders the said defendant to pay to the complainant a sum equal to two years’ net salary, excluding non-resident’s allowance, that is to say 2,600,000 French francs, together with interest at 4 per centum from 15 February 1955;

Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by Mr. Henquet;

Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name:

That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;
Considering that the intervener is, however, entitled to bring into issue solely his own interest in the case;

Considering that the intervention is founded only in so far as recognised by this judgment;

Orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency Mr. Albert Devèze, President, Jonkheer van Rijckevoerse, Judge, Acting Vice-President, and Mr. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert DEVÈZE.                A. VAN RIJCKEVEORSEL.    IASSON STAVROPOULOS

Certified true copy:
Francis WOLF,
Registrar of the Administrative Tribunal.

Text of the Judgment Given in the Case of:
Froma against United Nations Educational, Scientific and Cultural Organisation

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 22.

Fifth Ordinary Session (Part II), October 1955
Sitting of 29 October 1955

In the matter of: Miss Ruth Froma against: United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,
Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 14 September 1955 by Miss Ruth Froma, a former official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken on 20 June 1955 terminating the complainant's appointment and, in default of reinstatement, to enjoin the defendant Organisation to pay to the complainant by way of damages a sum equivalent to three years' salary together with an indemnity of 10,000 dollars;
Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 6 October 1955;
Having had referred to it a statement submitted in his own name, in his status as an official of the defendant Organisation, holder of an indeterminate appointment, on 3 October 1955 by Mr. Pierre Henquet, Chairman of the Staff Association;
Having heard, on oath, in public sitting on 20 October 1955, Mr. Edward Joseph Phelan, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation on 2 September 1949;

(2) At the time when the decision complained of was taken the complainant was the holder of an indeterminate appointment, subject to a five-year review on 1 October 1957;

(3) In February 1953 the complainant received a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations", whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant completed this questionnaire;

(4) In March 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant did not, however, reply;

(5) In July 1954 the complainant received an invitation to appear as from 15 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

(6) By letter dated 12 July 1954 the complainant informed the Director-General of the reasons of conscience on which she based her refusal to appear;

(7) Subsequently the Director-General received communication of the report of the Loyalty Board (advisory determination) dated 26 August 1954 in which it was stated that:

... the Board concludes that on all the evidence there is a reasonable doubt as to the loyalty of Ruth Froma to the Government of the United States;

(8) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 10 September 1954, and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director-General of the defendant Organisation;

(9) On 28 September 1954 the Director-General set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director-General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations"; the complainant appeared and explained her position before this Special Advisory Board;
(10) The complainant was informed by a note dated 10 December 1954 that she was suspended from her functions with pay until further notice in application of Rule 109.11 of the Staff Rules;

(11) By a note dated 16 December 1954 the complainant requested the Director-General to reconsider his decision;

(12) The Director-General declined to reconsider his decision and the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board on 10 February 1955, asking that the decision to suspend her be rescinded;

(13) On 27 June 1955 the Appeals Board unanimously expressed the opinion that the decision of the Director-General dated 10 December 1954 by which the complainant had been suspended from her functions with pay should be rescinded;

(14) Before the Appeals Board had taken its decision the Special Advisory Board, referred to in Regulation 9.1.1 of the Staff Regulations and appointed by the Director-General in accordance with Rule 109.10 of the Staff Rules, heard the complainant in March 1955;

(15) By letter dated 20 June 1955 the Director-General informed the complainant that her appointment was terminated on the same date. This letter stated *inter alia*:

The Special Advisory Board which I appointed in accordance with Staff Regulation 9.1.1 has submitted its report to me on the matter concerning you.

I have studied this report very carefully.

I regret to inform you that I have come to the conclusion that your conduct indicated that you do not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations.

I have come to this conclusion because of the attitude you have adopted to the investigation undertaken by the United States Government under Executive Order 10422, as amended by Executive Order 10459, which found its principal expression in your refusal to respond to the invitation to appear, in July 1954, before the International Organisations Employees Loyalty Board of the United States Civil Service Commission, and because, at no time up to this date, have you taken any steps or shown any desire to repair, or at least to mitigate, the harm done to the Organisation by your refusal to appear before the Board.

You could not have failed to realise that the attitude you have adopted gravely prejudiced the interests of the Organisation.

I have indicated, and in particular at the Eighth Session of the General Conference, the seriousness of the consequences of such an attitude.

In adopting and maintaining such an attitude, you have shown that you are not willing to regulate your conduct with the interests of the Organisation only in view.

I am therefore obliged to terminate your appointment with effect from the end of the day, 20 June 1955, under the provisions of Staff Regulation 9.1.1.

In accordance with the terms of your indeterminate appointment you will receive an indemnity equivalent to [five] months' pensionable remuneration.

You will be paid salary and allowances in lieu of three months' notice.

You will also receive any other payments to which you are entitled upon separation;
By letter dated 24 June 1955 the complainant requested the Director-General to reconsider his decision to terminate her appointment;

By letter dated 27 June 1955 the Director-General informed the complainant that he adhered to his decision;

In agreement with the Director-General of the defendant Organisation, the complainant renounced her right of appeal to the Appeals Board and decided to resort directly to the Administrative Tribunal as permitted in Article 6 of the Statute of the Appeals Board, the decision taken being considered as final and the complainant being considered as having exhausted all other means of resisting it;

ON THE SUBSTANCE:

A. Considering that the decision of 20 June 1955 terminating the appointment of the complainant was taken in application of Regulation 9.1.1 of the Staff Regulations, as adopted by the U.N.E.S.C.O. General Conference in Montevideo on 8 December 1954, this Regulation being in the following terms:

The Director-General may also, giving his reasons therefor, terminate the appointment of a staff member:

(a) If the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations;

(b) If facts anterior to the appointment of the staff member and relevant to his suitability and which reflect on his present integrity come to light, which, if they had been known at the time of his appointment should, under the standards established in the Constitution, have precluded his appointment.

No termination under the provisions of this Regulation shall take effect until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Director-General;

Considering that where the Director-General acts within the provisions of Regulation 9.1.1 he has only the statutory powers conferred on him by the General Conference; that in a particular case the Tribunal's appreciation and review of the exercise of this power consists in examining whether in fact the circumstances of the case are such as to justify the application thereof; that if this were not to be the case the application of this power would be at the Director-General's sole pleasure;

Considering that Regulation 9.1.1 expressly provides that reasons must be given for taking the measures set forth therein and the matter be first reported on by a Special Advisory Board appointed for that purpose by the Director-General;

B. Considering that in this case the decision is expressly motivated by the attitude taken by the complainant with respect to the measures of investigation provided by the Government of the United States in application of Executive Orders Nos. 10422 and 10459, this attitude consisting principally in the refusal of the complainant to accede to the invitation to appear before the Loyalty Board in July 1954, and by the fact that after that date the complainant took no steps nor showed any wish to repair or mitigate the harm which was deemed to have been suffered by the Organisation as a result of her refusal to appear, when she could not ignore the gravity of such harm;

Considering that the submissions of the defendant oblige the Tribunal, in order to carry out its function under the provisions of Article II of its Statute, to seek
in what manner and to what extent the interests of the Organisation may have been prejudiced;

Considering that the difficulties having arisen within the defendant Organisation are that one member State, in default of obtaining the removal of those of its citizens being officials finding themselves in a situation similar to that of the complainant, appeared to be considering withdrawing its participation and support from the Organisation; that in particular an express statement in this sense was made before the Sub-Committee on Appropriations of the House of Representatives of this State by one of the members of the delegation of the said State at the Montevideo Conference;

That it is significant that the Director-General, on 10 December 1954, that is to say on the date following that on which the Staff Regulations conferred upon him the new power, invoked such power against the three parties concerned, in order to suspend them from their duties and to take those procedural measures against them arising out of which the decisions to terminate them, now before the Tribunal, were taken;

That besides there is no indication that there was any other reason for considering that the interests of the Organisation were imperilled;

That the safeguarding *erga omnes* of the independence and impartiality of the Organisation is also vital and must not be lost sight of;

C. Considering that the complainant could, in conscience, be persuaded that she was within her rights, that besides it has never been alleged that the complainant had been the object of legal proceedings in her own country by reason of the attitude complained against, since a purely administrative procedure was involved; that exception could not be taken against her for having failed in her employment to determine precisely the gravity and imminence of the danger which may have imperilled certain interests of the Organisation;

Considering that no exception can be taken against her on such grounds nor could she be reproached with having abstained from taking steps for which no particulars were given and in addition never requested of her, in order to repair or mitigate the difficulties to which the Organisation was subject;

Considering that the Director-General adduces, however, from the complainant's attitude and from the maintenance of this attitude that the complainant showed that she did not wish to regulate her conduct with the interests of the Organisation only in view;

That in consequence on 20 June 1955 the Director-General terminated the complainant's appointment with immediate effect (at the same time according to her those indemnities to which she was entitled under Regulation 9.3 of the Staff Regulations and Rule 104.7 (e) of the Staff Rules), after having consulted the Special Advisory Board set up in Regulation 9.1.1 of the Staff Regulations and after carefully studying, as he states, the report of this Board;

D. Considering that it must be observed that the decision taken is based solely on paragraph (a) of Regulation 9.1.1 of the Staff Regulations which gives to the Director-General the power to terminate an official's appointment "if the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations";

That, on the basis of this wording, the clear distinction between the notions respectively of integrity and loyalty is henceforward not in issue; that the grounds
adduced are based on the duty of officials “to conduct themselves at all times in a manner befitting their status as international civil servants”, “to bear in mind the reserve and tact incumbent upon them by reason of their international status”, and at no time to lose sight of the interests of the international organisation for which they serve;

Considering that paragraph (b) of Regulation 9.1.1 deals only with facts anterior to appointment or facts which, if they had been known at the time of the appointment should have precluded the appointment, such facts not having been demonstrated and not being in issue in this case;

E. Considering besides that there is no other motive in the case which can be invoked in justification of termination;

That the Special Advisory Board which had been voluntarily set up by the Director-General within the defendant Organisation, as early as September 1954, expressly stated that it could find no evidence either in the reports of the Loyalty Board or as a result of its own inquiries that the complainant, during her employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

That it results from the complainant’s performance reports that she has never been the subject of any reproach; that on the contrary the appreciations contained therein were entirely laudatory as regards her work and performance and that she was promoted;

That the Director-General was therefore entirely correct in not invoking against her any misconduct, breach of professional duty or unsatisfactory service; that on the contrary the representative of the defendant Organisation has pointed out on several occasions that termination for disciplinary reasons was not in issue and that the sole issue was the termination of an appointment, with payment of indemnities, under the new Regulations on which the Director-General relies;

F. Considering that the defendant Organisation objects to the production of the report of the Special Advisory Board which was set up in 1955 on the basis of the amended Regulations adopted by the General Conference;

That this objection is motivated by a text inserted by the Director-General himself in the rules which he drew up in order to give effect to the new provisions of the Staff Regulations by virtue of the powers conferred on him under the said Regulations; that this text stipulates (Staff Rule 109.10) that the proceedings and reports of the Board shall be secret and confidential;

That if this provision made by the Director-General in application of the regulations adopted by the General Conference were to be considered as lawful, it would have as its effect to remove from the Special Advisory Board its principal object; that in reporting to the Administrative Commission of the General Conference (document 8 C/ADM/14, paragraph 11), the author of the text declared himself on the subject of this Advisory Board as follows: “This is one way in which it is considered that staff members may be protected from the possibility of arbitrary decisions”; that where the opinion given is confidential to the Director-General alone, such additional guarantee promised against arbitrary decisions is unavailing;

That where the competent jurisdiction for reviewing the decision of the Director-General is not able, any more than the complainant, to have cognizance of the opinion of the Special Advisory Board, and where, besides, the Director-General is entirely free not to take account of such opinion and is thereby not subject
to any outside review, it would have sufficed to permit the Director-General to be counselled accordingly thereon by such adviser as he thought fit; that this cannot be imagined to have been the impression which led to the vote in the General Conference, the Conference being manifestly desirous to effectively protect staff members whose appointments would be terminated under Staff Regulation 9.1.1 from arbitrary decisions;

Considering that the deposition made under oath by Mr. Phelan, Chairman of the said Board, cited as a witness, shows that the members of the Board did not, in accepting to serve, impose a condition of secrecy; that they questioned the Director-General on his intentions in this regard, which was proper, but did not have as a legal result to deprive the Director-General from disposing of the report as he thought fit;

That the objection to the production of the report of the Board which was available to the Director-General removes an element from the appreciation of the Tribunal competent to pronounce on the regularity of the decision taken; that the Regulations having been observed in the letter the Tribunal may not order thereon, but that in any event it was unable in its consultations to take into account this unknown element;

G. Considering that the complainant submits that the provisions of the new Regulations adopted in December 1954 are not applicable in her case since the facts set up against her took place prior to such adoption;

That this submission is unfounded, the Director-General having been accorded the power to review the conduct of a staff member, the appointment of whom is to be terminated, solely with regard to the high standards required of an international official, and that he is free in this respect to take into account those elements on which he considers his decision may be based;

That, without doubt, the granting of such a power opens the door to a great extent to arbitrary decisions; that it fully justifies the preoccupations of those desirous of providing at the same time sure and effective guarantees; that the Administrative Tribunal must watch over the jurisdictional review which it exercises; but that the texts exclude the submission based on their retroactive application;

H. Considering that where the Director-General has the power to terminate an indeterminate appointment, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Regulation 1.4 of the Staff Regulations of the defendant Organisations is as follows:

Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organisation. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status;
Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

I. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board it is established that the complainant approached the Director-General only at a late date, so that the latter would not have been able to give her advice in sufficient time;

J. Considering that, in order to review all factors, it is necessary to inquire whether the acts or omissions of the complainant could be considered as justifying the application of paragraph (a) of Regulation 9.1.1 of the Staff Regulations, on the grounds that in themselves they caused doubt to exist as to whether she fulfilled the highest standards required of an international official;

Considering that the complainant does not challenge the legitimate character of the inquiry made within the staff by the Special Advisory Board set up by the Director-General on 28 September 1954, following the submission to the Director-General of the report made against her by the Loyalty Board in default of her appearance;

That this measure is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director-General would “be studied with care” and that he would “certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O.”;

That the Special Advisory Board set up on 28 September 1954 expressed the opinion, as referred to above, that it could find no evidence that the complainant had engaged or was engaging in activities during her employment that could be shown to be misconduct under the Staff Regulations and Staff Rules; the Board concluding, however, that the attitude adopted by the complainant as well as the reasons given for her attitude gave rise to serious doubts about the degree of confidence that could be placed in her integrity, judgment and loyalty to the Organisation; that the Board found justification for this opinion in stating that in a situation which, in its opinion, was clearly harmful to the Organisation, the complainant maintained that adherence to her own personal views was more important than the interests of the Organisation;

That this opinion restates in different terms the reasons invoked for the decision taken;
K. Considering, however, that when requested to give an opinion on the decision itself, the Appeals Board, presided over by an eminent magistrate enjoying the confidence of all parties and composed jointly of members appointed by the Director-General and members appointed by the Staff Association, came unanimously to a diametrically opposed conclusion; that after a full hearing and a thorough study of all the facts in the case, it unanimously concluded that the complainants had not failed in the high standards required of members of the Secretariat, had not committed acts incompatible with the integrity required of them and had not disregarded the true interest of the Organisation; that, as a consequence, the decisions to terminate them had no basis in law and that the said complainants had shown cause for requesting reinstatement; that the Tribunal fully agrees with this particularly authoritative opinion;

That the Tribunal must besides take into consideration the due care required of it in appreciating the validity of the decision taken, by reason of the striking and indefensible disproportion between the alleged attitude of the complainant and the measure taken against her, putting an end to the career on which she based her future, when no complaint regarding her work had been alleged; that from this standpoint it is of no moment that the termination was not a disciplinary action in the formal sense of the Regulations and that certain indemnities were accorded, when the fundamental result is to deprive the party concerned of her employment by exposing her to all the risks and distress of an uncertain future;

L. Considering that it is thus established that the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which her national Government considers it necessary to subject her:

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the Government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that Organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact that in this case the doubts raised as to the loyalty of the complainant to her own Government, brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 74 States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an inquiry in similar or
analogous conditions, the attitude adopted by the Director-General would constitute a precedent obliging him to lend his assistance to such inquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence and the same application of Regulation 9.1.1 of the Staff Regulations, on the basis of any opposal by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;

M. Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to the high standards required of an international official;

That neither does it appear that the complainant placed her own interests above the true interest of the Organisation, as defined above;

Considering, therefore, that the only ground for complaint adduced by the Director-General to justify the application to the complainant of Regulation 9.1.1 of the Staff Regulations, that is to say her opposal to the investigations of her own Government, is entirely unfounded;

N. Considering that it results therefrom that the decision taken must be rescinded, the said decision not resting on any provision of the Staff Regulations; that nevertheless the Tribunal does not have the power to order reinstatement, which requires a positive act of the Director-General, over whom the Tribunal has no hierarchical authority;

That in the absence of such a power and unless the Director-General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the measure of which she was the object;

ON PREJUDICE:

Considering that, should the complainant not be reinstated with full rights, she should be compensated for the material and moral prejudice which she has suffered by reason of the decision taken;

That such prejudice may be assessed ex aequo et bono at two years’ base salary, without any set off of the indemnities which she has been accorded;

Considering that the annual base salary of the complainant amounted to 5,400 dollars;

That there are no grounds for allocating a supplementary indemnity by reason of the suspension with salary dated 10 December 1954, a measure which the Director-General was entitled to take within the limits of his authority and which cannot be considered in the circumstances as having increased the prejudice suffered;

ON THE GROUNDS AS AFORESAID:

The Tribunal,

 Rejecting any wider or contrary conclusions,
 Declares the complaint to be receivable as to form;
Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that a legal basis therefor cannot be found in the Staff Regulations;

In consequence, should the defendant not reconsider the decision taken and reinstate the complainant, orders the said defendant to pay to the complainant an amount equal to two years' base salary, namely 10,800 dollars, together with interest at 4 per centum from 20 June 1955, without any set off of the indemnities accorded to her at the time of termination of her appointment;

Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by Mr. Henquet;

Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name, an official of the defendant Organisation, holder of an indeterminate appointment;

Considering that the intervention is founded, in so far as recognised by this judgment;

Orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency Mr. Albert Devèze, President, Jonkheer van Rijckevorsel, Judge, Acting Vice-President, and Mr. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert Devèze. A. van Rijckevorsel. Iasson Stavropoulos.

Certified true copy:
Francis Wolf,
Registrar of the Administrative Tribunal.

Text of the Judgment Given in the Case of:
Pankey against United Nations Educational, Scientific and Cultural Organisation

International Labour Organisation
Administrative Tribunal

Judgment No. 23.

Fifth Ordinary Session (Part II), October 1955
Sitting of 29 October 1955

In the matter of : Mrs. Kathryn Pankey against : United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,
Having had referred to it a complaint submitted against the United Nations
Educational, Scientific and Cultural Organisation on 13 September 1955 by Mrs. Kathryn Pankey, a former official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken on 20 June 1955 terminating the complainant's appointment and, in default of reinstatement, to enjoin the defendant Organisation to pay to the complainant by way of damages a sum equivalent to three years' salary, together with an indemnity of 10,000 dollars;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 6 October 1955;

Having had referred to it a statement submitted in his own name, in his status as an official of the defendant Organisation, holder of an indeterminate appointment, on 3 October 1955 by Mr. Pierre Henquet, Chairman of the Staff Association;

Having heard, on oath, in public sitting on 20 October 1955, Mr. Edward Joseph Phelan, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation on 17 March 1952;

(2) At the time when the decision complained of was taken the complainant was the holder of an indeterminate appointment, subject to a five-year review on 5 May 1958;

(3) In February 1953 the complainant received a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations", whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant did not complete this questionnaire;

(4) In March 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant also did not reply;

(5) In June 1954 the complainant received an invitation to appear on 9 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

(6) By letter dated 16 July 1954 the complainant informed the Director-General of the reasons of conscience on which she based her refusal to appear;

(7) Subsequently the Director-General received communication of the report of the Loyalty Board (advisory determination) dated 27 August 1954, in which it was stated that:

...the Board concludes that on all the evidence there is a reasonable doubt as to the loyalty of the employee, Kathryn Pankey, to the Government of the United States;
(8) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 13 September 1954, and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director-General of the defendant Organisation;

(9) On 28 September 1954 the Director-General set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director-General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations"; the complainant appeared and explained her position before this Special Advisory Board;

(10) The complainant was informed by a note dated 10 December 1954 that she was suspended from her functions with pay until further notice in application of Rule 109.11 of the Staff Rules;

(11) By a note dated 16 December 1954 the complainant requested the Director-General to reconsider his decision;

(12) The Director-General declined to reconsider his decision and the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board on 10 February 1955, asking that the decision to suspend her be rescinded;

(13) On 25 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of the Director-General dated 10 December 1954 by which the complainant had been suspended from her functions with pay should be rescinded;

(14) Before the Appeals Board had taken its decision the Special Advisory Board, referred to in Regulation 9.1.1 of the Staff Regulations and appointed by the Director-General in accordance with Rule 109.10 of the Staff Rules, heard the complainant in March 1955;

(15) By letter dated 20 June 1955 the Director-General informed the complainant that her appointment was terminated on the same date. This letter stated inter alia:

The Special Advisory Board which I appointed in accordance with Staff Regulation 9.1.1 has submitted its report to me on the matter concerning you. I have studied this report very carefully.

I regret to inform you that I have come to the conclusion that your conduct indicated that you do not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations.

I have come to this conclusion because of the attitude you have adopted to the investigation undertaken by the United States Government under Executive Order 10422, as amended by Executive Order 10459, which found its principal expression in your refusal to respond to the invitation to appear, in July 1954, before the International Organisations Employees Loyalty Board of the United States Civil Service Commission, and because, at no time up to this date, have you taken any steps or shown any desire to repair, or at least to mitigate, the harm done to the Organisation by your refusal to appear before the Board.

You could not have failed to realise that the attitude you have adopted gravely prejudiced the interests of the Organisation.

I have indicated, and in particular at the Eighth Session of the General Conference, the seriousness of the consequences of such an attitude.
In adopting and maintaining such an attitude, you have shown that you are not willing to regulate your conduct with the interests of the Organisation only in view.

I am therefore obliged to terminate your appointment with effect from the end of the day, 20 June 1955, under the provisions of Staff Regulation 9.1.1.

In accordance with the terms of your indeterminate appointment you will receive an indemnity equivalent to [two] months' pensionable remuneration.

You will be paid salary and allowances in lieu of three months' notice.

You will also receive any other payments to which you are entitled upon separation;

(16) By letter dated 24 June 1955 the complainant requested the Director-General to reconsider his decision to terminate her appointment;

(17) By letter dated 27 June 1955 the Director-General informed the complainant that he adhered to his decision;

(18) On 1 July 1955 the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board asking that the Director-General's decision dated 20 June 1955 be rescinded;

(19) On 29 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of 20 June 1955 by which the complainant's appointment was terminated should be rescinded;

(20) By letter dated 31 August 1955 the Director-General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

ON THE SUBSTANCE:

A. Considering that the decision of 20 June 1955 terminating the appointment of the complainant was taken in application of Regulation 9.1.1 of the Staff Regulations, as adopted by the U.N.E.S.C.O. General Conference in Montevideo on 8 December 1954, this Regulation being in the following terms:

The Director-General may also, giving his reasons therefor, terminate the appointment of a staff member:

(a) If the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations;

(b) If facts anterior to the appointment of the staff member and relevant to his suitability or which reflect on his present integrity come to light, which, if they had been known at the time of his appointment should, under the standards established in the Constitution, have precluded his appointment.

No termination under the provisions of this Regulation shall take effect until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Director-General;

Considering that where the Director-General acts within the provisions of Regulation 9.1.1 he has only the statutory powers conferred on him by the General Conference; that in a particular case the Tribunal's appreciation and review of the exercise of this power consists in examining whether in fact the circumstances of the case are such as to justify the application thereof; that if this were not to be the case the application of this power would be at the Director-General's sole pleasure;
Considering that Regulation 9.1.1 expressly provides that reasons must be given for taking the measures set forth therein and that the matter be first reported on by a Special Advisory Board appointed for that purpose by the Director-General;

B. Considering that in this case the decision is expressly motivated by the attitude taken by the complainant with respect to the measures of investigation provided by the Government of the United States in application of Executive Orders Nos. 10422 and 10459, this attitude consisting principally in the refusal of the complainant to accede to the invitation to appear before the Loyalty Board in July 1954, and by the fact that after that date the complainant took no steps nor showed any wish to repair or mitigate the harm which was deemed to have been suffered by the Organisation as a result of her refusal to appear, when she could not ignore the gravity of such harm;

Considering that the submissions of the defendant oblige the Tribunal, in order to carry out its functions under the provisions of Article II of its Statute, to seek in what manner and to what extent the interests of the Organisation may have been prejudiced;

Considering that the difficulties having arisen within the defendant Organisation are that one State Member, in default of obtaining the removal of those of its citizens being officials finding themselves in a situation similar to that of the complainant, appeared to be considering withdrawing its participation and support from the Organisation; that in particular an express statement in this sense was made before the Sub-Committee on Appropriations of the House of Representatives of this State by one of the members of the delegation of the said State at the Montevideo Conference;

That it is significant that the Director-General, on 10 December 1954, that is to say on the date following that on which the Staff Regulations conferred upon him the new power, invoked such power against the three parties concerned, in order to suspend them from their duties and to take those procedural measures against them arising out of which the decisions to terminate them, now before the Tribunal, were taken;

That besides there is no indication that there was any other reason for considering that the interests of the Organisation were imperilled;

That the safeguarding erga omnes of the independence and impartiality of the Organisation is also vital and must not be lost sight of;

C. Considering that the complainant could, in conscience, be persuaded that she was within her rights, that besides it has never been alleged that the complainant had been the object of legal proceedings in her own country by reason of the attitude complained against, since a purely administrative procedure was involved; that exception could not be taken against her for having failed in her employment to determine precisely the gravity and imminence of the danger which may have imperilled certain interests of the Organisation;

Considering that no exception can be taken against her on such grounds nor could she be reproached with having abstained from taking steps for which no particulars were given and in addition never requested of her, in order to repair or mitigate the difficulties to which the Organisation was subject;

Considering that the Director-General adduces, however, from the complainant's attitude and from the maintenance of this attitude that the complainant showed that she did not wish to regulate her conduct with the interests of the Organisation only in view;
That, in consequence, on 20 June 1955 the Director-General terminated the complainant's appointment with immediate effect (at the same time according to her those indemnities to which she was entitled under Regulation 9.3 of the Staff Regulations and Rule 104.7 (e) of the Staff Rules), after having consulted the Special Advisory Board set up in Regulation 9.1.1 of the Staff Regulations and after carefully studying, as he states, the report of this Board;

D. Considering that it must be observed that the decision taken is based solely on paragraph (a) of Regulation 9.1.1. of the Staff Regulations which gives to the Director-General the power to terminate an official's appointment "if the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations";

That, on the basis of this wording, the clear distinction between the notions respectively of integrity and loyalty is henceforward not in issue; that the grounds adduced are based on the duty of officials "to conduct themselves at all times in a manner befitting their status as international civil servants", "to bear in mind the reserve and tact incumbent upon them by reason of their international status", and at no time to lose sight of the interests of the international organisation for which they serve;

Considering that paragraph (b) of Regulation 9.1.1 deals only with facts anterior to appointment or facts which, if they had been known at the time of the appointment should have precluded the appointment, such facts not having been demonstrated and not being in issue in this case;

E. Considering besides that there is no other motive in the case which can be invoked in justification of termination;

That the Special Advisory Board which had been voluntarily set up by the Director-General within the defendant Organisation, as early as September 1954, expressly stated that it could find no evidence either in the reports of the Loyalty Board or as a result of its own inquiries that the complainant, during her employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

That it results from the complainant's performance reports that she has never been the subject of any reproach; that on the contrary the appreciations contained therein were entirely laudatory as regards her work and performance and that she was promoted;

That the Director-General was therefore entirely correct in not invoking against her any misconduct, breach of professional duty or unsatisfactory service; that on the contrary the representative of the defendant Organisation has pointed out on several occasions that termination for disciplinary reasons was not in issue and that the sole issue was the termination of an appointment, with payment of indemnities, under the new Regulations on which the Director-General relies;

F. Considering that the defendant Organisation objects to the production of the report of the Special Advisory Board which was set up in 1955 on the basis of the amended Regulations adopted by the General Conference;

That this objection is motivated by a text inserted by the Director-General himself in the rules which he drew up in order to give effect to the new provisions of the Staff Regulations by virtue of the powers conferred on him under the said
Regulations; that this text stipulates (Staff Rule 109.10) that the proceedings and reports of the Board shall be secret and confidential;

That if this provision made by the Director-General in application of the Regulations adopted by the General Conference were to be considered as lawful, it would have as its effect to remove from the Special Advisory Board its principal object; that in reporting to the Administrative Commission of the General Conference (document 8 C/ADM/14, paragraph 11), the author of the text declared himself on the subject of this Advisory Board as follows: "This is one way in which it is considered that staff members may be protected from the possibility of arbitrary decisions"; that, where the opinion given is confidential to the Director-General alone, such additional guarantee promised against arbitrary decisions is unavailing;

That where the competent jurisdiction for reviewing the decision of the Director-General is not able, any more than the complainant, to have cognizance of the opinion of the Special Advisory Board, and where, besides, the Director-General is entirely free not to take account of such opinion and is thereby not subject to any outside review, it would have sufficed to permit the Director-General to be counselled accordingly thereon by such adviser as he thought fit; that this cannot be imagined to have been the impression which led to the vote in the General Conference, the Conference being manifestly desirous to effectively protect staff members whose appointments would be terminated under Staff Regulation 9.1.1 from arbitrary decisions;

Considering that the deposition made under oath by Mr. Phelan, Chairman of the said Board, cited as a witness, shows that the members of the Board did not, in accepting to serve, impose a condition of secrecy; that they questioned the Director-General on his intentions in this regard, which was proper, but did not have as a legal result to deprive the Director-General from disposing of the report as he thought fit;

That the objection to the production of the report of the Board which was available to the Director-General removes an element from the appreciation of the Tribunal competent to pronounce on the regularity of the decision taken; that the Regulations having been observed in the letter the Tribunal may not order thereon, but that in any event it was unable in its consultations to take into account this unknown element;

G. Considering that the complainant submits that the provisions of the new Regulations adopted in December 1954 are not applicable in her case since the facts set up against her took place prior to such adoption;

That this submission is unfounded, the Director-General having been accorded the power to review the conduct of a staff member, the appointment of whom is to be terminated, solely with regard to the high standards required of an international official, and that he is free in this respect to take into account those elements on which he considers his decision may be based;

That, without doubt, the granting of such a power opens the door to a great extent to arbitrary decisions; that it fully justifies the preoccupations of those desirous of providing at the same time sure and effective guarantees; that the Administrative Tribunal must watch over the jurisdictional review which it exercises; but that the texts exclude the submission based on their retroactive application;

H. Considering that where the Director-General has the power to terminate an indeterminate appointment, this is clearly subject to the implied condition that
this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Regulation 1.4 of the Staff Regulations of the defendant Organisation is as follows:

Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organisation. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status;

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

I. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board it is established that the complainant approached the Director-General only at a late date, so that the latter would not have been able to give her advice in sufficient time;

J. Considering that, in order to review all factors, it is necessary to inquire whether the acts or omissions of the complainant could be considered as justifying the application of paragraph (a) of Regulation 9.1.1 of the Staff Regulations, on the grounds that in themselves they caused doubt to exist as to whether she fulfilled the highest standards required of an international official;

Considering that the complainant does not challenge the legitimate character of the inquiry made within the staff by the Special Advisory Board set up by the Director-General on 28 September 1954, following the submission to the Director-General of the report made against her by the Loyalty Board in default of her appearance;

That this measure is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might
desire to submit to the Director-General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O."

That the Special Advisory Board set up on 28 September 1954 expressed the opinion, as referred to above, that it could find no evidence that the complainant had engaged or was engaging in activities during her employment, that could be shown to be misconduct under the Staff Regulations and Staff Rules; the Board concluding, however, that the attitude adopted by the complainant as well as the reasons given for her attitude gave rise to serious doubts about the degree of confidence that could be placed in her integrity, judgment and loyalty to the Organisation; that the Board found justification for this opinion in stating that in a situation which, in its opinion, was clearly harmful to the Organisation, the complainant maintained that adherence to her own personal views was more important than the interests of the Organisation;

That this opinion restates in different terms the reasons invoked for the decision taken;

K. Considering however that when requested to give an opinion on the decision itself, the Appeals Board, presided over by an eminent magistrate enjoying the confidence of all parties and composed jointly of members appointed by the Director-General and members appointed by the Staff Association, came unanimously to a diametrically opposed conclusion; that after a full hearing and a thorough study of all the facts in the case, it unanimously concluded that the complainants had not failed in the high standards required of members of the Secretariat, had not committed acts incompatible with the integrity required of them and had not disregarded the true interest of the Organisation; that, as a consequence, the decisions to terminate them had no basis in law and that the said complainants had shown cause for requesting reinstatement; that the Tribunal fully agrees with this particularly authoritative opinion;

That the Tribunal must besides take into consideration the due care required of it in appreciating the validity of the decision taken, by reason of the striking and indefensible disproportion between the alleged attitude of the complainant and the measure taken against her, putting an end to the career on which she based her future, when no complaint regarding her work had been alleged; that from this standpoint it is of no moment that the termination was not a disciplinary action in the formal sense of the Regulations and that certain indemnities were accorded, when the fundamental result is to deprive the party concerned of her employment by exposing her to all the risks and distress of an uncertain future;

L. Considering that it is thus established that the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which her national Government considers it necessary to subject her;

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the Government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that Organisation towards the achievement of its own, exclusively international, objectives;
That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact that in this case the doubts raised as to the loyalty of the complainant to her own Government, brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 74 States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an inquiry in similar or analogous conditions, the attitude adopted by the Director-General would constitute a precedent obliging him to lend his assistance to such inquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence and the same application of Regulation 9.1.1 of the Staff Regulations, on the basis of any opposal by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;

M. Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to the high standards required of an international official;

That neither does it appear that the complainant placed her own interests above the true interest of the Organisation, as defined above;

Considering, therefore, that the only ground for complaint adduced by the Director-General to justify the application to the complainant of Regulation 9.1.1 of the Staff Regulations, that is to say her opposal to the investigations of her own Government, is entirely unfounded;

N. Considering that it results therefrom that the decision taken must be rescinded, the said decision not resting on any provision of the Staff Regulations; that nevertheless the Tribunal does not have the power to order reinstatement, which requires a positive act of the Director-General, over whom the Tribunal has no hierarchical authority;

That in the absence of such a power, and unless the Director-General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the measure of which she was the object;
ON PREJUDICE:

Considering that, should the complainant not be reinstated with full rights, she should be compensated for the material and moral prejudice which she has suffered by reason of the decision taken;

That such prejudice may be assessed ex aequo et bono at two years' base salary, without any set off of the indemnities which she has been accorded;

Considering that the annual base salary of the complainant amounted to 819,000 French francs;

That there are no grounds for allocating a supplementary indemnity by reason of the suspension with salary dated 10 December 1954, a measure which the Director-General was entitled to take within the limits of his authority and which cannot be considered in the circumstances as having increased the prejudice suffered;

ON THE GROUNDS AS AFORESAID:

The Tribunal,

Rejecting any wider or contrary conclusions,

 Declares the complaint to be receivable as to form;

 Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that a legal basis therefor cannot be found in the Staff Regulations;

In consequence, should the defendant not reconsider the decision taken and reinstate the complainant, orders the said defendant to pay to the complainant an amount equal to two years' base salary, namely 1,638,000 French francs, together with interest at 4 per centum from 20 June 1955, without any set off of the indemnities accorded to her at the time of termination of her appointment;

Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by Mr. Henquet:

Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name, an official of the defendant Organisation, holder of an indeterminate appointment;

Considering that the intervention is founded, in so far as recognised by this judgment;

Orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency Mr. Albert Devèze, President, Jonkheer van Rijckeversel, Judge, Acting Vice-President, and Mr. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)

Certified true copy:
Francis Wolf,
Registrar of the Administrative Tribunal.
Text of the Judgment Given in the Case of:
Van Gelder against United Nations Educational, Scientific
and Cultural Organisation

INTERNATIONAL LABOUR ORGANISATION
ADMINISTRATIVE TRIBUNAL

Judgment No. 24.

Fifth Ordinary Session (Part II), October 1955
Sitting of 29 October 1955

In the matter of: Miss Hélène Van Gelder against: United Nations Educational, Scientific and Cultural Organisation.

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 13 September 1955 by Miss Hélène Van Gelder, a former official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken on 20 June 1955 terminating the complainant’s appointment and, in default of reinstatement to enjoin the defendant Organisation to pay to the complainant by way of damages a sum equivalent to three years’ salary, together with an indemnity of 10,000 dollars;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 6 October 1955;

Having had referred to it a statement submitted in his own name, in his status as an official of the defendant Organisation, holder of an indeterminate appointment, on 3 October 1955 by Mr. Pierre Henquet, Chairman of the Staff Association;

Having heard, on oath, in public sitting on 20 October 1955, Mr. Edward Joseph Phelan, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation on 29 July 1948;

(2) At the time when the decision complained of was taken the complainant was the holder of an indeterminate appointment, subject to a five-year review on 1 October 1959;

(3) In February 1953 the complainant received a questionnaire to be completed and returned in application of “Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations”, whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant completed this questionnaire and returned it;
In February 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant replied;

In July 1954 the complainant received an invitation to appear as from 15 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

By letter dated 21 July 1954 the complainant informed the Director-General of the reasons of conscience on which she based her refusal to appear;

Subsequently the Director-General received communication of the report of the Loyalty Board (advisory determination) dated 15 September 1954 in which it was stated that:

...the Board finds that, on all the evidence, there is a reasonable doubt of the loyalty of Hélène Julie Van Gelder to the Government of the United States;

The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 27 September 1954, and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director-General of the defendant Organisation;

On 28 September 1954 the Director-General set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director-General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations"; the complainant appeared and explained her position before this Special Advisory Board;

The complainant was informed by a note dated 10 December 1954 that she was suspended from her functions with pay until further notice in application of Rule 109.11 of the Staff Rules;

By a note dated 17 December 1954 the complainant requested the Director-General to reconsider his decision;

The Director-General declined to reconsider his decision and the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board on 10 February 1955, asking that the decision to suspend her be rescinded;

On 25 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of the Director-General dated 10 December 1954 by which the complainant had been suspended from her functions with pay should be rescinded;

Before the Appeals Board had taken its decision the Special Advisory Board, referred to in Regulation 9.1.1 of the Staff Regulations and appointed by the Director-General in accordance with Rule 109.10 of the Staff Rules, heard the complainant in March 1955;

By letter dated 20 June 1955 the Director-General informed the complainant that her appointment was terminated on the same date. This letter stated inter alia:
The Special Advisory Board which I appointed in accordance with Staff Regulation 9.1.1 has submitted its report to me on the matter concerning you. I have studied this report very carefully.

I regret to inform you that I have come to the conclusion that your conduct indicated that you do not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations.

I have come to this conclusion because of the attitude you have adopted to the investigation undertaken by the United States Government under Executive Order 10422, as amended by Executive Order 10459, which found its principal expression in your refusal to respond to the invitation to appear, in July 1954, before the International Organisations Employees Loyalty Board of the United States Civil Service Commission, and because, at no time up to this date, have you taken any steps or shown any desire to repair, or at least to mitigate, the harm done to the Organisation by your refusal to appear before the Board.

You could not have failed to realise that the attitude you have adopted gravely prejudiced the interests of the Organisation.

I have indicated, and in particular, at the Eighth Session of the General Conference, the seriousness of the consequences of such an attitude.

In adopting and maintaining such an attitude, you have shown that you are not willing to regulate your conduct with the interests of the Organisation only in view.

I am therefore obliged to terminate your appointment with effect from the end of the day, 20 June 1955, under the provisions of Staff Regulation 9.1.1.

In accordance with the terms of your indeterminate appointment you will receive an indemnity equivalent to [six] months’ pensionable remuneration.

You will be paid salary and allowances in lieu of three months’ notice.

You will also receive any other payments to which you are entitled upon separation;

(16) By letter dated 24 June 1955 the complainant requested the Director-General to reconsider his decision to terminate her appointment;

(17) By letter dated 27 June 1955 the Director-General informed the complainant that he adhered to his decision;

(18) On 1 July 1955 the complainant submitted an appeal to the U.N.E.S.C.O. Appeals Board asking that the Director-General’s decision dated 20 June 1955 be rescinded;

(19) On 29 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of 20 June 1955 by which the complainant’s appointment was terminated should be rescinded;

(20) By letter dated 31 August 1955 the Director-General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

ON THE SUBSTANCE:

A. Considering that the decision of 20 June 1955 terminating the appointment of the complainant was taken in application of Regulation 9.1.1 of the Staff Regulations, as adopted by the U.N.E.S.C.O. General Conference in Montevideo on 8 December 1954, this Regulation being in the following terms:
The Director-General may also, giving his reasons therefor, terminate the appointment of a staff member:

(a) If the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations;

(b) If facts anterior to the appointment of the staff member and relevant to his suitability or which reflect on his present integrity come to light, which, if they had been known at the time of his appointment should, under the standards established in the Constitution, have precluded his appointment.

No termination under the provisions of this Regulation shall take effect until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Director-General;

Considering that where the Director-General acts within the provisions of Regulation 9.1.1 he has only the statutory powers conferred on him by the General Conference; that in a particular case the Tribunal's appreciation and review of the exercise of this power consists in examining whether in fact the circumstances of the case are such as to justify the application thereof; that if this were not to be the case the application of this power would be at the Director-General's sole pleasure;

Considering that Regulation 9.1.1 expressly provides that reasons must be given for taking the measures set forth therein and that the matter be first reported on by a Special Advisory Board appointed for that purpose by the Director-General;

B. Considering that in this case the decision is expressly motivated by the attitude taken by the complainant with respect to the measures of investigation provided by the Government of the United States in application of Executive Orders Nos. 10422 and 10459, this attitude consisting principally in the refusal of the complainant to accede to the invitation to appear before the Loyalty Board in July 1954, and by the fact that after that date the complainant took no steps nor showed any wish to repair or mitigate the harm which was deemed to have been suffered by the Organisation as a result of her refusal to appear, when she could not ignore the gravity of such harm;

Considering that the submissions of the defendant oblige the Tribunal, in order to carry out its functions under the provisions of Article II of its Statute, to seek in what manner and to what extent the interests of the Organisation may have been prejudiced;

Considering that the difficulties having arisen within the defendant Organisation are that one State Member, in default of obtaining the removal of those of its citizens being officials finding themselves in a situation similar to that of the complainant, appeared to be considering withdrawing its participation and support from the Organisation; that in particular an express statement in this sense was made before the Sub-Committee on Appropriations of the House of Representatives of this State by one of the members of the delegation of the said State at the Montevideo Conference;

That it is significant that the Director-General, on 10 December 1954, that is to say on the date following that on which the Staff Regulations conferred upon him the new power, invoked such power against the three parties concerned, in order to suspend them from their duties and to take those procedural measures against them arising out of which the decisions to terminate them, now before the Tribunal, were taken;
That besides there is no indication that there was any other reason for considering that the interests of the Organisation were imperilled;

That the safeguarding *erga omnes* of the independence and impartiality of the Organisation is also vital and must not be lost sight of;

C. Considering that the complainant could, in conscience, be persuaded that she was within her rights, that besides it has never been alleged that the complainant had been the object of legal proceedings in her own country by reason of the attitude complained against, since a purely administrative procedure was involved; that exception could not be taken against her for having failed in her employment to determine precisely the gravity and imminence of the danger which may have imperilled certain interests of the Organisation;

Considering that no exception can be taken against her on such grounds nor could she be reproached with having abstained from taking steps for which no particulars were given and in addition never requested of her, in order to repair or mitigate the difficulties to which the Organisation was subject;

Considering that the Director-General adduces, however, from the complainant’s attitude and from the maintenance of this attitude that the complainant showed that she did not wish to regulate her conduct with the interests of the Organisation only in view;

That, in consequence, on 20 June 1955 the Director-General terminated the complainant’s appointment with immediate effect (at the same time according to her those indemnities to which she was entitled under Regulation 9.3 of the Staff Regulations and Rule 104.7 (e) of the Staff Rules), after having consulted the Special Advisory Board set up in Regulation 9.1.1 of the Staff Regulations and after carefully studying, as he states, the report of this Board;

D. Considering that it must be observed that the decision taken is based solely on paragraph (a) of Regulation 9.1.1 of the Staff Regulations which gives to the Director-General the power to terminate an official’s appointment “if the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations”;

That, on the basis of this wording, the clear distinction between the notions respectively of integrity and loyalty is henceforward not in issue; that the grounds adduced are based on the duty of officials “to conduct themselves at all times in a manner befitting their status as international civil servants”, “to bear in mind the reserve and tact incumbent upon them by reason of their international status”, and at no time to lose sight of the interests of the international organisation for which they serve;

Considering that paragraph (b) of Regulation 9.1.1 deals only with facts anterior to appointment or facts which, if they had been known at the time of the appointment should have precluded the appointment, such facts not having been demonstrated and not being in issue in this case;

E. Considering besides that there is no other motive in the case which can be invoked in justification of termination;

That the Special Advisory Board which had been voluntarily set up by the Director-General within the defendant Organisation, as early as September 1954, expressly stated that it could find no evidence either in the reports of the Loyalty Board or as a result of its own inquiries that the complainant, during her employ-
ment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

That it results from the complainant’s performance reports that she has never been the subject of any reproach; that on the contrary the appreciations contained therein were entirely laudatory as regards her work and performance and that she was promoted;

That the Director-General was therefore entirely correct in not invoking against her any misconduct, breach of professional duty or unsatisfactory service; that on the contrary the representative of the defendant Organisation has pointed out on several occasions that termination for disciplinary reasons was not in issue and that the sole issue was the termination of an appointment, with payment of indemnities, under the new Regulations on which the Director-General relies;

F. Considering that the defendant Organisation objects to the production of the report of the Special Advisory Board which was set up in 1955 on the basis of the amended Regulations adopted by the General Conference;

That this objection is motivated by a text inserted by the Director-General himself in the rules which he drew up in order to give effect to the new provisions of the Staff Regulations by virtue of the powers conferred on him under the said Regulations; that this text stipulates (Staff Rule 109.10) that the proceedings and reports of the Board shall be secret and confidential;

That if this provision made by the Director-General in application of the regulations adopted by the General Conference were to be considered as lawful, it would have as its effect to remove from the Special Advisory Board its principal object; that in reporting to the Administrative Commission of the General Conference (document 8 C/ADM/14, paragraph 11), the author of the text declared himself on the subject of this Advisory Board as follows: “This is one way in which it is considered that staff members may be protected from the possibility of arbitrary decisions”; that, where the opinion given is confidential to the Director-General alone, such additional guarantee promised against arbitrary decisions is unavailing;

That where the competent jurisdiction for reviewing the decision of the Director-General is not able, any more than the complainant, to have cognizance of the opinion of the Special Advisory Board, and where, besides, the Director-General is entirely free not to take account of such opinion and is thereby not subject to any outside review, it would have sufficed to permit the Director-General to be counselled accordingly thereon by such adviser as he thought fit; that this cannot be imagined to have been the impression which led to the vote in the General Conference, the Conference being manifestly desirous to effectively protect staff members whose appointments would be terminated under Staff Regulation 9.1.1, from arbitrary decisions;

Considering that the deposition made under oath by Mr. Phelan, Chairman of the said Board, cited as a witness, shows that the members of the Board did not, in accepting to serve, impose a condition of secrecy; that they questioned the Director-General on his intentions in this regard, which was proper, but did not have as a legal result to deprive the Director-General from disposing of the report as he thought fit;

That the objection to the production of the report of the Board which was available to the Director-General removes an element from the appreciation of the Tribunal competent to pronounce on the regularity of the decision taken; that
the Regulations having been observed in the letter the Tribunal may not order thereon, but that in any event it was unable in its consultations to take into account this unknown element;

G. Considering that the complainant submits that the provisions of the new Regulations adopted in December 1954 are not applicable in her case since the facts set up against her took place prior to such adoption;

That this submission is unfounded, the Director-General having been accorded the power to review the conduct of a staff member, the appointment of whom is to be terminated, solely with regard to the high standards required of an international official, and that he is free in this respect to take into account those elements on which he considers his decision may be based;

That, without doubt, the granting of such a power opens the door to a great extent to arbitrary decisions; that it fully justifies the preoccupations of those desirous of providing at the same time sure and effective guarantees; that the Administrative Tribunal must watch over the jurisdictional review which it exercises; but that the texts exclude the submission based on their retroactive application;

H. Considering that where the Director-General has the power to terminate an indeterminate appointment, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Regulation 1.4 of the Staff Regulations of the defendant Organisation is as follows;

Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organisation. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status;

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

I. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;
Considering, however, that in respect of the invitation to appear before the Loyalty Board it is established that the complainant approached the Director-General only at a late date, so that the latter would not have been able to give her advice in sufficient time;

J. Considering that, in order to review all factors, it is necessary to inquire whether the acts or omissions of the complainant could be considered as justifying the application of paragraph (a) of Regulation 9.1.1 of the Staff Regulations, on the grounds that in themselves they caused doubt to exist as to whether she fulfilled the highest standards required of an international official;

Considering that the complainant does not challenge the legitimate character of the inquiry made within the staff by the Special Advisory Board set up by the Director-General on 28 September 1954, following the submission to the Director-General of the report made against her by the Loyalty Board in default of her appearance;

That this measure is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director-General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of U.N.E.S.C.O. and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of U.N.E.S.C.O."

That the Special Advisory Board set up on 28 September 1954 expressed the opinion, as referred to above, that it could find no evidence that the complainant had engaged or was engaging in activities during her employment that could be shown to be misconduct under the Staff Regulations and Staff Rules; the Board concluding, however, that the attitude adopted by the complainant as well as the reasons given for her attitude gave rise to serious doubts about the degree of confidence that could be placed in her integrity, judgment and loyalty to the Organisation; that the Board found justification for this opinion in stating that in a situation which, in its opinion, was clearly harmful to the Organisation, the complainant maintained that adherence to her own personal views was more important than the interests of the Organisation;

That this opinion restates in different terms the reasons invoked for the decision taken;

K. Considering however that, when requested to give an opinion on the decision itself, the Appeals Board, presided over by an eminent magistrate enjoying the confidence of all parties and composed jointly of members appointed by the Director-General and members appointed by the Staff Association, came unanimously to a diametrically opposed conclusion; that after a full hearing and a thorough study of all the facts in the case, it unanimously concluded that the complainants had not failed in the high standards required of members of the Secretariat, had not committed acts incompatible with the integrity required of them and had not disregarded the true interest of the Organisation; that as a consequence, the decisions to terminate them had no basis in law and that the said complainants had shown cause for requesting reinstatement; that the Tribunal fully agrees with this particularly authoritative opinion;

That the Tribunal must besides take into consideration the due care required of it in appreciating the validity of the decision taken, by reason of the striking
and indefensible disproportion between the alleged attitude of the complainant and the measure taken against her, putting an end to the career on which she based her future, when no complaint regarding her work had been alleged; that from this standpoint it is of no moment that the termination was not a disciplinary action in the formal sense of the Regulations and that certain indemnities were accorded, when the fundamental result is to deprive the party concerned of her employment by exposing her to all the risks and distress of an uncertain future;

L. Considering that it is thus established that the ground for complaint of the Director-General is based solely on the refusal of the official to participate in measures of verbal or written inquiry to which her national Government considers it necessary to subject her;

That the Director-General of an international organisation cannot associate himself with the execution of the policy of the Government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that Organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director-General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation in the following terms:

The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties;

Considering that the fact in this case the doubts raised as to the loyalty of the complainant to her own Government, brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the 74 States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an inquiry in similar or analogous conditions, the attitude adopted by the Director-General would constitute a precedent obliging him to lend his assistance to such inquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence and the same application of Regulation 9.1.1 of the Staff Regulations, on the basis of any opposal by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;
M. Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to the high standards required of an international official;

That neither does it appear that the complainant placed her own interests above the true interest of the Organisation, as defined above;

Considering therefore that the only ground for complaint adduced by the Director-General to justify the application to the complainant of Regulation 9.1.1 of the Staff Regulations, that is to say her opposal to the investigations of her own Government, is entirely unfounded;

N. Considering that it results therefrom that the decision taken must be rescinded, the said decision not resting on any provision of the Staff Regulations; that nevertheless the Tribunal does not have the power to order reinstatement, which requires a positive act of the Director-General, over whom the Tribunal has no hierarchical authority;

That in the absence of such a power, and unless the Director-General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the measure of which she was the object;

ON PREJUDICE:

Considering that, should the complainant not be reinstated with full rights, she should be compensated for the material and moral prejudice which she has suffered by reason of the decision taken;

That such prejudice may be assessed \textit{ex aequo et bono} at two years’ base salary, without any set off of the indemnities which she has been accorded;

Considering that the annual base salary of the complainant amounted to 1,130,000 French francs;

That there are no grounds for allocating a supplementary indemnity by reason of the suspension with salary dated 10 December 1954, a measure which the Director-General was entitled to take within the limits of his authority and which cannot be considered in the circumstances as having increased the prejudice suffered;

ON THE GROUNDS AS AFORESAID:

The Tribunal,

Rejecting any wider or contrary conclusions,

 Declares the complaint to be receivable as to form;

 Declares that it is competent;

 Orders the decision taken to be rescinded and declares in law that a legal basis therefor cannot be found in the Staff Regulations;

In consequence, should the defendant not reconsider the decision taken and reinstate the complainant, orders the said defendant to pay to the complainant an amount equal to two years’ base salary, namely 2,260,000 French francs, together with interest at 4 per centum from 20 June 1955, without any set off of the indemnities accorded to her at the time of termination of her appointment;
Orders the defendant Organisation to pay to the complainant the sum of 300 dollars by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by Mr. Henquet;

Considering that such intervention is receivable in so far as it is made by Mr. Henquet in his own name, an official of the defendant Organisation, holder of an indeterminate appointment;

Considering that the intervention is founded, in so far as recognised by this judgment;

Orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of 40 dollars.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency Mr. Albert Devèze, President, Jonkheer van Rijckevorsel, Judge, Acting Vice-President, and Mr. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signed)
Albert DEVÈZE.  A. VAN RIJCKEVERSEL.  IASSON STAVROPOULOS.

Certified true copy:
Francis Wolf,
Registrar of the
Administrative Tribunal.
The Joint Maritime Commission of the International Labour Office held its 18th Session in Paris from 24 to 28 October 1955. The agenda of the session was as follows:

I. Report of the Director-General.
III. Possible revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93).
IV. Flag transfer (whether a questionnaire on this subject should be addressed to governments, and if so, its form and content).
V. Seafarers' welfare in port.
VI. Possible revision of the Placing of Seamen Convention, 1928 (No. 9).
VII. Refugee seafarers.

Recommendations on these various questions were submitted by the Commission to the Governing Body at its 130th Session. The Commission unanimously adopted four resolutions submitted by the Seafarers' group, the text of which is reproduced below.

**RESOLUTIONS ADOPTED BY THE COMMISSION**

*Resolution concerning Seamen's Welfare*

The Joint Maritime Commission of the International Labour Office,
Having met at Paris from 24 to 28 October 1955,
Having received the report of the I.L.O. on the action taken on the resolution adopted by the previous session of the Commission on the question of seafarers' welfare;
Expresses its great appreciation of the important progress which has been made in many maritime countries in promoting seafarers' welfare in port and of the contribution the I.L.O. has made in encouraging action in this field;
Notes, however, that though considerable progress has been made at the national level, comparatively little has been done to bring about international co-ordination and co-operation in the sphere of seafarers' welfare;
Requests the Governing Body once more, therefore, to draw the special attention of governments to the desirability of promoting reciprocal international co-operation in the sphere of seafarers' welfare; and
Further requests the Governing Body to consider the possibility of establishing a standing tripartite subcommittee of the Joint Maritime Commission, in accordance with article 14 (2) of its Standing Orders, to deal with problems of seamen's welfare on an international basis, with the work of which other bona fide organisations concerned with seamen's welfare might be invited to participate as observers.

*Resolution concerning Refugee Seafarers*

The Joint Maritime Commission of the International Labour Office,
Having met at Paris from 24 to 28 October 1955,
Having considered once more the problem of refugee seafarers, particularly in regard to those who have had to live for many years without generally recognised identity papers and who have failed to gain admission to any country as permanent residents;

Reaffirms its position concerning the problem as set forth in the resolution on this subject adopted at its 16th Session;

Expresses its concern regarding the situation of many refugee seafarers, which remains precarious from the social, legal and administrative point of view;

Expresses its appreciation of the steps taken by some governments to regularise the position of refugee seafarers, as shown by their replies in response to the Joint Maritime Commission's resolution and to the memorandum prepared by the High Commissioner for Refugees;

Recommends to the Governing Body that the Director-General be authorised to communicate to the High Commissioner for Refugees the information contained in the replies from governments and to co-operate with him and with the heads of any other organisations concerned in studying efforts to improve the conditions of refugee seafarers;

Notes with particular satisfaction that a conference of eight maritime nations on this question was recently convened at The Hague on the initiative of the Netherlands Government at which consideration was given to a plan for the solution of the problems of a great number of refugee seafarers;

Expresses the hope that positive results will emerge from the next discussion of this plan by the governments concerned in two or three months' time and that agreement will be reached on measures which will improve the situation of the greatest possible number of refugee seafarers, in particular by providing them with travel documents and enabling them to be admitted to a country as lawful residents;

Expresses further the hope that as many governments as possible will be able to accede to such an agreement; and

Requests the Governing Body to authorise the Director-General to communicate this resolution to governments of States Members and to prepare, when appropriate, a report on further developments in regard to the question of refugee seafarers for consideration at the first possible opportunity.

Resolution concerning Seafarers' Health

The Joint Maritime Commission of the International Labour Office,

Having met at Paris from 24 to 28 October 1955;

Notes with satisfaction that the Joint I.L.O.-W.H.O. Committee on the Hygiene of Seafarers has made considerable progress with various questions affecting the health of seafarers, notably the question of medical advice by radio to ships at sea and that of medicine chests on board;

Requests the Joint I.L.O.-W.H.O. Committee on the Hygiene of Seafarers to consider the question of the desirability and practicability of ensuring that on ships not carrying a doctor there is within the normal ship's complement someone on board suitably trained or qualified to give assistance or treatment in case of accident or illness, having regard to the number of persons on board and the period for which the ship is likely to be at sea.

Resolution concerning Pilots' Ladders

The Joint Maritime Commission of the International Labour Office,

Having met at Paris from 24 to 28 October 1955;

Draws attention to the desirability of international uniformity in the design of ladders used by pilots to board ships; and

Requests the Governing Body to take steps with a view to discussion of the question by an International Conference on Safety of Life at Sea at the earliest opportunity and to authorise the preparation of a study of the question as a basis for such discussion.

Resolution concerning Seafarers' Health

The Joint Maritime Commission of the International Labour Office,

Having met at Paris from 24 to 28 October 1955;

Notes with satisfaction that the Joint I.L.O.-W.H.O. Committee on the Hygiene of Seafarers has made considerable progress with various questions affecting the health of seafarers, notably the question of medical advice by radio to ships at sea and that of medicine chests on board;

Requests the Joint I.L.O.-W.H.O. Committee on the Hygiene of Seafarers to consider the question of the desirability and practicability of ensuring that on ships not carrying a doctor there is within the normal ship's complement someone on board suitably trained or qualified to give assistance or treatment in case of accident or illness, having regard to the number of persons on board and the period for which the ship is likely to be at sea.

Resolution concerning Pilots' Ladders

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Requests the Governing Body to take steps with a view to discussion of the question by an International Conference on Safety of Life at Sea at the earliest opportunity and to authorise the preparation of a study of the question as a basis for such discussion.
The 130th Session of the Governing Body of the International Labour Office was held in Geneva from Tuesday, 15 to Friday, 18 November 1955, under the chairmanship of Mr. A. H. Brown.

The agenda of the session was as follows:

1. Approval of the minutes of the 129th Session.
2. Date, place and agenda of the 40th (1957) Session of the International Labour Conference.
4. Report on reduction of hours of work.
5. Action to be taken on the resolutions adopted by the International Labour Conference at its 38th Session.
7. Establishment of a special list of non-governmental organisations.
20. Composition of committees and other meetings.
22. Programme of meetings.
23. Appointment of Governing Body representatives on various bodies.
24. Date and place of the 131st Session of the Governing Body.
The Governing Body was composed as follows:

Chairman: Mr. A. H. Brown (Canada).

Government group:
- Argentina: Mr. M. R. Pico.
- Australia: Mr. R. L. Harry.
- Burma: Mr. Maung Maung.
- Canada: Mr. H. Allard.
- China: Mr. M. L. Tuan.
- Colombia: Mr. L. González Barros.
- Cuba: Mr. E. Camejo Argudín.
- Egypt: Mr. H. M. Asfahany.
- Federal Republic of Germany: Mr. M. Sauerborn.
- France: Mr. H. Hauck.
- India: Mr. V. Sahay.
- Italy: Mr. R. Ago.
- Japan: Mr. K. Tatsuke.
- Norway: Mr. K. J. Öksnes.
- Turkey: Mr. N. Azak.
- Union of Soviet Socialist Republics: Mr. A. A. Arutjunian.
- United Kingdom: Sir Guildhaume Myrddin-Evans.
- United States: Mr. J. Ernest Wilkins.

Employers' group:
- Mr. G. Bergenström (Swedish).
- Mr. L. C. Burne (Australian) (substitute for Mr. W. Gemmill).
- Mr. P. Campanella (Italian).
- Mr. F. Faubel (German, Federal Republic).
- Mr. M. G. Ghayour (Iranian).
- Mr. W. L. McGrath (United States).
- Mr. J. B. Pons (Uruguayan).
- Sir Richard Snedden (United Kingdom).
- Mr. N. H. Tata (Indian).
- Mr. P. Waline (French).

Workers' group:
- Mr. Aftab Ali (Pakistani).
- Mr. R. Bothereau (French).
- Mr. A. Cofiño García (Cuban).
- Mr. G. P. Delaney (United States).
- Mr. A. E. Monk (Australian).
- Mr. E. Nielsen (Danish).
- Mr. S. de A. Pequeno (Brazilian).
- Mr. W. Richter (German, Federal Republic).
- Sir Alfred Roberts (United Kingdom).
- Mr. K. P. Tripathi (Indian).

The representative of the Government of Uruguay was absent and was not replaced by a substitute.
The following deputy members, or substitute deputy members, were present:

**Government group:**
- Ceylon: Mr. C. B. KUMARASINHA.
- Chile: Miss L. KRACHT.
- Indonesia: Mr. I. SOEPOMO.
- Liberia: Mr. K. S. TAMBA.
- Mexico: Mr. F. VÁZQUEZ TRESERRA.
- Portugal: Mr. M. A. FERNANDES.
- Sweden: Mr. P. ECKERBERG.
- Switzerland: Mr. M. KAUFMANN.

**Employers’ group:**
- Mr. F. YLLANES RAMOS (Mexican).
- Mr. A. G. FENNEMA (Netherlands).
- Mr. A. MISHIRO (Japanese).
- Mr. C. KUNTSCHEN (Swiss).
- Mr. J. O’BRIEN (Irish).
- Mr. A. R. HAMADA (Egyptian).
- Mr. S. MORIEL (Israeli).
- Mr. P. VAN LINT (Belgian).
- Mr. H. DÜNDAR (Turkish).

**Workers’ group:**
- Mr. A. BECKER (Israeli).
- Mr. N. DE BOCK (Belgian).
- Mr. S. H. KHALAF (Egyptian).
- Mr. A. KYRIAKOPOULOS (Greek).
- Mr. O. LINDBLOM (Finnish).
- Mr. J. MÖRI (Swiss).
- Mr. G. PASTORE (Italian).
- Mr. S. THONDAMAN (Ceylonese).
- Mr. A. VERMEULEN (Netherlands)

The following representatives of States Members of the Organisation were present as observers:

- **Brazil**: Mr. J. A. BARBOZA-CARNEIRO.
- **Costa Rica**: Mr. A. P. DONNADIEU.

The following representatives of other international governmental organisations were present:

- **United Nations**: Mr. G. PALTHEY.
- **Food and Agriculture Organisation**: Mrs. S. KALNINS (substitute for Mr. P. SINARD).
- **United Nations Educational, Scientific and Cultural Organisation**: Mr. G. BOLLA.
- **World Health Organisation**: Dr. T. S. SzE.
- **General Agreement on Tariffs and Trade**: Mr. J. ROYER.
- **Council of Europe**: Mr. F. TENVFJORD.
- **Intergovernmental Committee for European Migration**: Mr. G. FALCHI.
The following representatives of international non-governmental organisations were present as observers:

*International Confederation of Free Trade Unions*: Mr. H. Patteet.
*International Co-operative Alliance*: Mr. M. Boson.
*International Federation of Agricultural Producers*: Mr. R. Hewlett.
*International Federation of Christian Trade Unions*: Mr. A. Vanistendael.
*International Organisation of Employers*: Mr. G. Emery.
*World Federation of Trade Unions*: Mr. Liu Chang-cheng.

**DATE, PLACE AND AGENDA OF THE 40th (1957) SESSION OF THE INTERNATIONAL LABOUR CONFERENCE**

The Governing Body decided that the 40th Session of the International Labour Conference, to be held in Geneva, should open on Wednesday, 5 June 1957. Subject to the decisions of the Conference at its 39th Session the agenda of the 40th Session would be as follows:

I. Report of the Director-General.
II. Financial and budgetary questions.
III. Information and reports on the application of Conventions and Recommendations.
IV. Forced labour (second discussion).
V. Weekly rest in commerce and offices (second discussion).
VI. Living and working conditions of indigenous populations in independent countries (second discussion).
VII. Discrimination in the field of employment and occupation (first discussion).
VIII. Conditions of employment of plantation workers (first discussion).

**REPORT ON DISCRIMINATION IN THE FIELD OF EMPLOYMENT AND OCCUPATION**

The Governing Body had before it, as requested, a revised version of this report. It was agreed that the document now submitted should be regarded merely as a law and practice report for the purpose of considering the inclusion of the question of discrimination in the agenda of the 40th Session of the International Labour Conference. An interim progress report on the subject would be sent to the Human Rights Commission of the United Nations.

**REPORT ON REDUCTION OF HOURS OF WORK**

The Governing Body noted that a great deal of the necessary material on this subject had been collected and some preparatory drafting done, but that owing to the complexity of the material itself it had not been possible to prepare in time a report of the standard required to do justice to so important a subject. A report on the reduction of hours of work would be submitted to the Governing Body at its 131st Session and the procedure for further treatment of the question would be determined at that time.
ACTION TO BE TAKEN ON THE RESOLUTIONS ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE AT ITS 38TH SESSION

The Governing Body approved without discussion the proposals submitted by the Director-General regarding the action to be taken on the resolutions adopted by the International Labour Conference at its 38th Session. Only one of these required a special decision—that concerning the part-time employment of women and the employment of older women: these two questions will figure on the agenda of a Meeting of Experts on Women's Employment to be held in Geneva in the autumn of 1956. As regards the other resolutions, the Director-General was authorised to draw the attention of governments or the United Nations to various resolutions and to pursue the necessary studies.

REPORT OF THE COMMITTEE ON THE EXTENT OF THE FREEDOM OF EMPLOYERS’ AND WORKERS’ ORGANISATIONS

The Governing Body took note of the progress of the Committee's work, and of the fact that the Committee was not in a position to make an adequate report to the 130th Session but proposed to hold a further meeting on 2 January 1956, when it hoped to be able to undertake the preparation of a final report.

ESTABLISHMENT OF A SPECIAL LIST OF NON-GOVERNMENTAL ORGANISATIONS

The Governing Body had before it at its request new proposals regarding the establishment of a special list of non-governmental organisations. Several members of the Governing Body, while recognising that the revised document was more satisfactory than the original one, asked the Director-General to clarify some of his proposals and more particularly to define the obligations of the non-governmental organisations which would be placed on the special list. The Governing Body decided to re-examine this question at its 131st Session.

REPORT OF THE PERMANENT AGRICULTURAL COMMITTEE
(Fifth Session, Paris, 1-10 September 1955)

Consideration of this item was deferred until the 131st Session, but the Governing Body expressed its gratitude to the French Government for the generous hospitality extended to the Committee.

REPORT OF THE PANEL OF THE CORRESPONDENCE COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH
(Geneva, 12-23 September 1955)

Decisions regarding most of the experts' proposals were postponed until the 131st Session; however, the Governing Body authorised the Director-General to submit proposals at a future session concerning the preparation of an encyclopaedia on occupational safety and health.

2 The meeting will also discuss vocational guidance and training of women (including apprenticeship) and technical assistance in underdeveloped countries to improve conditions of work and employment of women workers.
3 See above, p. 230.
As proposed in this report, the Governing Body decided to convene a Preparatory Technical Maritime Conference in the autumn of 1956 and a Maritime Session of the International Labour Conference in 1957. Decisions regarding the composition of the Preparatory Conference were deferred until the 131st Session so that the Director-General might submit information on the composition of the similar conferences held in 1935 and 1945 and on the criteria adopted in this regard.

The Governing Body provisionally approved the following agenda for the Preparatory Conference:

I. General revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93).

II. Engagement of seafarers through regularly established employment offices.

III. Flag transfer in relation to social conditions and safety.

IV. Contents of medicine chests on board ship and medical advice by radio to ships at sea.

V. Jurisdiction over the suspension of officers' certificates of competency.

VI. Reciprocal or international recognition of seafarers' national identity cards.

The agenda of the Maritime Session of the International Labour Conference would include the same items as that of the Preparatory Conference and also the Report of the Director-General and the election of the members of the Joint Maritime Commission.

The Governing Body adopted without discussion the recommendations of the Joint Maritime Commission on the other matters dealt with in its report.
REPORT OF THE COMMITTEE ON STANDING ORDERS AND THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

The Governing Body's decisions on these subjects included the following.

Arrangements for Discussion of Director-General's Report at the International Labour Conference

The Governing Body recommended that a further appeal be made to speakers taking part in the discussion of the Director-General's Report at the International Labour Conference to concentrate their remarks as far as possible on the main subjects dealt with in the Report and on the activities of the International Labour Organisation. A suggestion to this effect would be submitted to the Selection Committee of the Conference.

Organisation of Work of the Conference Committee on the Application of Conventions and Recommendations

The Governing Body approved a recommendation that various arrangements to facilitate the work of this Committee should be introduced on an experimental basis at the 39th Session of the Conference.

Application of Conventions and Recommendations

A periodical report on the application of the Forced Labour Convention, 1930, would be provided.

The Governing Body recorded its view that the question of placing the revision of this Convention on the agenda of the Conference should be pursued, and asked the Director-General as a first step—

(1) to communicate to governments the report on the working of the Convention, amended to take account of the particulars furnished by a number of governments;

(2) to draw the attention of governments, when making this communication, to the findings of the Committee of Experts on the Application of Conventions and Recommendations concerning the effect given to the Convention in non-metropolitan territories as published in its 1955 report, as well as to the supplementary information contained in the report of the Conference Committee on the Application of Conventions and Recommendations (June 1955).

The Governing Body approved the draft form for reports on the application of the Medical Examination of Seamen Convention, 1946. It also approved an amendment to give additional clarity to a question which appears in all the report forms and relates to the participation of employers' and workers' organisations in the supervision of the application of ratified Conventions. Lastly, it approved the forms of report under article 19 of the Constitution on the Labour Inspection Convention, 1947, and the Freedom of Association and Protection of the Right to Organise Convention, 1948.

Procedure for Examination of Credentials at Regional Conferences

The Rules for Regional Conferences differ from the Standing Orders of the General Conference as regards the examination of credentials. Under these Rules the credentials of a delegate cannot be invalidated by a regional conference even if it considers that a challenge to such credentials is well founded.
At its 130th Session the Governing Body had had before it in this connection a recommendation from its Standing Orders Committee to amend the Rules for Regional Conferences so as to give such conferences the power to refuse to admit delegates or advisers. In view of the strong opposition of several members of the Governing Body to an amendment of this kind, it was decided to adjourn the question until the next session of the Governing Body in order to allow for further consideration of the matter.

**Report of the Committee on Industrial Committees**

On the basis of the conclusions of this report the Governing Body took the following decisions.

**Textiles Committee: Action on Conclusions of the Fifth Session**

The Director-General was authorised to communicate the reports, resolutions, memoranda, proposals and suggestions adopted by the Textiles Committee at its Fifth Session to governments, informing them that the Governing Body had not expressed any view on the content thereof and inviting them to transmit these documents to the employers’ and workers’ organisations concerned, and drawing the attention of governments to certain of these texts.

**Examination by Industrial and Similar Committees of Subjects Not on Their Agenda**

It was decided that the passages on this matter which appear in the Document for the Guidance of Industrial Committees (paragraph 9) and the Standing Orders for Industrial Committees (article 15) should be revised and formulated in a more precise manner.

**Conditions of Work in Inland Transport in Asia**

The Director-General was requested to submit to the Asian Advisory Committee, for observations and suggestions, the information collected on conditions of work in inland transport in Asia.

**Performers’ Rights**

The Committee on Industrial Committees of the Governing Body had received a report on two meetings held by the five international organisations of employers and workers which had been participating in the preparation of the proposed Convention for the protection of performers, manufacturers of phonographic records and broadcasting organisations; the report also indicated the composition of these organisations. One of the meetings had been held in Geneva from 8 to 11 June 1955 and the other in London from 12 to 15 September 1955. The Committee had also received a report on the meeting of a Working Party, composed of five representatives appointed by the Berne Union and five representatives of the I.L.O., which met in Berne from 31 October to 5 November 1955. This Working Party had been set up to prepare for the meeting of the committee of experts provided for in one of the resolutions adopted by the Permanent Committee of the Berne Union at its session in Lugano (June-July 1954) and in a decision taken by the Governing Body...
at its 127th Session (Rome, November 1954). The Working Party had reached agreement concerning the documentation to be submitted to the committee of experts and concerning the questions on which the latter's advice should be sought. It had, however, not been able to agree on the composition of the committee of experts.

The Committee on Industrial Committees recommended in this connection that the Governing Body—

(1) endorse the proposal made to the Working Party by the I.L.O. delegation that the committee of experts should be composed of delegations from the Berne Union and the I.L.O., equal in number, which should hear advice from and put questions to a panel of experts;

(2) authorise the Director-General to enter into consultation with the Director of the Bureau of the Berne Union with a view to reaching agreement on the basis of that proposal and to completing the preparation of the texts to be submitted to the committee of experts.

It was agreed that the Director-General should continue his consultations with the Director-General of U.N.E.S.C.O. and that, if no agreement could be reached on the relevant problems, he should report back to the Governing Body at its next session.

Committee on Work on Plantations

The Governing Body acceded to the request of the Philippines for membership of the Committee on Work on Plantations.

REPORT OF THE TECHNICAL ASSISTANCE COMMITTEE

The Governing Body took note of this report, containing, among other things, an account of the progress made with the Andean Indian programme and conclusions regarding evaluation studies of the I.L.O.'s technical assistance activities in certain countries.

REPORT OF THE MANPOWER AND EMPLOYMENT COMMITTEE

The Governing Body took note of this report.

It was decided that the Manpower and Employment Committee should meet again during the 131st Session of the Governing Body and should consider, inter alia, action to promote exchanges of workers.

REPORT OF THE INTERNATIONAL ORGANISATIONS COMMITTEE

Peaceful Uses of Atomic Energy

The Governing Body took note of information on this matter concerning more particularly the participation of the I.L.O. in the International Conference on the Peaceful Uses of Atomic Energy and the future programme of the I.L.O. in the light of the possible social implications of the changes which atomic energy is likely to cause. The Governing Body authorised the Director-General—

(1) to submit to the next session proposals for a small technical committee to review the safety and health aspects of the problem and to submit a report on the basis of which the Governing Body could decide whether Conference action is called for at this stage;
(2) to take steps to ensure that the Office is in a position to meet requests for technical assistance in this field;

(3) to submit from time to time reports on training problems and labour-management relations problems arising out of the use of atomic energy.

The Governing Body, moreover, noted with satisfaction the arrangements made for co-ordination between the United Nations agencies and instructed the Director-General to continue to keep the Governing Body informed of any new developments regarding the proposed international atomic energy agency and the arrangements which might be made to ensure I.L.O. co-operation with it.¹

**Twentieth Session of the United Nations Economic and Social Council**

The Governing Body took note that its Officers had considered a statement made by the representative of the Venezuelan Government at the 20th Session of the Economic and Social Council and had agreed that the statement was entirely contrary to the facts. The Director-General was requested to transmit these views to the President of the Economic and Social Council.

**Maintenance of Family Levels of Living**

The Governing Body noted a resolution adopted by the Economic and Social Council relating to a co-ordinated policy regarding family levels of living. The Governing Body authorised the Director-General to explore, with the Secretary-General of the United Nations, arrangements to give effect to this resolution so that concrete proposals could be submitted at a later session of the Governing Body. The Director-General was requested to ensure during future consultations with the United Nations that those questions falling within the competence of the I.L.O., and particularly those relating to social security, should in due course be assigned to the I.L.O. to deal with.

**Activities of the Council of Europe in the Social Field**

The Committee on International Organisations had had before it a document concerning the proposed European Social Charter, drafted by the competent organs of the Council of Europe. The Committee had deferred examination of this matter, but considered that the Governing Body should without delay reaffirm the position taken at its 123rd Session (Geneva, November 1953)² with regard to the proposed establishment of a European Economic and Social Council. It had also noted with interest the suggestion of the Consultative Assembly of the Council of Europe that the draft European Social Charter should be submitted for opinion to a tripartite regional conference convened by the I.L.O. (in accordance with the agreement between it and the Council of Europe)³ and composed of those European States which are members of both the I.L.O. and the Council of Europe.

The Governing Body adopted, for communication to the Council of Europe, the following conclusions which had been submitted by its Committee:

(1) As regards the creation of a European Economic and Social Council, the Governing Body reaffirms, as far as is necessary, the statement adopted on this question at its 123rd Session (Geneva, November 1953).

¹ See also below, pp. 386-388.
As regards the European Social Charter, the Governing Body recalls that it has already indicated its willingness to give every assistance to the Council of Europe in the examination of social questions of mutual interest. It has indicated its readiness to apply, in a spirit of collaboration, the agreement between the I.L.O. and the Council of Europe, which provides, in particular, that the I.L.O. may convene, at the request of the Committee of Ministers of the Council of Europe, regional meetings of a tripartite character to deal with matters of interest to the Council of Europe which are within the sphere of action of the I.L.O. It therefore notes with interest the Consultative Assembly's suggestion that the draft European Social Charter should be submitted, for an opinion, to a tripartite regional conference convened by the I.L.O. in accordance with the agreement between the I.L.O. and the Council of Europe. Should the Committee of Ministers of the Council of Europe endorse that suggestion, the Governing Body, for its part, would not fail to give it sympathetic consideration.

Social Security of Migrant Workers in Member Countries of the European Coal and Steel Community

At the joint invitation of the Director-General of the I.L.O. and the High Authority of the European Coal and Steel Community, the governments of the six member countries of the Community had appointed social security experts to work out a draft agreement concerning social security for migrant workers. The Governing Body took note of the information submitted to it regarding the progress so far made by the experts.


The Governing Body was informed that inter-secretariat consultations had led to the conclusion that it would be advisable to postpone until later the Joint I.L.O.-W.H.O. European Seminar on Mental Health and Human Relations in Industry which it had been proposed to hold in 1956. It was noted, however, that the World Health Organisation was to convene in 1956 an ad hoc Advisory Group on the medical aspects of human relations in industrial units, which would advise the European Office of W.H.O. on its future course of action in this field and on future collaboration with the International Labour Office, and that the I.L.O. planned to be represented on that group. The Governing Body requested the Director-General to keep in close touch with the secretariat of W.H.O. so as to ensure the active participation of the I.L.O. in the work of the Advisory Group.

Reports of the Committee on Freedom of Association

The Governing Body adopted without opposition and with one abstention the 17th Report¹ of the Committee on Freedom of Association. It noted the 18th Report.

Report of the Financial and Administrative Committee

The Governing Body adopted the recommendations of its Financial and Administrative Committee, which related in particular to transfers within the 1955

budget, the financing of various meetings and the budget for administrative costs and operational services under the Expanded Programme of Technical Assistance for 1956.

**REPORT OF THE ALLOCATIONS COMMITTEE**

The Governing Body took note of this report, which did not call for any decisions.

**COMPOSITION OF COMMITTEES AND OTHER MEETINGS**

**Committees**

The Governing Body took the following decisions on this subject:

*Correspondence Committee on Occupational Safety and Health.*

**New Appointments.**

1. Mr. A. S. Arkhipov (*U.S.S.R.*), Lecturer; Deputy Director of the Scientific Division, Occupational Health and Occupational Diseases Institute, Academy of Medical Science; specialist in industrial toxicology.

2. Mr. I. K. Borodulenko (*U.S.S.R.*), member of the All-Union Central Council of Trade Unions; Director of the Occupational Safety Division of the A.C.C.T.U.; specialist in accident prevention in industry.

3. Mr. H. Eccles (*United Kingdom*), Senior Engineering Inspector of Factories.

4. Mr. N. I. Gavrilov (*U.S.S.R.*), Chief of the Medical Services Division, Podolski Mechanical Engineering Factory.

5. Mr. L. K. Khotsianov (*U.S.S.R.*), Professor of Industrial Hygiene at the Central Post-Graduate Institute for Medical Practitioners, Ministry of Health.

6. Dr. B. Koinuma (*Japanese*), Professor of Hygiene, School of Medicine, Nagoya University; Director of the Japanese Association of Industrial Hygiene; former Medical Inspector of Factories.

7. Dr. O. Maček (*Yugoslav*), Health Inspector of the People's Republic of Croatia; Chief of the Occupational Health Section, Central Health Institute of the People's Republic of Croatia.

8. Mr. A. L. Morozov (*U.S.S.R.*), Professor; Director of the Clinical Section, Occupational Health and Occupational Diseases Institute, Academy of Medical Science; specialist in occupational pathology.

9. Mr. S. Nicolet (*Swiss*), Assistant Director, former Chief of the Accident Prevention Service, Swiss National Fund for Accident Insurance, Lucerne.


11. Mr. N. Poljanić (*Yugoslav*), Chief of the Section of Occupational Safety and Health and Labour Inspection, Secretariat for Labour Affairs and Relations, Federal Executive Council.

12. Mr. T. Takanashi (*Japanese*), Director of the Industrial Safety Research Institute, Ministry of Labour.

13. Mr. S. H. Wilkes (*United Kingdom*), Senior Chemical Inspector of Factories.

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1 All appointments and reappointments are for a period of three years.
Reappointments.

Dr. H. P. Dastur (Indian).
Dr. L. Goldwater (United States).
Mr. J. W. Goodspeed (Union of South Africa).
Dr. Harriet L. Hardy (United States).
Mr. J. H. Lewis (Union of South Africa).
Dr. R. B. Robson (Canadian).
Dr. R. S. F. Schilling (United Kingdom).

The Governing Body took note of the death of Dr. J. Adamson (United Kingdom).

Committee of Experts on Indigenous Labour.

New Appointment.

Mr. Juan de Dios Rosales (Guatemalan), Bachelor of Social Anthropology, Teacher of Anthropology in the Secondary Schools and at the Higher School of Social Service, Director of the National Institute of Indian Affairs.

Correspondence Committee on Juvenile Employment.

Reappointment.

Mr. Hans Stephany (German, Federal Republic).

Committee of Experts on the Application of Conventions and Recommendations.

The Governing Body took note of the death of Sir Atul Chatterjee (Indian) and the resignation of Mr. Charles E. Wyzanski, Jr. (United States).

New Appointments.

Mr. R. N. Banerjee, C.S.I., C.I.E. (Indian), Secretary to the Government of India in the Home Department, 1944-48, and in the Department of Commonwealth Relations, 1943; Commissioner of Food Supply, 1943; former Member of the Council of State (1944, 1945, 1947) and of the Indian Legislative Assembly; Secretary to the Government of Central Provinces and Berar, 1933-37; Chairman of the Union Public Service Commission, 1948-55.

Mr. P. M. Herzog (United States), Associate Dean of the Graduate School of Public Administration, Harvard University.

Reappointment.

Mr. Frederik M. van Asbeck (Netherlands).

Joint Maritime Commission.

The Governing Body took note of the following changes:

Resignation.

Captain Th. Petersen (Danish), regular member of the Shipowners’ group.
Termination of Membership (Article 9 of the Standing Orders of the Commission).

Mr. J. A. Sullivan (Canadian), Mr. E. Ehlers (French), Mr. C. Grzelak (Polish) (regular members of the Seafarers' group).

Mr. L. A. de Fazio (Argentine), Mr. Enrique McMillan (Chilean), Mr. Wang (Chinese) (deputy members of the Seafarers' group).

New Members (Article 8 of the Standing Orders of the Commission).

Mr. Victor Wenzell (Danish) (regular member of the Shipowners' group).

Mr. Hal C. Banks (Canadian), Mr. J. Philipps (French), Mr. Luis López Villanueva (Chilean) (regular members of the Seafarers' group).

Mr. J. Mason (Argentine), Mr. D. S. Tennant (United Kingdom), Mr. Sv. From Andersen (Danish), Mr. Dinkar Desai (Indian) (deputy members of the Seafarers' group).

Other Meetings

The Governing Body approved certain supplementary proposals regarding the composition of the Ad Hoc Meeting on Civil Aviation, the American Regional Technical Meeting on Co-operation, a preparatory meeting of social security experts to consider the preliminary draft of an international instrument concerning the social security of workers engaged in international transport in Europe, and the Fourth Session of the Committee of Experts on Social Policy in Non-Metropolitan Territories.

It adjourned examination of the proposals made to it regarding the composition and agenda of two ad hoc meetings, one for the timber industry and the other for mines other than coal mines, which it had been decided at the 129th Session to convene in 1957.

In accordance with a request made by the Italian Government, the Governing Body decided that the Trusteeship Territory of Somaliland should be invited to send a tripartite delegation of observers to the 39th Session of the Conference.

REPORT OF THE DIRECTOR-GENERAL 1

The Governing Body noted the information submitted in this report. It paid tribute to the memory of two of its former Chairmen, Sir Atul Chatterjee and Mr. F. Cisternas, and requested the Director-General to extend its sincere condolences to the members of the families of the deceased.

PROGRAMME OF MEETINGS 2

The Governing Body took the following new decisions:

1955

Preparatory meeting of social security experts to consider a preliminary draft of an international instrument concerning the social security of workers engaged in international transport in Europe ....................... Geneva, 7-13 December.

1 A number of decisions taken on the basis of this report have been listed under other headings.
2 See also above, p. 223 and pp. 240-241. The present table does not show meetings previously indicated, the arrangements for which are unchanged by decisions taken by the Governing Body at this session.
Group of Experts on Social Aspects of European Economic Co-operation... Geneva, early February (one week).

131st Session of the Governing Body and its Committees... Geneva, 24 February-10 March.


Petroleum Committee (Fifth Session —reconvened)... Geneva, 4-14 April.

Coal Mines Committee (Sixth Session)... Istanbul, 30 April-12 May.

Building, Civil Engineering and Public Works Committee (Fifth Session)... Geneva, 14-26 May.

132nd Session of the Governing Body and its Committees... Geneva, 28 May-2 June.¹

Meeting of Experts on Women's Employment... —, September or October.²

Preparatory Technical Maritime Conference... —, Autumn.²

133rd Session of the Governing Body and its Committees... —, 12-24 November.²

**APPOINTMENT OF GOVERNING BODY REPRESENTATIVES ON VARIOUS BODIES**

The Governing Body made the following appointments:

**Building, Civil Engineering and Public Works Committee (Fifth Session, Geneva, 14-26 May 1956)**

*Chairman and representative of the Government group:* Mr. KAUFMANN (Switzerland).  
*Representative of the Employers' group:* Mr. MORIEL; substitute: Mr. VAN LINT.  
*Representative of the Workers' group:* Mr. DELANEY; substitute: Mr. DE BOCK.

**Petroleum Committee (reconvened Fifth Session, Geneva, 4-14 April 1956)**

*Chairman and representative of the Government group:* Sir Guildhaume MYRDDIN-EVANS (United Kingdom).  
*Representative of the Employers’ group:* Mr. ALLANA; substitute: Mr. O'BRIEN.  
*Representative of the Workers’ group:* Mr. VERMEULEN.

**Coal Mines Committee (Sixth Session, Istanbul, 30 April-12 May 1956)**

*Chairman and representative of the Government group:* Mr. RAMADIER (France).  
*Representative of the Employers’ group:* Mr. FENNEMA; substitute: Mr. DÜNDAR.  
*Representative of the Workers’ group:* Mr. NIELSEN; substitute: Mr. RICHTER.

¹ Provisional.
² Place and exact date to be decided later.
Permanent Inter-American Committee on Social Security (Mexico City, 23 November-5 December 1955)

Representative of the Government group: Mr. González Barros (Colombia).
Representative of the Employers' group: Mr. Yllanes Ramos.
Representative of the Workers' group: Mr. Sánchez Madariaga.

Committee of Experts on Social Policy in Non-Metropolitan Territories
(Fourth Session, Dakar, 5-17 December 1955)

Representative of the Government group: Mr. Ramadier (France); substitute: Mr. Hauck.
Representative of the Employers' group: Mr. Van Lint.
Representative of the Workers' group: Mr. Möri.

Date and Place of the 131st Session of the Governing Body

It was decided that the 131st Session of the Governing Body should be held in Geneva from Tuesday, 6 to Saturday, 10 March 1956. The Committees of the Governing Body would meet from 24 February to 3 March, and the groups on 5 March 1956.
Official Action on the Decisions of the International Labour Conference

Instrument for the Amendment of the Constitution of the International Labour Organisation, 1953

Ratifications or Acceptances

The following ratifications or acceptances of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1953, have been communicated to the Director-General of the International Labour Office in accordance with article 6 of the above-mentioned Instrument:

**BRAZIL**

By letter dated 17 August 1955 the Chief of the Permanent Delegation of Brazil in Geneva communicated to the Director-General of the International Labour Office the acceptance by Brazil of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1953.

The date of receipt of the acceptance, as notified to the States Members of the Organisation, was 19 August 1955.

The text of the letter communicating the acceptance of the Instrument of Amendment is as follows:

*(Translation)*


Sir,

In conformity with instructions from my Government I have the honour to inform you that the National Congress of Brazil approved, by Legislative Decree No. 28 of 7 June 1955, the Instrument for the Amendment of the Constitution of the International Labour Organisation adopted by the 36th Session of the International Labour Conference on 25 June 1953.

I have the honour to be, etc.,

*(Signed)* Julio Augusto Barbosa-Carneiro,

Ambassador, Chief of the Permanent Delegation of Brazil in Geneva.

**IRAQ**

By letter dated 8 August 1955 the Minister for External Affairs of Iraq communicated to the Director-General of the International Labour Office the ratification by Iraq of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1953.

The date of receipt of this ratification, as notified to the States Members of the Organisation, was 15 August 1955.

The text of the instrument of ratification is as follows:

*Report III (Part III), which has been laid before every session of the Conference since 1950, contains a summary of the information supplied by governments, in accordance with article 19 of the Constitution of the I.L.O., on the measures taken by the member States to bring Conventions and Recommendations before the competent authorities and on the action taken by these authorities.*

BY THE GRACE OF GOD, FAISAL THE SECOND, KING OF IRAQ,

To All to Whom this Instrument shall come, Greeting:

Whereas the International Labour Conference adopted on the 25th of June 1953, at its 36th Session held at Geneva, the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1953,

We, having seen and considered the said Instrument, have approved, accepted and confirmed the same in all and every one of its articles and clauses, as we do by this Instrument approve, accept, confirm and ratify it for Ourselves, Our Heirs and Successors; engaging and promising upon Our Royal Word that We shall sincerely and faithfully perform and observe all and singular the things which are contained and expressed in the said Instrument, and that We will never suffer the same to be violated by any one, or transgressed in any manner, as far as lies in our power, for the greater testimony and validity of all We have caused Our Royal Seal to be affixed to this Instrument which we have signed with Our Royal Hand.

Done at Our Royal Palace at Baghdad, the 11th day of Dhil Quida, 1374, of the Hijra, corresponding to the 2nd day of June, 1955, of the Christian Era, and in the Seventeenth Year of Our Reign.

(Signed) ZAID,
Regent.

(Signed) BURHANUDDIN BASHAYAN,
Minister of Foreign Affairs.

Ratifications and Denunciations of International Labour Conventions, and Declarations concerning the Application of Conventions to Non-Metropolitan Territories

ARGENTINA

Ratification of the Night Work (Bakeries) Convention, 1925 (No. 20), the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), the Old-Age Insurance (Agriculture) Convention, 1933 (No. 36), the Officers' Competency Certificates Convention, 1936 (No. 53), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Seafarers' Pensions Convention, 1946 (No. 71), the Medical Examination (Seafarers) Convention, 1946 (No. 73), the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79), and the Labour Inspection Convention, 1947 (No. 81).

By letters dated 17 November 1954 and 31 January 1955, the Minister for External Relations and Religion communicated to the Director-General of the International Labour Office the ratification by Argentina of the above-named Conventions.

These ratifications were registered by the Director-General of the International Labour Office on 17 February 1955.

The letters from the Minister for External Relations and Religion are as follows:

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1 Translation communicated by the Government of Iraq.
Buenos Aires, 17 November 1954.

Sir,

I have the honour to enclose herewith, for your information and any appropriate action, an authenticated copy of the Act No. 14329 promulgated by Decree No. 16184 of 24 September last. This Act approves 11 international labour Conventions adopted at various sessions of the General Conference of the International Labour Organisation.

I have the honour to be, etc.,

(Signed) Carlos A. AMAYA,
Ambassador,
Assistant Secretary
for External Relations and Religion.


Sir,

I have the honour to refer to your letter No. ACD 2-2-00 of 6 December 1955, in which reference is made to the letter No. DOIT No. 5061/54 of 17 November 1954, to which was attached an authenticated copy of the Act No. 14329, promulgated by Decree No. 16184 of 24 September 1954, by which were approved the following international labour Conventions: Nos. 20, 35, 36, 53, 58, 71, 73, 77, 78, 79 and 81, adopted at various sessions of the General Conference of the International Labour Organisation.

In this connection I have the honour to inform you that the above-named Act is to be considered as the formal ratification by the Argentine Government of the aforementioned international labour Conventions.

I have the honour to be, etc.,

(Signed) Wilfredo BRUNET,
Minister,
Director-General for External Relations.

BELGIUM

Ratification of the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), the Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84), and the Labour Inspectorate (Non-Metropolitan Territories) Convention, 1947 (No. 85); and Declarations concerning the Application of the Right of Association (Agriculture) Convention, 1921 (No. 11), the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) and of the above-mentioned Convention No. 82.

On 27 January 1955 the Permanent Delegate of Belgium to the European Office of the United Nations and the Specialised Agencies in Geneva deposited with the Director-General of the International Labour Office the instrument of ratification by Belgium of Conventions Nos. 82, 84 and 85, and a declaration concerning the application, with modifications, of Convention No. 82 to the Territory of the Belgian Congo and the Trust Territory of Ruanda-Urundi.

These ratifications and this declaration were registered by the Director-General of the International Labour Office on 27 January 1955.

The text of the instrument of ratification of the aforesaid Conventions is as follows:

(Translation)

BAUDOIN, KING OF THE BELGIANS,

To all present and to come, Greeting!

Having seen and examined the following international acts:

the Convention (No. 82) concerning social policy in non-metropolitan territories;
the Convention (No. 84) concerning the right of association and the settlement of labour disputes in non-metropolitan territories; and

the Convention (No. 85) concerning labour inspectorates in non-metropolitan territories, adopted on 11 July 1947 by the International Labour Conference at its Thirtieth Session, the text of which is as follows:

[Here follows the text of the Conventions]

We, being in agreement with the above-mentioned Conventions, hereby approve, ratify and confirm them and promise to cause them to be observed according to their form and tenor without permitting them to be violated in any manner whatsoever.

In faith whereof, We have signed the present letter of ratification and have caused the Royal Seal to be affixed thereto.

Done at Brussels on 11 January 1955.

By the King:
(Signed) BAUDOUIN.
(Signed) P.-H. SPAAK,
Minister of Foreign Affairs.

The text of the declaration annexed to the instrument of ratification is as follows:

(Translation)

In depositing the instrument of ratification by Belgium of the Convention (No. 82) concerning social policy in non-metropolitan territories, adopted in Geneva on 11 July 1947 by the International Labour Organisation at its Thirtieth Session, I declare that the said Convention applies to the Territory of the Belgian Congo and to the Trust Territory of Ruanda-Urundi, subject to the following modifications:

(1) Article 3, paragraph 3, of Convention No. 82 is replaced by the following text:

"It shall be an aim of policy for the responsible government authorities to provide for the development of public or private capital, or both, on terms which secure to the peoples of non-metropolitan territories the fullest possible benefits from such development."

(2) Article 4 of Convention No. 82 is replaced by the following text:

"All possible steps shall be taken by appropriate measures at international, regional, national or territorial levels to promote improvement in such fields as public health, housing, nutrition, education, the welfare of children, the status of women, conditions of work, the remuneration of wage earners and independent producers, the protection of migrant workers, social security and production in general."

(3) Article 20, paragraph 2, is replaced by the following text:

"In appropriate cases, such training shall be organised by or under the supervision of the competent authorities in consultation with the employers' and workers' organisations of the territories from which the trainees come and of the country of training."

Done at Brussels on 11 January 1955.

(Signed) P.-H. SPAAK,
Minister of Foreign Affairs.

On 7 July 1955 and 12 December 1955 the Permanent Delegate of Belgium to the European Office of the United Nations and Specialised Agencies in Geneva communicated to the Director-General of the International Labour Office two declarations concerning respectively the application to the Territory of the Belgian Congo and to the Trust Territory of Ruanda-Urundi of Conventions Nos. 26 and 11.

The declaration concerning Convention No. 26 was registered by the Director-General of the International Labour Office on 7 July 1955, and that of Convention No. 11 on 12 December 1955.

The text of the declaration relating to Convention No. 11 is as follows:
I, the undersigned, Paul-Henri Spaak, Minister of Foreign Affairs of Belgium, declare that I withdraw the reservations made at the moment of deposit of instrument of ratification by Belgium on 19 July 1926, and render applicable to the Territory of the Belgian Congo and to the Trust Territory of Ruanda-Urundi the provisions of the international Convention concerning the rights of association and combination of agricultural workers (No. 11) adopted at Geneva, on 12 November 1921, by the International Labour Conference as its Third Session.

Done at Brussels on 7 December 1955.  
(Signed) P.-H. SPAAK, 
Minister of Foreign Affairs.

The declaration relating to the Convention No. 26 is as follows:

I, the undersigned, Paul-Henri Spaak, Minister of Foreign Affairs of Belgium, declare that I render applicable to the Territory of the Belgian Congo and to the Trust Territory of Ruanda-Urundi the provisions of the international Convention concerning the creation of minimum wage-fixing machinery (No. 26) adopted at Geneva, on 16 June 1928, by the International Labour Conference at its Eleventh Session.

Done at Brussels on 30 June 1955.  
(Signed) P.-H. SPAAK, 
Minister of Foreign Affairs.

BULGARIA

Ratification of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), the Protection of Wages Convention, 1949 (No. 95), and the Equal Remuneration Convention, 1951 (No. 100).

By letter dated 28 October 1955 the Minister of Foreign Affairs of the People's Republic of Bulgaria communicated to the Director-General of the International Labour Office the ratification by Bulgaria of Conventions Nos. 94, 95 and 100.

These ratifications were registered by the Director-General on 7 November 1955.

The letter from the Minister of Foreign Affairs, which constitutes the instrument of ratification, is as follows:

Sofia, 28 October 1955.  
Sir,

I have the honour to inform you that the Praesidium of the National Assembly of the People's Republic of Bulgaria, by Decree No. 161 dated 2 July 1955, published in the Izvestia of the Praesidium of the National Assembly No. 54 of 5 July 1955, has ratified the following Conventions:

1. Convention (No 80) for the partial revision of the Conventions adopted by the General Conference of the International Labour Organisation at its first twenty-eight sessions for the purpose of making provision for the future discharge of certain chancery functions entrusted by the said Conventions to the Secretary-General of the League of Nations and introducing therein certain further amendments consequential upon the dissolution of the League of Nations and the amendment of the Constitution of the International Labour Organisation, adopted by the International Labour Conference at its 29th Session in Montreal, 1946; 

2. Convention (No. 94) concerning labour clauses in public contracts, adopted by the International Labour Conference at its 32nd Session at Geneva, in 1949;

1 For ratification of this Convention see below, p. 364.
3. Convention (No. 95) concerning the protection of wages, adopted by the International Labour Conference at its 32nd Session at Geneva, in 1949;


I beg you to be good enough to take due note of this ratification.

I have the honour to be, etc.,

For the Minister of Foreign Affairs
of the People's Republic of Bulgaria:
(Signed) [Illegible]

BURMA

Ratification of the Forced Labour Convention, 1930 (No. 29), the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

By letter dated 17 February 1955 the Minister for Foreign Affairs of Burma communicated to the Director-General of the International Labour Office the ratification by the Union of Burma of Conventions Nos. 29, 63 and 87.

These ratifications were registered by the Director-General on 4 March 1955.

The text of the instrument of ratification is as follows:

Whereas the competent authorities of the Government of the Union of Burma have approved the Forced or Compulsory Labour Convention, 1930, the Statistics of Wages and Hours of Work in the Principal Mining and Manufacturing Industries including Building and Construction and in Agriculture Convention, 1938, and the Freedom of Association and Protection of the Right to Organise Convention 1948, I, Sao Hkun Hkio, Minister for Foreign Affairs, Government of the Union of Burma, do hereby formally accept, under the provisions of article 19, clause 5 (d), of the Constitution of the International Labour Organisation, and on behalf of the Government of the Union of Burma, the obligations of the Forced or Compulsory Labour Convention, 1930, the Statistics of Wages and Hours of Work in the Principal Mining and Manufacturing Industries including Building and Construction and in Agriculture Convention, 1938, and the Freedom of Association and Protection of the Right to Organise Convention, 1948, adopted by the International Labour Conference at its Fourteenth, Twenty-fourth and Thirty-first Sessions respectively and solemnly undertake in the name of the Union of Burma that each and every of the provisions thereof shall be fully and faithfully performed.

In witness whereof I have signed the Instrument of Acceptance and affixed hereto my Seal.

Signed and sealed in the Foreign Office, Rangoon, this Fourth Waning of Tabotwe in the year of the Burmese Era one thousand three hundred and sixteen (the 11th day of February 1955).

(Signed) SAO HKUN HKIO,
Minister for Foreign Affairs.

DENMARK

Ratification of the Inspection of Emigrants Convention, 1926 (No. 21), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Social Security (Minimum Standards) Convention, 1952 (No. 102); and Declaration concerning the Application of Conventions Nos. 58 and 102 to Non-Metropolitan Territories.

On 18 May 1955 the Permanent Delegate of Denmark to the European Office of the United Nations deposited with the Director-General of the International Labour Office the instrument of ratification by Denmark of Convention No. 21. On
4 June 1955 he deposited with the Director-General the instrument of ratification of Convention No. 58, and on 15 August 1955 the instruments of ratification of Conventions Nos. 94, 98 and 102.

The ratification of Convention No. 21 was registered by the Director-General of the International Labour Office on 18 May 1955, that of Convention No. 58 on 4 June 1955, and that of Conventions Nos. 94, 98 and 102 on 15 August 1955.

The text of the instrument of ratification of the Convention No. 21 is as follows:

(Translation)

WE, FREDERICK THE NINTH,

By the Grace of God, King of Denmark, the Vandals and the Goths, Duke of Schleswig-Holstein, of Stormarn, of the Ditmarshes, of Lauenburg and of Oldenburg,

Hereby make known:

That having read and examined the Convention concerning the Simplification of Inspection of Emigrants on Board Ship, adopted by the Eighth Session of the Conference of the International Labour Organisation convened at Geneva in June 1926, the text of which is word for word as follows:

[Here follows the text of the Convention]

We have approved, confirmed and ratified the said Convention, and by these Presents We approve, confirm and ratify it in the most solemn and binding manner possible in Our name and that of Our successors, promising by Royal World in Our name and theirs to observe and to cause scrupulously to be observed the said Convention in all its terms and clauses.

In faith whereof We have signed with Our own hand the present ratification and have caused Our Royal Seal to be affixed thereto.

Done at Amalienborg the sixteenth day of April in the year one thousand, nine hundred and fifty five and the eighth year of Our Reign.

(Signed) FREDERICK R.
(Countersigned) H. C. HANSEN.

The instrument of ratification of Convention No. 58, which is in similar terms, contains a declaration excluding the Faroe Islands from the application of the Convention.

The instruments of ratification of Conventions Nos. 94, 98 and 102 are also in similar terms.

A declaration annexed to the instrument of ratification of Convention No. 102 specifies that the Danish Government accepts Parts II, IV, V and IX of the Convention and that the Convention is not applicable to Greenland and the Faroe Islands; the text of this declaration is as follows:

(Translation)


In depositing the instrument of ratification of His Majesty the King of Denmark of the Convention concerning Minimum Standards of Social Security, adopted in June 1952 by the International Labour Conference at its Thirty-fifth Session, convened at Geneva, and acting on instructions from my Government, I have the honour to declare that, pursuant to the provisions of Article 2(b) of the Convention, Denmark accepts the obligations of the Convention arising from Parts II, concerning medical care, IV, concerning unemployment benefit, V, concerning old-age benefit, and IX, concerning invalidity benefit.

Moreover, I have the honour to declare that the ratification of His Majesty the King of Denmark does not apply to Greenland and the Faroe Islands.

(Signed) H. E. KASTOFT.
EGYPT

Ratification of the Forced Labour Convention, 1930 (No. 29).

By letter dated 5 November 1955 the Minister for Foreign Affairs communicated to the Director-General of the International Labour Office the ratification by Egypt of Convention No. 29.

The ratification was registered by the Director-General on 29 November 1955.

The letter from the Minister for Foreign Affairs, which constitutes the instrument of ratification is as follows:

(Translation)

Cairo, 5 November 1955.

Sir,

I have the honour to inform you that the Council of Ministers, by Decision dated 18 July 1955, has authorised me to notify you of the ratification by Egypt of the Convention concerning forced or compulsory labour, adopted by the International Labour Conference at its 14th Session.

I also have the honour to inform you that the Egyptian Government took the necessary steps to render effective the provisions of the aforesaid Convention by promulgating Act No. 510 of 1955, a copy of which is forwarded herewith, in accordance with article 19 of the Constitution of the Organisation.

I have the honour to be, etc.,

(Signed) M. FAwzI.

FRANCE

Ratification of the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32), and Denunciation of the Night Work (Women) Convention, 1919 (No. 4) ; Declarations concerning the Application to Non-Metropolitan Territories of the Maternity Protection Convention, 1919 (No. 3), the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), the Unemployment Provision Convention, 1934 (No. 44), the Officers' Competency Certificates Convention, 1936 (No. 53), the Holidays with Pay (Sea) Convention, 1936 (No. 54), the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), the Sickness Insurance (Sea) Convention, 1936 (No. 56), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Safety Provisions (Building) Convention, 1937 (No. 62), the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), the Certification of Ships' Cooks Convention, 1946 (No. 69), the Social Security (Seafarers) Convention, 1946 (No. 70), the Seafarers' Pensions Convention, 1946 (No. 71), the Paid Vacations (Seafarers) Convention, 1946 (No. 72), the Medical Examination (Seafarers) Convention, 1946 (No. 73), the Certification of Able Seamen Convention, 1946 (No. 74), the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), the Labour Inspection Convention, 1947 (No. 81), the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), the Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84), the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85), the Freedom of
Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Employment Service Convention, 1948 (No. 88), the Night Work (Women) Convention (Revised), 1948 (No. 89), the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91), the Accommodation of Crews Convention (Revised), 1949 (No. 92), the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), the Protection of Wages Convention, 1949 (No. 95), the Fee-charging Employment Agencies Convention (Revised), 1949 (No. 96), the Migration for Employment Convention (Revised), 1949 (No. 97), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99), the Equal Remuneration Convention, 1951 (No. 100), and the Holidays with Pay (Agriculture) Convention, 1952 (No. 101).

By letter dated 26 May 1955 the French Ambassador in Berne communicated to the Director-General of the International Labour Office the ratification by France of Convention No. 32; this ratification was registered by the Director-General on 27 May 1955.

The text of the instrument of ratification is as follows:

:(Translation) :RÉNÉ :CÔTY, :President of the French Republic, :President of the French Union, :To all who may see these Presents, Greeting! :Whereas an international labour Convention (No. 32) concerning the Protection against Accidents of Workers Employed in Loading or Unloading Ships (Revised 1932) was adopted on 27 April 1932 by the General Conference of the International Labour Organisation at its 16th Session, Geneva, the text of which is as follows:

:[Here follows the text of the Convention] :Having seen and examined the said Convention We have approved it and We approve it in each and every one of its parts in virtue of the provisions contained therein and in accordance with article 31 of the Constitution. :Declare that it is accepted, ratified and confirmed and promise that it shall be inviolably observed. :In faith whereof We have delivered these Presents sealed with the Seal of the Republic. :Paris, 15 April 1955. :(Signed) RÉNÉ CÔTY, :By the President of the Republic. :(Signed) Edgar FAURE, President of the Council of Ministers. :(Signed) Antoine PINAY, Minister of Foreign Affairs.

By letter dated 7 November 1955 the Minister of Labour and Social Security communicated to the Director-General the denunciation by France of Convention No. 4; this denunciation was registered by the Director-General on 8 November 1956.

The text of the letter of the Minister of Labour and Social Security is as follows:

:(Translation) Paris, 7 November 1955. :Sir, :France has successively ratified the three international labour Conventions Nos. 4, 41 and 89 concerning the night work of women in industry.
Ratification of Convention No. 89 has involved denunciation of Convention No. 41, according to the provisions of Article 14, paragraph 1, of the latter. However, France still remains bound by Convention No. 4 since this Convention does not contain the clause of automatic denunciation in the case of adoption of a revising Convention.

The Committee of Experts having pointed out that the French Government would not make full use of the provisions of Convention No. 89 unless it denounced Convention No. 4, I have the honour to inform you, and request you to take due note, that the French Government hereby denounces the aforesaid Convention No. 4.

I have the honour to be, etc.,

(Signed) P. BACON.

By letter dated 26 April 1955 the Minister of Labour and Social Security communicated to the Director-General of the International Labour Office declarations concerning the application to the Overseas Départements of Guadeloupe, French Guiana, Martinique and Réunion of Convention No. 3—with modification—and, without modifications, of Conventions Nos. 10, 17, 42, 53, 54, 55, 56, 58, 62, 68, 69, 70, 71, 72, 73, 74, 81, 87, 89, 91, 92, 94, 95, 98 and 100; in the same letter the French Government declares that Conventions Nos. 24, 44, 63, 77, 78, 82, 84, 85, 88, 96, 97 and 101 are inapplicable to the Overseas Départements of Guadeloupe, French Guiana, Martinique and Réunion.

The text of these declarations, which were registered by the Director-General on 27 April 1955, is as follows:

(Translation)


Sir,

You had requested the French Government to state which of the Conventions ratified by France between 1947 and 1954 are applicable to Algeria and to the Overseas Départements and which Conventions, in virtue of the local conditions, are to be considered at the moment as inapplicable.

I have the honour to forward to you herewith two tables containing particulars as to the Overseas Départements of Guadeloupe, French Guiana, Martinique and Réunion.

With regard to the effective application of these Conventions in the group of départements forming Algeria, it has been found necessary to conduct a careful inquiry. You will be duly informed of the conclusions of this inquiry as soon as they are communicated to me.

I have the honour to be, etc.,

(Signed) F. WATINE,

Maître des Requêtes, Council of State,
Director of Cabinet.

Application to the French Départements of Guadeloupe, French Guiana, Martinique and Réunion of International Labour Conventions Ratified by France since 1947

Table 1. Conventions Applicable

| Maternity Protection Convention, 1919 (No. 3) |
| Minimum Age (Agriculture) Convention, 1921 (No. 10) |
| Workmen’s Compensation (Accidents) Convention, 1925 (No. 17) |
| Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) |
| Officers’ Competency Certificates Convention, 1936 (No. 53) |
| Holidays with Pay (Sea) Convention, 1936 (No. 54) |
| Shipowners’ Liability ( Sick and Injured Seamen) Convention, 1936 (No. 55) |
| Sickness Insurance (Sea) Convention, 1936 (No. 56) |
| Minimum Age (Sea) Convention (Revised), 1936 (No. 58) |
| Safety Provisions (Building) Convention, 1937 (No. 62) |
| Food and Catering (Ships’ Crews) Convention, 1946 (No. 68) |
| Certification of Ships’ Cooks Convention, 1946 (No. 69) |
| Social Security (Seafarers) Convention, 1946 (No. 70) |
Seafarers’ Pensions Convention, 1946 (No. 71).
Paid Vacations (Seafarers) Convention, 1946 (No. 72).
Medical Examination (Seafarers) Convention, 1946 (No. 73).
Certification of Able Seamen Convention, 1946 (No. 74).
Labour Inspection Convention, 1947 (No. 81).
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).
Night Work (Women) Convention (Revised), 1948 (No. 89).
Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91).
Accommodation of Crews Convention (Revised), 1949 (No. 92).
Labour Clauses (Public Contracts) Convention, 1949 (No. 94).
Protection of Wages Convention, 1949 (No. 95).
Right to Organise and Collective Bargaining Convention, 1949 (No. 98).
Equal Remuneration Convention, 1951 (No. 100).

Table II. Conventions Non-Applicable

Maternity Protection Convention, 1919 (No. 3).
Sickness Insurance (Industry) Convention, 1927 (No. 24).
Unemployment Provision Convention, 1934 (No. 44).
Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63).
Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77).
Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78).
Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82).
Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84).
Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85).
Employment Service Convention, 1948 (No. 88).
Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).
Migration for Employment Convention (Revised), 1949 (No. 97).
Holidays with Pay (Agriculture) Convention, 1952 (No. 101).  

By letter dated 7 July 1955 the Minister of Labour and Social Security communicated to the Director-General a declaration of the French Government in virtue of which that Government undertakes to apply, without modification, the provisions of Convention No. 101 to the Overseas Départements of Guadeloupe, French Guiana, Martinique and Réunion. This declaration revokes a previous declaration made by the French Government, and registered on 27 April 1955, by which Convention No. 101 had been declared not applicable to those Overseas Départements.

The text of the declaration from the Minister of Labour and Social Security, which was registered by the Director-General on 11 July 1955, is as follows:

(Translation)

Paris, 7 July 1955.

Sir,

I have the honour to remind you that the ratification by France of the international labour Convention concerning holidays with pay in agriculture (No. 101), registered on 29 March 1954, had been limited to the metropolitan area and Algeria, since the existing regulations were not applicable to the Overseas Départements.

A recent Act of 18 April 1955, published in the Journal officiel of 20 April, extended those regulations to the Overseas Départements.

I therefore now have the honour to inform you that in future the ratification of the aforementioned Convention shall be likewise considered as applying to the Overseas Départements.

I have the honour to be, etc.,

(Signed) F. Watine,
Maitre des Requetes, Council of State,
Director of Cabinet.

1 A Bill (No. 7146) was placed before the National Assembly with a view to extending legislation relating to holidays with pay in agriculture to the Overseas Départements.
By letter dated 18 November 1955 the Minister of Labour and Social Security communicated to the Director-General of the International Labour Office a declaration concerning the application, without modification, of Convention No. 99 to the Overseas Départements of Guadeloupe, French Guiana, Martinique and Réunion; this declaration was registered by the Director-General on 19 November 1955.

The text of the above declaration is as follows:

(Translation) Paris, 18 November 1955.

Sir,

Pursuant to my letter of 26 April 1955 by which I communicated to you the declaration by the French Government concerning the application to the Overseas Départements of Guadeloupe, French Guiana, Martinique and Réunion of the international labour Conventions ratified by France since 1947, I now have the honour to inform you that Convention No. 99 concerning minimum wage fixing machinery is to be added to the list of Conventions declared applicable to those Overseas Départements.

I have the honour to be, etc.,

(Signed) [Illegible.]

FEDERAL REPUBLIC OF GERMANY

Ratification of the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), the Safety Provisions (Building) Convention, 1937 (No. 62), the Labour Inspection Convention, 1947 (No. 81), and the Holidays with Pay (Agriculture) Convention, 1952 (No. 101).

On 5 January 1955 the Consul-General of the Federal Republic of Germany in Geneva deposited with the Director-General of the International Labour Office the instrument of ratification by the Federal Republic of Germany of Convention No. 101. On 14 June 1955 the Consul-General deposited with the Director-General the instruments of ratification of Conventions Nos. 17, 62 and 81, and, on 17 June 1955, the instrument of ratification of Convention No. 42.

The ratification of Convention No. 101 was registered by the Director-General on 5 January 1955; that of Conventions Nos. 17, 62 and 81 on 14 June 1955, and that of Convention No. 42 on 17 June 1955.

The text of the instrument of ratification of Convention No. 17 is as follows:

(Translation) Bonn, 6 June 1955.

(Signed) Theodor HEUSS,
President of the Federal Republic.

(Signed) ADENAUER,
Chancellor of the Federal Republic and Minister of Foreign Affairs.

[Here follows the text of the Convention]

The instruments of ratification of the other above-named Conventions are in similar terms.

In depositing the instruments of ratification of Conventions Nos. 17 and 62, the Consul-General of the Federal Republic of Germany transmitted to the
Director-General of the International Labour Office separate letters for each of the Conventions; in these letters it is declared that the territories in which the two above-named Conventions (Nos. 17 and 62) are in force include the territory of West Berlin.

Similarly, in depositing the instruments of ratification of Conventions Nos. 42, 81 and 101, the Consul-General of the Federal Republic of Germany transmitted to the Director-General of the International Labour Office separate letters for each of the Conventions, in which letters it is declared that the Conventions will be applicable to the territory of West Berlin as soon as that territory has provided for the application of the Conventions by law.

By letters dated 14 May 1955 (for Convention No. 101) and 1 October 1955 (for Conventions Nos. 42 and 81) the Consul-General informed the Director-General that West Berlin had adopted legislation to apply, respectively, Conventions Nos. 101, 81 and 42, and that the territories in which these Conventions are in force include the territory of West Berlin.

**GREECE**

**Ratification of the Labour Inspection Convention, 1947 (No. 81), the Employment Service Convention, 1948 (No. 88), the Protection of Wages Convention, 1949 (No. 95), and the Social Security (Minimum Standards) Convention, 1952 (No. 102).**

On 16 June 1955 the Minister of Labour of Greece deposited with the Director-General of the International Labour Office the instruments of ratification by Greece of Conventions Nos. 81, 88, 95 and 102.

The ratifications of these Conventions were registered by the Director-General of the International Labour Office on 16 June 1955.

The text of the instrument of ratification of Convention No. 81 is as follows:

*(Translation)*

**PAUL, KING OF THE HELLENES,**

Whereas a Convention concerning labour inspection in industry and commerce was adopted on 11 July 1947 by the General Conference of the International Labour Organisation at its Thirtieth Session, convened at Geneva, the text of which is as follows:

[Here follows the text of the Convention]

Having examined the above Convention, We have approved it in each and all of its provisions, declared that it is accepted and confirmed and promise that it will be inviolably observed.

In faith whereof We have signed these Presents and have caused them to be sealed with the Seal of State.

Done at Athens the eleventh of June one thousand nine hundred and fifty-five.

*(Signed) PAUL R.*

*(Signed) STEPHANOPOULOS.*

The instrument of ratification of Conventions Nos. 88 and 95 is in similar terms; that of Convention No. 102, in pursuance of its Article 2 (b), specifies that the Greek Government accepts Parts II, III, IV, V, VI, VIII, IX and X of the Convention.
HAITI

Ratification of the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Workmen's Compensation (Accident) Convention, 1925 (No. 17), the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Sickness Insurance (Agriculture) Convention, 1927 (No. 25), and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42).

On 19 April 1955 the Consul-General of Haiti in Geneva deposited with the Director-General of the International Labour Office the instruments of ratification of Conventions Nos. 12, 17, 19, 24 and 42.

These ratifications were registered by the Director-General of the International Labour Office on 19 April 1955.

The text of the instrument of ratification of Convention No. 12 is as follows:

*(Translation)*

WE, PAUL E. MAGLOIRE,
President of the Republic of Haiti,

Having taken into consideration articles 79, 82 and 84 of the Constitution of the Republic;

Having examined the Convention concerning workmen's compensation in agriculture, adopted on 25 October 1921 by the General Conference of the International Labour Organisation at its Third Session, the text of which Convention is as follows:

[Here follows the text of the Convention]

Having examined the above Convention and having found it acceptable, We declare that We approve, ratify and confirm it, promising that it shall be applied and observed, after its approval by the National Assembly on 18 June 1954, in all its form and tenor without permitting it to be violated.

In faith whereof We have signed with Our own hand the present act of ratification and We have caused the Seal of the Republic to be affixed thereto.

Done at the National Palace at Port-au-Prince on 18 January 1955, in the 152nd year of Independence.

(Signed) P. E. MAGLOIRE.
(Signed) M. ZEPHIRIN,
Secretary of State for Foreign Affairs.

The instruments of ratification of the other above-named Conventions are in similar terms.

INDIA

Ratification of the Minimum Age (Industry) Convention, 1919 (No. 5), and the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

By letters dated 6 January and 5 September 1955 the Deputy Secretary to the Government of India (Ministry of Labour) communicated to the Director-General of the International Labour Office the ratification by India of Conventions Nos. 26 and 5, respectively.

The ratification of Convention No. 5 was registered by the Director-General on 9 September 1955 and of Convention No. 26 on 10 January 1955.

The letter from the Deputy Secretary to the Government of India, which constitutes the instrument of ratification of Convention No. 5, is as follows:
New Delhi, 5 September 1955.

Sir,

I am directed to communicate hereby the ratification by the Government of India of Convention No. 5 fixing the minimum age for admission of children to industrial employment, adopted by the International Labour Conference at its First Session held in 1919.

I have the honour to be, etc.,

(Signed) S. T. Merani,
Deputy Secretary to the Government of India.

The letter which constitutes the instrument of ratification of Convention No. 26 is in similar terms.

IRELAND

Ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

On 4 June 1955 Mr. Patrick D. McCarthy, Government Delegate to the 38th Session of the International Labour Conference, communicated to the Director-General of the International Labour Office the ratification by Ireland of Conventions Nos. 87 and 98.

These ratifications were registered by the Director-General of the International Labour Office on 4 June 1955.

The text of the instrument of ratification of Convention No. 87 is as follows:

Having seen and considered the Convention concerning Freedom of Association and Protection of the Right to Organise which was adopted at San Francisco on 9 July 1948 by the General Conference of the International Labour Organisation during its Thirty-first Session,

And having approved the aforesaid Convention, which reads word for word as follows:

[Here follows the text of the Convention]

Now therefore the Government of Ireland do hereby confirm and ratify the aforesaid Convention and undertake faithfully to perform and carry out all the stipulations therein contained.

In witness whereof this instrument of ratification is signed and sealed by the Minister of External Affairs of Ireland.

Dublin, this 19th day of May 1955.

(Signed) Liam Cosgrave,
Minister for External Affairs.

The instrument of ratification of Convention No. 98 is in similar terms.

ISRAEL

Ratification of the Forced Labour Convention, 1930 (No. 29), the Labour Inspection Convention, 1947 (No. 81), and the Social Security (Minimum Standards) Convention, 1952 (No. 102).

On 7 June 1955 the Permanent Delegate of Israel to the European Office of the United Nations in Geneva deposited with the Director-General of the International Labour Office the instruments of ratification by Israel of Conventions Nos. 29 and 81, and on 16 December 1955 he deposited with the Director-General the instrument of ratification of Convention No. 102.
The ratification of Conventions Nos. 29 and 81 were registered by the Director-General of the International Labour Office on 7 June 1955 and that of Convention No. 102 on 16 December 1955.

The text of the instrument of ratification of Convention No. 29 is as follows:

**Moshe Sharett,**
Minister for Foreign Affairs,

To all to whom these Presents shall come,
Be it known:
Whereas the Fourteenth Session of the International Labour Conference held at Geneva adopted on 28 June 1930 a Convention concerning forced or compulsory labour;
And whereas the Twenty-ninth Session of the International Labour Conference held at Montreal adopted on 9 October 1946 the Final Articles Revision Convention by which the said Convention was modified;
And whereas the Director-General of the International Labour Office has duly communicated to the Government of the State of Israel a certified copy of the said Convention as modified;
And whereas by article 19 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, it is provided that in the case of Conventions so communicated to Members of the International Labour Organisation each Member shall, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification thereof to the Director-General of the International Labour Organisation;
And whereas such Convention has, in respect of the State of Israel, obtained the consent of the authority within whose competence the matter lies;
Now, therefore, by these Presents it is declared that the said Convention as modified be ratified and approved on behalf of the State of Israel and that formal communication thereof be made to the Director-General of the International Labour Organisation.

In witness whereof I, Moshe Sharett, Minister of Foreign Affairs, have hereunto caused the Seal of the Ministry for Foreign Affairs to be affixed, and have subscribed My signature at Jerusalem, this second day of Sivan in the year five thousand seven hundred and fifteen which corresponds to the twenty-third day of May in the year one thousand nine hundred and fifty-five.

(Signed) Moshe Sharett.

The instrument of ratification of Convention No. 81 is in similar terms.

The text of the instrument of ratification of Convention No. 102 is as follows:

**Golda Myerson,**
Acting Minister for Foreign Affairs,

To all to whom these Presents shall come,
Be it known:
And whereas the Director-General of the International Labour Office has duly communicated to the Government of the State of Israel a certified copy of the said Convention;
And whereas by article 19 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, it is provided that in the case of Conventions so communicated to Members of the International Labour Organisation, each Member shall, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification thereof to the Director-General of the International Labour Organisation;
And whereas such Convention has, in respect of the State of Israel, obtained the consent of the authority within whose competence the matter lies;
Now, therefore, by these Presents it is declared that the Convention concerning Minimum Standards of Social Security, 1952, be ratified and approved on behalf of the State of Israel and that formal communication thereof be made to the Director-General of the International Labour Organisation. In accordance with article 2 (b) of the said Convention, the State of Israel accepts the obligations of Part V (Old-Age Benefit), Part VI (Employment Injury Benefit) and Part X (Survivors' Benefit), of the Convention.

In witness whereof, I, Golda Myerson, Acting Minister for Foreign Affairs, have hereunto caused the Seal of the Ministry for Foreign Affairs to be affixed, and have subscribed by signature at Jerusalem, this fourteenth day of Kislev in the year five thousand seven hundred and sixteen which corresponds to the twenty-ninth day of November in the year one thousand nine hundred and fifty-five.

(Signed) Golda MYERSON.

JAPAN

Ratification of the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), the Seamen’s Articles of Agreement Convention, 1926 (No. 22), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), and the Medical Examination of Seafarers Convention, 1946 (No. 73).

On 22 August 1955 the Permanent Delegate of Japan to the international organisations in Geneva deposited with the Director-General of the International Labour Office the instruments of ratification by Japan of Conventions Nos. 8, 22, 58 and 73.

The ratifications of these Conventions were registered by the Director-General of the International Labour Office on 22 August 1955.

The text of the instrument of ratification of Convention No. 8 reads as follows:

(Translation) 1

HIROHTO,
Emperor of Japan,

To all to whom these Presents shall come, Greeting!

The Government of Japan, having seen and considered the Convention concerning unemployment indemnity in case of loss or foundering of the ship (Convention No. 8), adopted on 9 July 1920 in the course of the Second Session of the International Labour Conference, held at Genoa in the said year, has ratified the same.

Wherefore, in accordance with the provision of the Constitution of Japan, We do hereby attest; and in witness whereof We have caused the Seal of the Emperor to be affixed to these Presents, which We have signed with Our own hand.

Given at Our Palace in Tokyo, this twenty-eighth day of the seventh month in the thirtieth year of Showa (July 28, 1955).

(Signed) HIROHTO.

(Signed) Ichiro HAToyAMA,
Prime Minister.

(Signed) Mamoru SHIGEMitsu,
Minister for Foreign Affairs.

The instruments of ratification of the other above-mentioned Conventions (Nos. 22, 58 and 73) are in similar terms.

MEXICO

Ratification of the Protection of Wages Convention, 1949 (No. 95).

On 27 September 1955 the Chargé d’affaires of the Permanent Delegation of Mexico to the international organisations in Geneva deposited with the Director-
General of the International Labour Office the instrument of ratification by Mexico of Convention No. 95.

The ratification of this Convention was registered by the Director-General of the International Labour Office on 27 September 1955.

The text of the instrument of ratification is as follows:

(Translation)

ADOLFO RUIZ CORTINES,
 Constitutional President of the United States of Mexico,

To all who may see these Presents be it known;

That the Thirty-second Session of the General Conference of the International Labour Organisation, which was convened at Geneva, Switzerland, one thousand nine hundred and forty-nine, adopted on the first day of July the Protection of Wages Convention (No. 95), the text and the Spanish translation of which are as follows:

[Here follows the text of the Convention]

That the above-mentioned Convention was approved by the Senate of the Congress of the United States of Mexico on the twenty-ninth day of December, one thousand nine hundred and fifty-four, according to the Decree published in the Diario Oficial of the twenty-eighth of February of the present year.

Now, therefore, I, Adolfo Ruiz Cortines, Constitutional President of the United States of Mexico, by virtue of the authority vested in Me by paragraph 10 of article 89 of the Political Constitution of the United States of Mexico, ratify, accept and confirm the said Convention, and promise in the name of the Mexican nation to carry out and observe its provisions and cause them to be carried out and observed.

In faith whereof I have signed with My own hand the present instrument, which is sealed with the Great Seal of the Nation and countersigned by Luis Padilla Nervo, Secretary of State for Foreign Affairs, at the seat of the Federal Executive, in Mexico City, on the eighteenth day of August, one thousand nine hundred and fifty-five.

(Signed)  Adolfo RUIZ CORTINES,
 Constitutional President of the United States of Mexico.

(Signed)  Luis PADILLA NERVO,
 Secretary of State for Foreign Affairs.

NETHERLANDS

Declarations concerning the Application to Non-Metropolitan Territories of the Right of Association (Agriculture) Convention, 1921 (No. 11), the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), the Night Work (Women) Convention (Revised), 1948 (No. 89), the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90), the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), the Protection of Wages Convention, 1949 (No. 95), the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), the Migration for Employment Convention (Revised), 1949 (No. 97), and the Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99).

By letters dated 6 June 1955 the Permanent Delegate of the Netherlands to the European Office of the United Nations in Geneva communicated to the Director-General of the International Labour Office declarations concerning the application of Conventions Nos. 94, 95, 96 and 97 to Surinam, the Netherlands Antilles and Netherlands New Guinea.
These declarations were registered by the Director-General of the International Labour Office on 10 June 1955.

The text of the declaration relating to Convention No. 94 is as follows:

(Translation)

Sir,

I refer to the deposit, on 20 May 1952, of the instrument of ratification by the Netherlands of the Convention (No. 94) concerning labour clauses in public contracts and, in conformity with instructions from my Government, I have the honour to communicate to you the following declarations:

In accordance with the provisions of article 35, paragraph 4, of the Constitution of the International Labour Organisation and Article 13 of the Convention (No. 94) concerning labour clauses in public contracts, the Government of the Netherlands declares that it accepts on behalf of Surinam and the Netherlands Antilles the provisions of this Convention, which will be applicable in these territories without modification.

In accordance with the provisions of article 35, paragraph 2, of the above-mentioned Constitution and Article 12 of the above-mentioned Convention (No. 94), the Government declares that the Convention cannot, for the moment, be rendered applicable to Netherlands New Guinea in view of the low density of population of this territory and of the very low level of its development.

I should be grateful if you would be good enough to acknowledge receipt of these declarations.

I have the honour to be, etc.,

(Signed) W. H. J. VAN ASCH VAN WIJCK,
Permanent Delegate.

The text of the declaration relating to Convention No. 95 is as follows:

(Translation)

Sir,

I refer to the deposit, on 20 May 1952, of the instrument of ratification by the Netherlands of the Convention (No. 95) concerning the protection of wages and, in conformity with instructions from my Government, I have the honour to communicate to you the following declarations:

In accordance with the provisions of article 35, paragraph 4, of the Constitution of the International Labour Organisation and Article 21 of the Convention (No. 95) concerning the protection of wages, the Government of the Netherlands declares that it accepts on behalf of Surinam and the Netherlands Antilles the provisions of this Convention, which will be applicable in these territories without modification.

In accordance with the provisions of article 35, paragraph 2, of the above-mentioned Constitution and Article 20 of the above-mentioned Convention (No. 95), the Government declares that this Convention is rendered applicable to Netherlands New Guinea, subject to the following modification: "The observance of its provisions will be limited to those inhabited areas having a relatively high density of population, i.e. Hollandia, Sorong, Biak, Manokwari and Merauke".

I should be grateful if you would be good enough to acknowledge receipt of these declarations.

I have the honour to be, etc.,

(Signed) W. H. J. VAN ASCH VAN WIJCK,
Permanent Delegate.

The text of the declaration relating to Convention No. 96 is as follows:

(Translation)

Sir,

I refer to the deposit, on 20 May 1952, of the instrument of ratification by the Netherlands of the Convention (No. 96) concerning fee-charging employment agencies (revised 1949) and, in conformity with instructions from my Government, I have the honour to communicate to you the following declarations:
In accordance with the provisions of article 35, paragraph 4, of the Constitution of the International Labour Organisation and Article 19 of the Convention (No. 96) concerning fee-charging employment agencies (revised 1949), the Government of the Netherlands declares that it accepts on behalf of Surinam the provisions of this Convention, which will be applicable to this territory without modification.

Furthermore, the Government declares, on behalf of the Netherlands Antilles, that the above-mentioned provisions cannot be accepted for application in this territory where employment agencies are government institutions whose services are free of charge.

In accordance with the provisions of article 35, paragraph 2, of the above-mentioned Constitution and Article 19 of the above-mentioned Convention (No. 96), the Government declares that this Convention cannot be rendered applicable to Netherlands New Guinea in view of the fact that there are no employment agencies and that the Government does not contemplate setting up such agencies since, on the one hand, there are enough employment opportunities and, on the other hand, employment assistance is, if necessary, sufficiently ensured by the competent government services.

I should be grateful if you would be good enough to acknowledge receipt of these declarations.

I have the honour to be, etc.,

(Signed) W. H. J. VAN ASCH VAN WIJCK,
Permanent Delegate.

The text of the declaration relating to Convention No. 97 is as follows:

(Translation)

Geneva, 6 June 1955.

Sir,

I refer to the deposit, on 20 May 1952, of the instrument of ratification by the Netherlands of the Convention (No. 97) concerning migration for employment (revised 1949) and, in conformity with instructions from my Government, I have the honour to communicate to you the following declarations:

In accordance with the provisions of article 35, paragraph 4, of the Constitution of the International Labour Organisation and Article 16 of the Convention (No. 97) concerning migration for employment (revised 1949), the Government of the Netherlands declares, on behalf of Surinam and the Netherlands Antilles, that the provisions of this Convention cannot be accepted for application in these territories in view of the existing local conditions.

In accordance with the provisions of article 35, paragraph 2, of the above-mentioned Constitution and Article 15 of the above-mentioned Convention (No. 97), the Government declares that this Convention cannot, for the same reasons, be rendered applicable to Netherlands New Guinea.

I should be grateful if you would be good enough to acknowledge receipt of these declarations.

I have the honour to be, etc.,

(Signed) W. H. J. VAN ASCH VAN WIJCK,
Permanent Delegate.

On 15 December 1955 the Permanent Delegate of the Netherlands to the European Office of the United Nations in Geneva deposited with the Director-General of the International Labour Office four declarations accepting on behalf of the Netherlands Antilles, without modification, the provisions of Conventions Nos. 11, 12, 42 and 90.

These four declarations were registered by the Director-General on 15 December 1955.

The text of the declaration concerning Convention No. 11 is as follows:

(Translation)


Sir,

I refer to the ratification by the Netherlands of the Convention (No. 11) concerning the rights of association and combination of agricultural workers and, in conformity with instruc-
tions from my Government, I have the honour to communicate to you the following declaration:

The Kingdom of the Netherlands accepts on behalf of the Netherlands Antilles the obligations of the Convention (No. 11) concerning the rights of association and combination of agricultural workers.

The above-mentioned declaration should be considered as having come into force on 15 December 1955, the date on which it was deposited.

I should be grateful if you would be good enough to acknowledge receipt of this declaration.

I have the honour to be, etc.,

(Signed) A. F. W. LUNSINGH MEIJER,
Acting Permanent Delegate.

The texts of the declarations relating to Conventions Nos. 12, 42 and 90 are in similar terms.

On the same date—15 December 1955—the Permanent Delegate of the Netherlands deposited with the Director-General, in respect of Convention No. 89 a declaration accepting on behalf of the Netherlands Antilles, without modification, the obligations of the Convention, and also rendering their provisions applicable, with modifications, to Netherlands New Guinea.

These declarations were also registered by the Director-General on 15 December 1955.

The text of the above-mentioned declaration concerning Convention No. 89 is as follows:

(Translation)


Sir,

I refer to the ratification by the Netherlands of the Convention (No. 89) concerning night work of women employed in industry (revised 1948) and, in conformity with instructions from my Government, I have the honour to communicate to you the following declaration:

The Kingdom of the Netherlands accepts, without modification, on behalf of the Netherlands Antilles, the obligations of the Convention (No. 89) concerning night work of women employed in industry (revised 1948).

The Kingdom of the Netherlands undertakes that the provisions of the Convention (No. 89) are applicable to Netherlands New Guinea subject to the reservation that a clause (c) shall be added to Article 4 of the Convention, as follows:

"(c) in cases where the particular requirements of an undertaking do not permit of application, provided that the responsible authority agrees and that due account be taken of the conditions which are laid down."

The above-mentioned declaration should be considered as having come into force on 15 December 1955, the date on which it was deposited.

I should be grateful if you would be good enough to acknowledge receipt of this declaration.

I have the honour to be, etc.,

(Signed) A. F. W. LUNSINGH MEIJER,
Acting Permanent Delegate.

Finally the Permanent Delegate of the Netherlands deposited with the Director-General on 15 December 1955, in respect of Convention No. 99, a declaration stating that the Netherlands Government could not accept on behalf of the Netherlands Antilles the obligations of the Convention and could not apply its provisions to Netherlands New Guinea; this declaration was also registered by the Director-General on 15 December 1955.

The text of the declaration relating to Convention No. 99 is as follows:

Sir,

I refer to the ratification by the Netherlands of the Convention (No. 99) concerning minimum wage fixing machinery in agriculture and, in conformity with instructions from my Government, I have the honour to communicate to you the following declaration:

The Kingdom of the Netherlands cannot as yet contemplate the possibility of accepting for the Netherlands Antilles the obligations of the Convention (No. 99) concerning minimum wage fixing machinery in agriculture, of applying the provisions of this Convention to Netherlands New Guinea.

Agriculture in the Netherlands Antilles being in such a condition that regulations relating thereto must be built up out of nothing, it is necessary first of all to study the whole field and to become fully acquainted with the subject. In this connection the general situation in the Windward Islands, as well as the relevant activities of the Caribbean Commission, must be taken into account.

In Netherlands New Guinea there are no "employed workers"—in the meaning of the Convention—in agricultural undertakings and related occupations. Accordingly the problem which the Convention would solve does not exist in this territory.

The above-mentioned declaration should be considered as having come into force on 15 December 1955, the date on which it was deposited.

I should be grateful if you would be good enough to acknowledge receipt of this declaration.

I have the honour to be, etc.,

(Signed) A. F. W. LUNSINGH MEIJER,
Acting Permanent Delegate.

NORWAY

Ratification of the Medical Examination (Seafarers) Convention, 1946 (No. 73), the Migration for Employment (Revised) Convention, 1949 (No. 97), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

By letter dated 16 February 1955 the Minister of Foreign Affairs of Norway communicated to the Director-General of the International Labour Office the ratification by Norway of Conventions Nos. 73, 97 and 98.

These ratifications were registered by the Director-General of the International Labour Office on 17 February 1955.

The text of the instrument of ratification of Convention No. 73 is as follows:

(Translation)

WE, HAAKON, KING OF NORWAY,

Hereby make known:

That having seen and examined the Convention concerning the medical examination of seafarers, adopted in Geneva on 29 June 1946 by the International Labour Conference, We have approved, ratified and confirmed the aforementioned Convention in all its provisions, promising to cause it to be observed according to its form and tenor.

In faith whereof We have signed the present instrument of ratification and have caused the Seal of the Kingdom to be affixed thereto.

Done at the Royal Palace, Oslo, the twenty-third day of December one thousand nine hundred and fifty-four.

(Signed) HAAKON R.
(Signed) Halvard LANGE.

The instruments of ratification of Conventions Nos. 97 and 98 are in similar terms.
PAKISTAN

Ratification of the Minimum Age (Industry) Convention (Revised), 1937 (No. 59).

By letter dated 24 May 1955 the Chargé d’affaires of Pakistan in Berne communicated to the Director-General of the International Labour Office the ratification by Pakistan of Convention No. 59.

This ratification was registered by the Director-General on 26 May 1955.

The text of the instrument of ratification is as follows:

Whereas the Government of Pakistan, in accordance with Article 10 of the I.L.O. Convention (No. 59) fixing the minimum age for admission of children to industrial employment (revised 1937), adopted at the 23rd Session of the International Labour Organisation held at Geneva in 1937, have decided to ratify the said Convention:

Now, therefore, I, Mohammed Ali, Minister for Foreign Affairs and Commonwealth Relations, Government of Pakistan, do hereby ratify the said Convention on behalf of Pakistan.

In witness whereof I have signed these Presents and affixed hereto my Seal.

Done at Karachi this sixth day of May in the year one thousand nine hundred and fifty-five.

(Signed) Mohammed Ali,
Prime Minister and Minister for Foreign Affairs and Commonwealth Relations, Government of Pakistan.

EL SALVADOR

Ratification of the Workmen’s Compensation (Agriculture) Convention, 1921 (No. 12).

By letter dated 19 September 1955 the Minister for Foreign Affairs of El Salvador communicated to the Director-General of the International Labour Office the ratification by El Salvador of Convention No. 12.

This ratification was registered by the Director-General on 11 October 1955.

The text of the instrument of ratification is as follows:

(Translation)

Oscar Osorio,
Constitutional President of the Republic of El Salvador,

Whereas the executive authority has, by Order No. 264 of 15 June 1955, approved in all its parts the Convention concerning workmen’s compensation in agriculture, consisting of a preamble and of nine Articles adopted by the International Labour Conference at its Third Session, on 25 October 1921, in Geneva, Switzerland;

The Legislative Assembly, having by Decree No. 1892 of 19 July 1955, published in the Diario Oficial No. 126, Volume No. 168, of 7 July 1955, together with the text of the Convention, agreed to its ratification;

Therefore, in virtue of Our constitutional authority, acting in the name of the Republic, We have signed with Our own hand and sealed with the Great Seal of the Republic the present instrument of ratification of the Convention concerning workmen’s compensation in agriculture (No. 12), which has been countersigned by the Minister for Foreign Affairs, in order that this instrument may be deposited with and registered by the International Labour Office, in conformity with the provisions of Article 3 of the aforesaid Convention.

Done at the National Palace, San Salvador, the twelfth day of the month of September, one thousand nine hundred and fifty-five.

(Signed) O. Osorio.

(Signed) J. G. Trabanino,
Minister for Foreign Affairs.
URUGUAY

Denunciation of the Maternity Protection Convention, 1919 (No. 3), the Night Work (Women) Convention, 1919 (No. 4), the Minimum Age (Industry) Convention, 1919 (No. 5), the Night Work of Young Persons (Industry) Convention, 1919 (No. 6), the Minimum Age (Sea) Convention, 1920 (No. 7), and the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18).

By letter dated 6 October 1955 the Minister of Industries and Labour communicated to the Director-General of the International Labour Office the denunciation by Uruguay of Conventions Nos. 3, 4, 5, 6, 7 and 18.

These denunciations were registered by the Director-General of the International Labour Office on 17 October 1955.

The text of the letter by which the Minister of Industries and Labour of Uruguay communicated these denunciations is as follows:

(Translation)

Montevideo, 6 October 1955.

Sir,

Conventions Nos. 3, 4, 5, 6, 7, 18 and 33, which have been revised, were denounced by a Resolution approved by the National Council of the Government dated 4 October 1955. This Resolution, a certified copy of which is appended to this letter, confirms the statement made by the Government delegate of the Republic to the 38th Session of the Conference.

I have the honour to be, etc.,

(Signed) Carlos B. Moreno,
Minister of Industries and Labour.

VIET-NAM

Ratification of the Weekly Rest (Industry) Convention, 1921 (No. 14), and the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

By letter dated 8 June 1955 the Minister of Labour of Viet-Nam communicated to the Director-General of the International Labour Office the ratification by Viet-Nam of Conventions Nos. 14 and 26.

These ratifications were registered by the Director-General of the International Labour Office on 14 June 1955.

The text of the letter from the Minister of Labour, which constitutes the instrument of ratification, is as follows:

(Translation)

Saigon, 8 June 1955.

Sir,

I have the honour to inform you that, by Order No. 35 of 3 June 1955, a certified copy of which is enclosed, the Head of the State of Viet-Nam has ratified the following Conventions of the International Labour Organisation:

Convention concerning the application of the weekly rest in industrial undertakings, 1921 (No. 14), adopted by the General Conference of the International Labour Organisation at its Third Session, Geneva, 25 October 1921;


These denunciations follow the ratification by Uruguay of the revising Conventions adopted on these subjects (ibid., pp. 382-383).
Convention concerning the creation of minimum wage-fixing machinery, 1928 (No. 26), adopted by the General Conference of the International Labour Organisation at its Eleventh Session, Geneva, 30 May 1928.

I have the honour to be, etc.,

(Signed) HUYNH-HUU-NGHIA,
Minister of Labour, State of Viet-Nam.

YUGOSLAVIA

Ratification of the Labour Inspection Convention, 1947 (No. 81), the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), and the Maternity Protection Convention (Revised), 1952 (No. 103).

On 30 April 1955 the Permanent Delegate of the Federal People’s Republic of Yugoslavia to the European Office of the United Nations deposited with the Director-General of the International Labour Office the instruments of ratification by Yugoslavia of Conventions Nos. 101 and 103, and on 18 August 1955 he deposited the instrument of ratification of Convention No. 81.

The ratifications of Conventions Nos. 101 and 103 were registered by the Director-General of the International Labour Office on 30 April 1955 and that of Convention No. 81 on 18 August 1955.

The text of the instrument of ratification of Convention No. 81 is as follows:

(Translation)

THE PRESIDENT OF THE FEDERAL PEOPLE’S REPUBLIC OF YUGOSLAVIA,

In accordance with the constitutional law, declares and certifies that the Federal Executive Council of the National Assembly of the Federal People’s Republic of Yugoslavia, by Decree Rs. No. 29 of 15 June 1955, after having seen and examined the Convention concerning labour inspection in industry and commerce, adopted on 11 July 1947 by the International Labour Conference at its 30th Session, hereby approve, confirm and ratify it, promising to cause it to be inviolably observed.

In faith whereof, We have delivered these Presents, sealed with the Seal of State.

Done at Belgrade on the twenty-first of June one thousand nine hundred and fifty-five.

(Signed) J. B. TITO,
President of the Federal People’s Republic of Yugoslavia.

The instruments of ratification of the above-named Conventions Nos. 101 and 103 are in similar terms.

Final Articles Revision Convention, 1946

Ratification Registered in 1955

<table>
<thead>
<tr>
<th>Country</th>
<th>Date of registration</th>
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<tbody>
<tr>
<td>Bulgaria</td>
<td>7 November 1955</td>
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</table>

1 Convention (No. 80) for the partial revision of the Conventions adopted by the General Conference of the International Labour Organisation at its first twenty-eight sessions for the purpose of making provision for the future discharge of certain chancery functions entrusted by the said Conventions to the Secretary-General of the League of Nations and introducing therein certain further amendments consequential upon the dissolution of the League of Nations and the amendment of the Constitution of the International Labour Organisation, 1946. For the text of the Convention see Official Bulletin, Vol. XXIX, No. 4, 15 Nov. 1946, pp. 286-290.

Information on the Action Taken on Recommendations Adopted by the International Labour Conference at Its First, Sixth and Twentieth Sessions

**Iran**

By letters dated 6, 17, 19 and 21 November 1955 the Minister of Labour of Iran communicated to the Director-General of the International Labour Office information on the action taken by his Government on the provisions of the Reciprocity of Treatment Recommendation, 1919 (No. 2), the Utilisation of Spare Time Recommendation, 1924 (No. 21), the Elimination of Recruiting Recommendation, 1936 (No. 46) and the Holidays with Pay Recommendation, 1936 (No. 47).

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1 For the text of these Recommendations see International Labour Conference: Conventions and Recommendations, 1919-1949 (Geneva, I.L.O., 1949), pp. 12, 80-84, 350 and 360-361.
Ratifications of the Agreements concerning
Rhine Boatmen

Agreement concerning the Conditions of Employment of Rhine
Boatmen, Adopted in Paris on 27 July 1950 and Modified in Geneva
on 21 May 1954 by the Conference of Governments
concerning Rhine Boatmen

NETHERLANDS

On 4 April 1955 the Permanent Delegate of the Netherlands to the European
Office of the United Nations deposited with the Director-General of the International
Labour Office the instrument of ratification by the Netherlands of the Agreement
concerning the Conditions of Employment of Rhine Boatmen, adopted in Paris on
27 July 1950 and modified in Geneva on 21 May 1954 by the Conference of Govern-
ments concerning Rhine Boatmen.

On 4 April 1955 the Director-General registered the ratification, and on
16 September 1955 he informed the countries represented on the Central Commission
for Rhine Navigation of the ratification.2

The instrument of ratification reads as follows:

(Translation)

WE, JULIANA,

By the Grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc.,
To all who may see these Presents, Greeting!

Having seen and examined the Agreement concerning the Conditions of Employment of
Rhine Boatmen, concluded in Geneva on 21 May 1954, the text of which is as follows:

[Here follows the text of the Agreement]

Approve by these Presents, in all of the provisions therein contained, the Agreement
reproduced above.

Declare that it is accepted, ratified and confirmed and promise that it shall be inviolably
observed.

In faith whereof We have delivered these Presents signed by Our hand and have ordered
them to be sealed with Our Royal Seal.

Done at Soestdijk, the seventeenth day of March in the Year of Grace one thousand nine
hundred and fifty-five.

(Signed) JULIANA.

(Signed) J. W. BEYEN.

(Signed) J. M. A. H. LUNS.

SWITZERLAND

By letter dated 5 August 1955 the Director of the Federal Office of Industry,
Arts and Crafts, and Labour communicated to the Director-General of the Inter-
national Labour Office the instrument of ratification by Switzerland of the Agree-


2 In accordance with articles 28 and 29 of the Agreement.

On 8 August 1955 the Director-General registered the ratification, and on 16 September 1955 he informed the countries represented on the Central Commission for Rhine Navigation of the ratification.  

The instrument of ratification reads as follows:

(Translation)

THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION,

After having seen and examined the international Agreement concerning the Conditions of Employment of Rhine Boatmen, concluded under reserve of ratification in Geneva on 21 May 1954 by the plenipotentiaries of Switzerland, of the Kingdom of Belgium, of the French Republic, of the Kingdom of the Netherlands and of the Federal Republic of Germany, which was approved by the Federal Chambers on 24 March 1955;

Declares that the above-named Agreement is ratified and promises in the name of the Swiss Confederation to observe it conscientiously and constantly in so far as it lies within the Council's power to do so.

In faith whereof the present ratification has been signed by the President and the Chancellor of the Swiss Confederation and the federal Seal has been affixed thereto.

Done at Berne the twenty-eighth of July one thousand nine hundred and fifty-five (28 July 1955).

On behalf of the Swiss Federal Council:

(Signed) Max Petitpierre,
President of the Confederation.
(Signed) Ch. Oser,
Chancellor of the Confederation.

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1 In accordance with articles 28 and 29 of the Agreement.
Interpretation of the Decisions of the International Labour Conference

Hours of Work (Industry) Convention, 1919 (No. 1) and Weekly Rest (Industry) Convention, 1921 (No. 14)

By letter dated 26 February 1955 the Minister of Labour and Social Security of Luxembourg requested from the International Labour Office certain information concerning the interpretation of the Hours of Work (Industry) Convention, 1919 (No. 1) and the Weekly Rest (Industry) Convention, 1921 (No. 14).

With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 16 April 1955, transmitted to the Minister of Labour and Social Security of Luxembourg a memorandum prepared by the International Labour Office on this question.

The text of this document is as follows:

Memorandum by the International Labour Office

1. By a letter dated 26 February 1955 the Minister of Labour and Social Security of Luxembourg requested the opinion of the Director-General on three points relating to the interpretation of the Hours of Work (Industry) Convention, 1919 (No. 1) and the Weekly Rest (Industry) Convention, 1921 (No. 14).

2. In this letter the Minister of Labour and Social Security of Luxembourg describes the situation to which he refers as follows:

By virtue of an agreement reached between the Association of Steel Industries (Groupe-ment des industries sidérurgiques) and the Trade Union Negotiating Committee (Commiss-ion syndicale des contrats), which is embodied in a new clause added to the collective agreement now in force, the hours of work in continuous blast furnace operations have been reduced, with effect from 1 January 1955, to 48 hours per week, with compensating wage adjustments. In consequence, the exception permitted up to the present under the terms of Article 4 of Convention No. 1 has ceased to apply.

The application of the agreement reached, however, gives rise to a number of difficulties and to important differences of opinion. The valuable documentation assembled in The International Labour Code 1951 has been a useful guide to me in the consideration of these differences. Wishing to remove the present difficulties, which may lead to a serious social conflict, I should be pleased to have your personal opinion on the three following questions:

3. The first question asked by the Minister of Labour and Social Security of Luxembourg is framed as follows:

May the provisions of the Hours of Work (Industry) Convention, 1919 (No. 1) be modified and improved by national legislation in the interest of the workers and at the charge of the employers? In my view the reply to this question can only be affirmative, since the Constitution of the I.L.O. lays down as a principle that the standards set forth in Conventions constitute a minimum. In this connection, I refer to the comments given in The International Labour Code on page LXXV. In order to put an end to all differences of opinion on this question, I should like to receive a formal opinion on it.

4. It has always been agreed that in general the standards laid down by the International Labour Organisation in the Conventions and Recommendations adopted by the Conference constitute a minimum.

5. With respect more particularly to the question asked by the Government of Luxembourg, it appears from the above-mentioned passage (paragraph 2) that this question refers to the exception provided for in Article 4 of the Hours of Work (Industry) Convention, 1919. This Article is as follows:
The limit of hours of work prescribed in Article 2 may also be exceeded in those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, subject to the condition that the working hours shall not exceed fifty-six in the week on the average. Such regulation of the hours of work shall in no case affect any rest days which may be secured by the national laws to the workers in such processes in compensation for the weekly rest day.

6. From this Article it appears that, with regard to work on continuous processes, the Convention merely allows a possibility of exception from the general principle of the 48-hour week and that consequently the member States which have ratified the Convention are free to use or not to use this possibility of exception, or where they have used the possibility, subsequently to cease to do so.

7. With respect to the repercussion on wages of the reduction of hours of work, which is also mentioned in the communication from the Government of Luxembourg, the Convention contains no provision on this point, but it is not without interest to point out that, when it adopted this Convention in 1919, the International Labour Conference also adopted the following resolution:

*Maintenance of Wage Standards*

The Conference hopes that in no case shall the wages of workers be reduced simply by reason of the introduction of the 8-hour day and the 48-hour week, in order that the conditions which exist in certain industries and which the present Convention allows to continue may not be aggravated by the imposition of lower wages on the workers.

8. The second question raised by the Minister of Labour and Social Security of Luxembourg is as follows:

Under the terms of the Conventions in force, may work on repairs and on preparation be regularly carried out on Sunday outside the weekly limit laid down for the general working of the establishment? If so, would not a preliminary authorisation from the competent public authorities be necessary? I do not find in the annotations of The International Labour Code any matter providing an exact reply to this double question. I therefore request you to be good enough to give me your opinion, referring also to the subsidiary question whether the Conventions enable the public authorities to authorise the practice mentioned in the first part of the main question.

9. This question may be considered, on the one hand, as an exception to the standard concerning weekly rest and, on the other hand, as an exception to the standard concerning weekly hours of work. It may thus be examined successively with reference to the two Conventions ratified by Luxembourg in this field, namely the Weekly Rest (Industry) Convention, 1921 (No. 14) and the Hours of Work (Industry) Convention, 1919 (No. 1).

10. A similar conclusion was reached by a Conference composed of the representatives of certain States which met in London in 1926 to consider a number of questions relating to the interpretation of the Hours of Work (Industry) Convention, 1919 (No. 1).¹ This Conference adopted, inter alia, the following paragraph:

It is agreed that any hours over and above the weekly limit of 48 which are required by the nature of the services rendered to be worked on the weekly rest day, other than hours covered by Articles 2 (c), 3, 4 and 5, shall be treated either as hours to be dealt with under the provisions of national legislation relating to the weekly rest day, or as hours to be dealt with under the provisions of Article 6.

11. In so far as work over and above the weekly limit is considered as an exception from the weekly rest period, reference should be made to the Weekly Rest (Industry) Convention, 1921 (No. 14). Article 4 of this Convention is as follows:

1. Each Member may authorise total or partial exceptions (including suspensions or diminutions) from the provisions of Article 2, special regard being had to all proper humanitarian and economic considerations and after consultation with responsible associations of employers and workers, wherever such exist.

2. Such consultation shall not be necessary in the case of exceptions which have already been made under existing legislation.

12. The International Labour Office already pointed out in this connection in 1932¹ that "this provision makes it clear that States which ratify the Convention are free to except wholly or partially certain industries from the operation of the general rules laid down in Article 2, with the single reservation that special account must be taken of all proper humanitarian and economic considerations and that the responsible associations of employers and workers, where such exist, must have been consulted".

13. However, in so far as work performed over and above the weekly limit also constitutes an exception to the standard concerning working hours, reference should be made, in addition, to the Hours of Work (Industry) Convention, 1919 (No. 1). Article 6 of this Convention permits, under certain conditions, work on the weekly rest day. This Article is as follows:

1. Regulations made by public authority shall determine for industrial undertakings—
   (a) the permanent exceptions that may be allowed in preparatory or complementary work which must necessarily be carried on outside the limit laid down for the general working of an establishment, or for certain classes of workers whose work is essentially intermittent;
   (b) the temporary exceptions that may be allowed, so that establishments may deal with exceptional cases of pressure of work.

2. These regulations shall be made only after consultation with the organisations of employers and workers concerned, if any such organisations exist. These regulations shall fix the maximum of additional hours in each instance, and the rate of pay for overtime shall not be less than one and one-quarter times the regular rate.

14. By thus authorising in certain cases "permanent exceptions... in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of an establishment...", the Convention appears in certain circumstances to authorise work on the weekly rest day.

15. These conditions relate in the first place to the nature of the work, which under subparagraph (a) of this Article should be either preparatory or complementary work which must necessarily be carried on outside the limit laid down for the general working of an establishment or work which is essentially intermittent. This definition is, of course, framed in very general terms, but it is interesting to refer to the discussion preceding the adoption of the Convention. Thus, the draft Convention submitted to the International Labour Conference by the Organising Committee, which forms the basis for the Convention in question, listed "works maintenance staff, whose duty is to carry out repairs" among the categories of persons employed on the kind of work for which the above-mentioned Article 6 provides permanent exceptions. Although, for various reasons ², the Conference finally decided not to incorporate in the text of the Convention the schedule containing the list in question, the list is still not without interest since it gives certain useful indications with respect to the work to be covered by the proposed exceptions.

16. These exceptions are also subject to two other conditions: firstly, they should be fixed, by industry or by trade, by regulations of the public authority, and secondly, these regulations should be made after consultation with the organisations of employers and workers concerned, if such organisations exist.

17. It appears from the outline given above that the two Conventions concerned contain provisions which allow, under certain conditions, permanent exceptions to the prohibition of work on the weekly rest day. In both cases these exceptions are specifically subject to authorisation by the public authorities. Nevertheless, the conditions under which they may be granted differ according to whether the question is considered only as an exception to the standard concerning the weekly rest period or also as an exception to the standard concerning weekly hours of work. In the case where the exception to the standard concerning the weekly rest period (Article 4 of the Weekly Rest (Industry) Convention, 1921) also constitutes an exception to the standard concerning weekly hours of work (Article 6 of the Hours of Work (Industry) Convention, 1919) the States which have ratified these two Conventions would have to conform to the conditions laid down in both Conventions as outlined above.

18. The third question asked by the Minister of Labour and Social Security of Luxembourg is as follows:

Under the provisions of the Weekly Rest (Industry) Convention, 1921 (No. 14), should not Sunday work be compensated during the following week by a rest period of at least 24 consecutive hours? This question refers essentially to the hypothesis in the previous question, namely the practice of carrying out repair and preparatory work regularly on Sunday. In my view, Article 2 of Convention No. 14 involves in such cases the obligation for the compensatory rest provided therein. I should be obliged if you would be good enough to confirm that this interpretation is correct and at the same time to inform me what sanctions could be taken in the case of a refusal of compensatory rest.

19. On this point, Article 2 of the Weekly Rest (Industry) Convention, 1921 (No. 14) is as follows:

1. The whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof shall, except as otherwise provided for by the following Articles, enjoy in every period of seven days a period of rest comprising at least twenty-four consecutive hours.

2. This period of rest shall, wherever possible, be granted simultaneously to the whole of the staff of each undertaking.

3. It shall, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district.

In addition, Article 5 of this Convention reads as follows:

Each Member shall make, as far as possible, provision for compensatory periods of rest for the suspensions or diminutions made in virtue of Article 4, except in cases where agreements or customs already provide for such periods.

20. In this connection the International Labour Office has sometimes been asked for an explanation concerning the meaning of the expression “as far as possible” which is used in this Article. The Office has replied on this point as follows:

By inserting the words “as far as possible”, the Commission on Weekly Rest and, subsequently, the Conference, wished to emphasise that, while affirming the principle of compensatory rest, it must take into account the technical or other difficulties which might prevent the granting of compensatory rest periods in certain cases. Owing to the impossibility of drawing up a list, however widely enumerative, the Conference preferred to leave to the various States the task of deciding for themselves the cases in which they could grant the compensatory rest periods for which Article 5 provides. Moreover, Article 5 dispenses governments from regulating compensatory rest periods “in cases where agreements or customs already provide for such periods”.

The Office has also pointed out in other cases:

That the Conference had left it to the various States, if confronted with real and actual difficulties, to decide to what extent they could authorise the rest periods provided for in Article 344 [Article 5 of the Convention].¹

21. Subject to the exceptions that may thus be deemed necessary in such cases, Article 5 of the Convention lays down the principle that rest periods should be granted in compensation for suspensions and diminutions of weekly rest. This provision does not lay down the duration of the compensatory rest period, but it appears to follow from the principle stated in the above-quoted Articles that, since the weekly rest period under the provisions of Article 2 should be at least 24 consecutive hours, the rest period which should be granted in compensation for the total suspension of weekly rest under Article 5 should in principle be of the same duration.

22. Article 5 of the Convention, which lays down in general terms the principle of compensatory rest, does not state the time limit for the grant of such weekly rest. The Article restricts itself to laying down a general principle, the methods of implementation being left to governments to decide, in the provision which they are called upon to make according to the same Article.

23. It is also for governments which have ratified the Convention to consider what sanctions may be necessary to make effective the provisions of the Convention, in the framework of the general obligation laid down in the Constitution of the International Labour Organisa-

tion, which provides in article 19, paragraph 5 (d), that "if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention".

Workmen’s Compensation (Occupational Diseases) Convention, 1925 (No. 18) and Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)

By letter dated 11 December 1954 the Director-General of Labour in the Government of Chile requested from the International Labour Office certain information concerning the interpretation of the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42).

With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 18 March 1955, transmitted to the Director-General of Labour in the Government of Chile a memorandum prepared by the International Labour Office on this question.

The text of this document is as follows:

Memorandum by the International Labour Office

1. The Government of Chile has asked the Director-General of the International Labour Office for an explanation of the meaning of the term "polygraphic industries" which appears in the Schedule contained in the 1925 and 1934 Conventions concerning occupational diseases.

2. The text of the letter from the Government of Chile (General Directorate of Labour, Juridical Department, International Section), is reproduced as an appendix to this memorandum.1

3. It should first of all be pointed out that the Schedule contained in the two Conventions in question was originally prepared during the preparatory work for the Seventh Session of the Conference (1925) which led to the adoption of the Workmen's Compensation (Occupational) Diseases Convention, 1925 (No. 18). It was a subcommittee of the Committee on Occupational Diseases at that session of the Conference which adopted the present list, rejecting a much simpler schedule which had been prepared by the International Labour Office and which, in particular, did not mention the polygraphic industries but referred in general terms, with reference to lead poisoning, to "any process exposing workers to the action of lead and its compounds or alloys." The report of the Conference Committee gives no explanation of the use of the term "polygraphic industries", so that the preparatory work of the Conference throws no light on the exact meaning to be given to this expression.

4. It is, however, relevant to mention that the publication Occupation and Health: An Encyclopaedia of Hygiene, Pathology and Social Welfare, issued in 1934 by the International Labour Office, contains a chapter relating to the printing trades (Volume II, pages 726-739). This chapter mentions among the categories of workers employed in the industry compositors, machine-minders, lithographers, stereotypers, etc., and deals in particular with composing, printing, stereotyping, lithography, making of ledgers, stitching and binding.

5. It is therefore necessary to seek an explanation of the term “polygraphic industries” in various national regulations. In many countries only the term “polygraphic industries”, without further details, appears in the list of trades, industries or processes contained in legis-

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1 This appendix is not reproduced here.

ative texts or regulations relating to compensation for industrial accidents. This is particularly the case in Brazil, Cuba, Egypt, Hungary, Luxembourg, Rumania, Spain and Uruguay.

6. In some other countries, on the other hand, legislation or regulations listing trades, industries and processes subject to lead poisoning furnish a more detailed description of the range of work covered in the Conventions by the term "polygraphic industries". The following cases may be quoted:

**Belgium**: Printing works (monotype operators, stitchers and delivery workers are excepted when they are employed in premises completely distinct from the printing works).

**France**: Founding of printing type made of lead alloys, minding of composing machines, manipulation of type.

**Mexico**: Printers.

It should be noted that these three States have ratified the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) and that neither the Committee of Experts nor the Conference Committee on the Application of Conventions and Recommendations has ever made any observations concerning these descriptions.

7. It is true that certain cases are to be found of much more detailed and wider definitions of the polygraphic industries. For example, the French Government used the term "polygraphic industries" in the "Technological List of Names of Industries and Trades", published by the Minister of Labour and Social Affairs in 1909. This list gives the following processes under the title "polygraphy";

- **Binding**: book gilding; making of registers, warehouse books and account books; stitching, manufacture of labels; workshop for numbering, folioing, paging.
- **Printing**: printing; printing (typography and lithography); copper or steel-plate printing; photo-engraving; colour printing; map engraving and printing; engraving on metals for printing; wood-cutting; colouring workshop.
- **Photography**: industrial photography, photo-chemical printing; picture restoring.

In addition, the "Nomenclature of Undertakings, Establishments and All Collective Activities", published in 1947 by the French Ministry of National Economy, includes the following activities under the definition of the term "polygraphic activities":

**Printing and Reproduction of Texts.**

- Printing of chromolithographs, postcards, posters, etc.
- Offset and lithographic printing.
- Typographic printing.
- Heliographic printing.
- Printing on metals, zincography.
- Phototype printing.
- Copper and steel-plate printing.
- Composing to order.
- Typing agencies, public stenographer, addressing agencies; office work, copying of legal documents, circulars prepared by machine, duplicating.
- Manufacture of articles of printed paper.

**Industries Allied to Printing.**

- **Type founding**: typographic engraving of stamps and dies; manufacture of type and illustration plates; engraving of figures and letters on metal in relief, figures and letters for signs and inscriptions.
- **Photo-engraving and stereotyping.**
- **Engraving**: manufacture of stamps and seals; engraving of plates and rolls for printing of textiles and wallpapers; engraving of cylinders or rolls by means of engraving-tool, cutting-wheel, punch or mechanical engraving.
- Engraving by tool.
- Engraving on copper or steel-plate.
- Chemical engraving.
Engraving and copying of music.

Binding, stitching, gilding.

Binding.
Stitching.
Gilding of books, gilt-edge making.
Stitching and folding of newspapers, periodicals, patterns, etc.

Graphic arts workshops: book illustrators, illuminators, colourists; industrial graphic arts workshop; lithographic writer.

Manufacture of painted posters, signs, placards and coats of arms.

Publication of Picture-Books and Picture Postcards.

Music Publishing (on paper).

Publishing and Printing of Newspapers and Periodicals.

Photographic Studios and Photographic Undertakings.

8. It should be noted, however, that the enumeration of operations given in the paragraph above was not prepared in relation to compensation for occupational diseases. The Conventions in question only mention polygraphic industries because work in them may cause "poisoning by lead and its compounds or alloys", as may be seen by comparing the two columns of the Schedule contained in these Conventions. It may therefore be concluded that in the polygraphic industries only work in which there is a danger of such poisoning should necessarily be included in national legislation in the list of trades, industries or processes relating to compensation for occupational diseases, as is the case in the countries mentioned above in paragraph 6.

Seamen's Articles of Agreement Convention, 1926 (No. 22) and Medical Examination (Seafarers) Convention, 1946 (No. 73)

By letter dated 28 December 1954 the Minister of Foreign Affairs of Japan requested from the International Labour Office certain information concerning the interpretation of the Seamen's Articles of Agreement Convention, 1926 (No. 22) and the Medical Examination (Seafarers) Convention, 1946 (No. 73).

With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 15 April 1955, transmitted to the Minister of Foreign Affairs of Japan two memoranda prepared by the International Labour Office on these questions.

The text of these documents is as follows:

Memorandum by the International Labour Office

Convention (No. 22) concerning Seamen's Articles of Agreement, 1926 (Article 5 and Article 6, Paragraph 3)

1. The Japanese Government has submitted to the Director-General two questions relating to the interpretation to be given to Article 5 and Article 6, paragraph 3, of this Convention.

Article 5.

2. With regard to Article 5 of the Convention, the question raised is as follows:

Article 5 of the Convention provides that the documents containing a record of seaman's employment on board the vessel shall not contain any statement as to his wages. In Japan, however, the present regulation provides that the statements regarding seaman's wages may not be entered, if the seaman wishes so, in his pocket-ledger.
If it is revised to read “The statement of seaman’s wages shall be entered in his pocket-ledger only when he wishes it to be entered”, will that be in conformity to the provisions of the Convention?

3. As the Government indicates, Article 5 of the Convention provides as follows:
   
   1. Every seaman shall be given a document containing a record of his employment on board the vessel. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered in it shall be determined by national law.
   
   2. The document shall not contain any statement as to the quality of the seaman’s work or as to his wages.
   
   Thus the requirements are: firstly, that it is mandatory that every seaman be given a document containing a record of his employment; secondly, that that document shall not contain any statement as to the seaman’s wages.

4. During the discussions at the Ninth Session of the Conference (1926) which led to the adoption of the Convention, the provision formally prohibiting the insertion in the document in question of any statement concerning wages was put forward by the Committee on Seamen’s Articles of Agreement. An amendment to add at the end of the second paragraph of the Article the words “unless the seaman so desires” was rejected by the Conference at its 14th plenary sitting on 22 June 1926.

5. In these circumstances, it is clear that Article 5 of the Convention formally prohibits the insertion in the document (i.e. the pocket-ledger) with which it deals of any statement concerning the wages of the seaman, even with the consent of the person concerned, and that the text as it stands accurately reflects the intention of the Conference.

6. It may nevertheless be useful to add that Article 14 of the Convention provides in paragraph 2:

   2. The seaman shall at all times have the right, in addition to the record mentioned in Article 5, to obtain from the master a separate certificate as to the quality of his work, or, failing that, a certificate indicating whether he has fully discharged his obligations under the agreement.

7. The certificate provided for in that paragraph is in addition to that provided for in Article 5. But an opportunity is provided of giving to seamen, at their request, a separate certificate containing information which is not contained in the document obligatorily issued to all seamen under Article 5. While that paragraph does not expressly mention a statement of wages, it does not expressly exclude such a statement either, as is done in Article 5, and it would therefore not seem to be incompatible with the terms of the Convention that a statement of wages should be included in the separate certificate if the seaman so desires.

8. With respect to this Article the Japanese Government requests information on the following question:

   Paragraph 3 of Article 6 of the Convention provides that the agreement shall in all cases contain the particulars as set forth in items (1) to (12).

   In Japan, however, according to article 36 of the Seamen’s Law, when a contract of engagement has been concluded, the ship’s master shall make an entry in the shipping articles of only the main working conditions laid down in the contract and bring it to the notice of his mariners. These shipping articles shall be sealed by the mariners, and further, the ship’s master shall, without delay, present the shipping articles to the competent authorities and call upon them to certify the contract of engagement in accordance with article 37 of the Law.

   In this case, the conditions of the termination of the agreement and the annual leave with pay mentioned in items (10) and (11) respectively, of paragraph 3 of Article 6 of the Convention are not entered in the shipping articles. However, in article 97 of the Seamen’s Law, it is provided that a shipowner shall formulate working regulations, and also in article 113 that the shipowner shall post at some noticeable place on board the vessel the documents containing the Seamen’s Law, the Labour Standards Law, the ordinance issued under the Seamen’s Law, the collective agreements and the working regulations, or he shall

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2 Ibid., pp. 305-307.
keep such documents on board the vessel, in order that the seamen may understand the nature and extent of their rights and obligations.

Are such measures mentioned above considered to be in conformity to the spirit of Article 6 of the Convention?

9. Paragraph 3 of Article 6 of the Convention provides as follows:

3. It [the agreement] shall in all cases contain the following particulars:

(10) the termination of the agreement and the conditions thereof, that is to say:

(a) if the agreement has been made for a definite period, the date fixed for its expiry;
(b) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seaman shall be discharged;
(c) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period shall not be less for the shipowner than for the seaman;

(11) the annual leave with pay granted to the seaman after one year's service with the same shipping company, if such leave is provided for by national law;

It is clear therefore that Article 6 of the Convention provides that the agreement (the shipping articles) must "in all cases" contain particulars concerning the expiry of the contract and the annual leave with pay. It appears that derogations to that mandatory rule cannot be admitted, even where other measures are provided for by national laws or regulations.

10. For the rest, the Convention provides in Article 8:

In order that the seaman may satisfy himself as to the nature and extent of his rights and obligations, national law shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment, either by posting the conditions of the agreement in a place easily accessible from the crew's quarters, or by some other appropriate means.

The Convention therefore provides for the posting and publicising of conditions of employment of seamen independently of the particulars which are to be inserted in the agreement itself, and these measures cannot therefore suffice to give effect to the obligations set forth in Article 6.

11. It may be added that the reference to annual leave was inserted in the text of the Convention by the Committee which drafted it during the Ninth Session of the Conference (Committee on Seamen's Articles of Agreement) and that an amendment to the effect that that provision should be deleted was rejected by the Conference at its 14th plenary sitting.¹

Memorandum by the International Labour Office

Convention (No. 73) concerning the Medical Examination of Seafarers, 1946 (Article 8)

1. The Japanese Government has submitted to the Director-General of the International Labour Office the following question concerning the interpretation to be given to Article 8 of the Convention:

The Convention provides in Article 8 that arrangements shall be made to enable a person who, after examination, has been refused a certificate, to apply for a further examination by a medical referee or referees who shall be independent of any shipowner or of any organisation of shipowners or seafarers.

In Japan, there is no such system of medical referee or referees. However, the Seamen's Law provides that a doctor designated by the competent authorities shall prove whether a person is fit for sea services. And the Minister of Transportation tries to designate the doctors who are considered to be independent of shipowners or organisations of shipowners or seafarers, and as a matter of fact most of these doctors are those working in national or public hospitals and hospitals of seamen's welfare organisations. Seafarers can freely

select any one of these designated doctors for examinations, and in case he fails in the examination, he can apply for a further examination by any of the other designated doctors. Therefore, the Government of Japan considers that the above-mentioned system is in accordance with the spirit of Article 8 of the Convention.

Is the Director-General's opinion affirmative or not?

2. In providing in Article 8 for arrangements to enable persons who have been refused a medical certificate to apply for a further medical examination by medical referees who are independent of any shipowner, the Convention seems to emphasise, on the one hand, the possibility of an appeal against the first decision and, on the other hand, the fact that that appeal shall be heard by a doctor who is independent of any shipowner or any organisation of shipowners or seafarers. The term "referee" used in that provision seems to relate essentially to the function exercised by the doctor in these circumstances. Thus it would appear that the provisions of the Convention would be complied with if the arrangements provide, in the case of a refusal of a certificate, for a further examination by an independent doctor, whether or not called a "medical referee".

Maternity Protection Convention (Revised), 1952 (No. 103)

By letter dated 18 January 1955 the Under-Secretary of State, Ministry of Social Affairs of Sweden, requested from the International Labour Office certain information concerning the interpretation of the Maternity Protection Convention (Revised), 1952 (No. 103).

With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 14 April 1955, transmitted to the Under-Secretary of State, Ministry of Social Affairs of Sweden, a memorandum prepared by the International Labour Office on this question.

The text of this document is as follows:

Memorandum by the International Labour Office

1. In a letter dated 18 January 1955 the Swedish Government requested the advice of the Office on some discrepancies which exist between the national legislation and Articles 1 and 6 of the Maternity Protection Convention (Revised), 1952 (No. 103).

2. The letter of the Swedish Government contains the following passages:

   Under Article 1, the Convention applies to women employed in "industrial undertakings"—and there is no possibility of exception from this rule—whereas the Swedish Workers' Protection Act (see I.L.O. Legislative Series, 1949—Swe. 1), sections 35 and 24, refer to women employed in "industrial work" (in the Legislative Series translated by "industry"). Thus the scope of the Convention is wider than that of the Act, because the Act leaves outside its scope women in industrial undertakings who are not employed in the actual production, e.g. office personnel and charwomen.

   With regard to security against dismissal, there is in Article 6 of the Convention an unconditional prohibition for the employer to give the woman notice of dismissal during absence from work on maternity leave, etc. Under a Swedish Act of 1945, a woman employee must not be dismissed on grounds of pregnancy or childbirth, provided she has worked with the same employer at least one year. The women who do not fulfil this condition—whether they are working in industry or not—have no legal protection against dismissal.

   Article 1 of the Convention

3. Article 1 of the Convention, which outlines its general scope and the areas to which it applies, provides as follows:
1. This Convention applies to women employed in industrial undertakings and in non-industrial and agricultural occupations, including women wage earners working at home.

2. For the purpose of this Convention, the term "industrial undertaking" comprises public and private undertakings and any branch thereof and includes particularly—

(a) mines, quarries, and other works for the extraction of minerals from the earth;
(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, or in the generation, transformation or transmission of electricity or motive power of any kind;
(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;
(d) undertakings engaged in the transport of passengers or goods by road, rail, sea, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports.

3. For the purpose of this Convention, the term "non-industrial occupations" includes all occupations which are carried on in or in connection with the following undertakings or services, whether public or private:

(a) commercial establishments;
(b) postal and telecommunication services;
(c) establishments and administrative services in which the persons employed are mainly engaged in clerical work;
(d) newspaper undertakings;
(e) hotels, boarding houses, restaurants, clubs, cafés and other refreshment houses;
(f) establishments for the treatment and care of the sick, infirm or destitute and of orphans;
(g) theatres and places of public entertainment;
(h) domestic work for wages in private households;
and any other non-industrial occupations to which the competent authority may decide to apply the provisions of the Convention.

4. For the purpose of this Convention, the term "agricultural occupations" includes all occupations carried on in agricultural undertakings, including plantations and large-scale industrialised agricultural undertakings.

5. In any case in which it is doubtful whether this Convention applies to an undertaking, branch of an undertaking or occupation, the question shall be determined by the competent authority after consultation with the representative organisations of employers and workers concerned where such exist.

6. National laws or regulations may exempt from the application of this Convention undertakings in which only members of the employer's family, as defined by national laws or regulations, are employed.

4. The Swedish Workers' Protection Act of 3 January 1959 (I.L.O. Legislative Series, 1949—Swe. 1) prohibits, in section 35, the employment of a woman during the first six weeks after confinement on work to which the first paragraph of section 24 applies (i.e. handicrafts, industry, construction, or work in a mine, quarry, gravel-pit or any other similar place of employment, in forestry, lumbering or charcoal burning, in passenger or goods transport, or in hotels, restaurants or cafés).

5. Under paragraphs 1 and 2 of Article 1, the Convention applies to women employed in "industrial undertakings", which comprise public and private undertakings, and "any branch thereof". The phrase "branch of an undertaking" is used in various other Conventions of the International Labour Organisation. For example, the Hours of Work (Industry) Convention, 1919, in Article 2, covers "persons employed in any public or private industrial undertaking or in any branch thereof". The explanatory report to that Convention states that these words "signify that the entire personnel of an industrial establishment shall come under the provisions of the text, whether they be employed in the manufacturing, packing or shipping department, the drafting and designing rooms or the office which has charge of correspon-
dence, etc. The industrial establishment with all its related and adjoining departments forms a whole, and its employees are entitled to the benefit of the law."  

6. There is no reason to believe that a different interpretation was intended to be given to the phrase "branch of an undertaking" in the Convention here under consideration. It would therefore seem that that Convention applies to women employed in industrial undertakings without distinction as to the nature of the work they perform in these undertakings.

7. Moreover, it should be pointed out that the Convention applies not only to all women employed in industrial undertakings without distinction but also to women employed in non-industrial and agricultural occupations, including women wage earners working at home.

8. Attention may, however, be drawn to the provisions of Article 7 of the Convention which allow certain exceptions as regards the scope of the Convention. Paragraph 1 of Article 7 provides:

1. Any Member of the International Labour Organisation which ratifies this Convention may, by a declaration accompanying its ratification, provide for exceptions from the application of the Convention in respect of—
   (a) certain categories of non-industrial occupations;
   (b) occupations carried on in agricultural undertakings, other than plantations;
   (c) domestic work for wages in private households;
   (d) women wage earners working at home;
   (e) undertakings engaged in the transport of passengers or goods by sea.

9. Does this Article, which permits exception from the application of the Convention in respect of "certain categories of non-industrial occupations", allow women employed in corresponding non-industrial occupations but within industrial undertakings to be likewise excluded from the scope of the Convention? It would appear that the answer is in the negative. Article 1 of the Convention draws a distinction between "industrial undertakings" and "non-industrial occupations". Industrial undertakings are expressly defined to comprise public and private undertakings "and any branch thereof" and no provision is made for exceptions thereto. It would appear, therefore, that the categories of "non-industrial occupations" for which exception may be made under Article 7 are limited to those "non-industrial occupations" defined in paragraph 3 of Article 1, and cannot be extended to cover any form of work in industrial undertakings as defined in the Convention.

Article 6 of the Convention

10. Article 6 of the Convention provides as follows:

While a woman is absent from work on maternity leave in accordance with the provisions of Article 3 of this Convention, it shall not be lawful for her employer to give her notice of dismissal during such absence, or to give her notice of dismissal at such a time that the notice would expire during such absence.

11. The Swedish Government states that "under a Swedish Act of 1945 a woman employee must not be dismissed on grounds of pregnancy or childbirth, provided she has worked with the same employer at least one year. The women who do not fulfil this condition... have no legal protection against dismissal."

12. Under the language of Article 6 the prohibition against dismissal is absolute and is not subject to any kind of condition. The Convention provides for maternity leave without making that right dependent upon length of service, and it expressly states that it shall not be lawful to give notice of dismissal during such leave.

Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)

By letter dated 31 December 1954 the Minister for Foreign Affairs of the Union of Burma requested from the International Labour Office certain information concerning the interpretation of the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65).

With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 7 May 1955, transmitted to the Minister for Foreign Affairs a memorandum prepared by the International Labour Office on this question.

The text of this document is as follows:

**Memorandum by the International Labour Office**

1. In a letter of 31 December 1954 the Foreign Office of the Union of Burma consulted the Director-General of the International Labour Office with regard to certain questions as follows:

   I am directed to say that in the light of the law and practice prevailing in the Union of Burma, the Government of the Union of Burma intend to ratify the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65) and in the course of examination of the said instrument the terms mentioned below are not conveniently comprehensible, and to request you kindly to furnish the Government of the Union with clear interpretation of these terms:

   (a) Dependent indigenous population of the home territory of a Member of the Organisation.

   (b) Penal sanctions as respectively contained in Articles 1 and 2 of the instrument.

2. Articles 1 and 2 of the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65) read as follows:

   **Article 1**

   1. This Convention applies to all contracts by which a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation, or belonging to or assimilated to the dependent indigenous population of the home territory of a Member of the Organisation, enters the service of any public authority, individual, company or association, whether non-indigenous or indigenous for remuneration in cash or in any other form whatsoever.

   2. For the purpose of this Convention the term "breach of contract" means—

      (a) any refusal or failure of the worker to commence or perform the service stipulated in the contract;

      (b) any neglect of duty or lack of diligence on the part of the worker;

      (c) the absence of the worker without permission or valid reason; and

      (d) the desertion of the worker.

   **Article 2**

   1. All penal sanctions for any breach of contract to which this Convention applies shall be abolished progressively and as soon as possible.

   2. All penal sanctions for any breach by a non-adult person whose apparent age is less than a minimum age to be prescribed by law or regulations shall be abolished immediately.

   3. The first question raised by the Burmese Government relates to the import which should be given to the phrase "dependent indigenous population of the home territory of a Member of the Organisation". This expression has not been determined more clearly either in the text of the Convention itself or in that of other Conventions in which the same terms are used. The terms in question were employed for the first time in the Recruiting of Indigenous Workers Convention, 1936 (No. 50), the final form of the expression having been framed by the Conference Committee (20th Session, 1936) which drew up the text of this Convention. However, the discussion which took place in this connection during the Conference did not bear on the exact meaning which should be given to the expression.1

   4. In 1939, in the course of the 25th Session of the Conference, the expression "indigenous population of a dependent territory of a Member of the Organisation" was again utilised.

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in the two Conventions which were adopted that year by the Conference: the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), with regard to which the Burmese Government has requested supplementary explanations, and the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64). The same Committee was instructed by the Conference to draw up the text of these two Conventions, and the explanatory report of the Committee supplies some explanation of the reasons which led it to adopt a general definition of the workers to which these Conventions are applicable. This report indicates that in the course of the Committee discussion on the draft Convention concerning contracts of employment (indigenous workers) no amendment was proposed to this definition but that the question was raised whether it was possible to specify exactly the States which should be included in the category of countries having a dependent population within their home territories. The report adds: "In reply, it was stated that it would not be possible to make an exhaustive enumeration of these States, as such an enumeration would involve a decision on the status of the indigenous populations which could not be made without fuller and more authoritative information than that at present available; it would be for the States ratifying the proposed Convention to decide, in the first instance, the extent to which the Convention would be applicable to indigenous populations in their territories." 1

5. Since the Committee adopted without any discussion the paragraph of the draft Convention concerning penal sanctions (indigenous workers) which contained the same phrase as the draft Convention concerning contracts of employment (indigenous workers) dealt with above, it was obviously the Committee's intention to attribute the same meaning to the expression in both cases. As the Conference itself, in plenary sitting, also adopted without any opposition the Articles containing this phrase, it may be concluded that it shared the opinion of its Committee on this point.

6. In these circumstances it would therefore appear that it lies largely with the States which have ratified the Penal Sanctions (Indigenous Workers) Convention, 1939, to ascertain in the first instance whether certain populations in their home territories should not be considered as falling in the category of "dependent indigenous populations" in the terms of the Convention. In taking such a decision, the States concerned should obviously take into consideration all the relevant elements, such as the extent to which these populations are in a position of dependency or tutelage, their legal status, or any other elements which might show that the populations in question can be considered as being in the special position to which the Convention refers. Any decision taken by the States concerned is, of course, subject to the procedure set up by the International Labour Organisation for the international examination of the annual reports which States Members are required to supply, in virtue of article 22 of the Constitution of the I.L.O., on the application of Conventions which they have ratified.

7. The second question raised by the Burmese Government concerns the meaning which should be given to the term "penal sanctions" contained in Article 2 of Convention No. 65. It appears both from the terms employed in the Convention and from the discussion which took place on this subject during the Conference that the term covers sanctions of a penal character which might be imposed on workers on the basis of the general penal legislation or of special provisions of a penal character—that is, sanctions such as fines or imprisonment but not sanctions of a purely civil nature (for example damages) which might be imposed in the case of breach of contract.

8. In addition, it may be pointed out that in 1950 the Committee of Experts on the Application of Conventions and Recommendations stated in its report with regard to the application of this Convention:

The Convention does not require the abolition of all penal sanctions, of whatever nature, imposed on indigenous workers; it does not cover sanctions imposed on persons responsible for breaking a common law; the only sanctions covered by the Convention are those for breaches of the contract of employment, strictly speaking. It follows, therefore, that the provisions applicable to persons who cause wilful damage or who neglect persons who are handicapped or in need or are guilty of fraud as regards advances of wages are not necessarily in contradiction with the terms of the Convention.2


Night Work (Women) Convention (Revised), 1948 (No. 89)

By letter dated 27 April 1955 the Chairman of the Yugoslav National Commission for the International Labour Organisation requested from the International Labour Office certain information concerning the interpretation of the Night Work (Women) Convention (Revised), 1948 (No. 89).

With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 11 August 1955, transmitted to the Chairman of the Yugoslav National Commission for the International Labour Organisation a memorandum prepared by the International Labour Office on this question.

The text of this document is as follows:

Memorandum by the International Labour Office

1. The Chairman of the Yugoslav National Commission for the International Labour Organisation has asked the Director-General of the International Labour Office for clarification of the scope of Article 8 (a) of the Night Work (Women) Convention (Revised), 1948 (No. 89), which reads as follows:

   This Convention does not apply to—
   (a) women holding responsible positions of a managerial or technical character;

2. The purpose of the request by the Chairman of the Yugoslav National Commission for the International Labour Organisation is to determine the categories of workers covered by Article 8 (a) and, in particular, to clarify whether the provision applies only to "women engineers" or whether, on the contrary, it makes it possible to exclude from the scope of the Convention women who "are not engineers but who have a supervisory or similar function" in the production process, without, however, working "directly on a particular machine."

3. Article 8 of the Night Work (Women) Convention (Revised), 1948, is one of the provisions which was revised by the Conference at its 31st Session (1948). In the Night Work (Women) Convention (Revised), 1934 (No. 41), Article 8 read as follows:

   This Convention does not apply to women holding responsible positions of management who are not ordinarily engaged in manual work.

4. A comparison of the wording of Article 8 in Convention No. 41 of 1934 and of Article 8 in Convention No. 89 of 1948 makes it clear that the 1948 Convention does not apply—
   (a) to women holding managerial positions involving responsibility; and
   (b) to women holding technical positions involving responsibility.

5. Whether the women in question perform manual or non-manual work is not an operative condition in either case. As regards managerial positions, the 1948 Convention eliminated that condition, since the words "who are not ordinarily engaged in manual work" were dropped from the revised text of the Convention. As regards the technical positions, it would seem to be clear that they for the most part involve a certain amount of manual work, and that is no doubt the reason why the Conference did not make such a condition applicable to this class of job.

6. It should, however, be emphasised that in both categories, i.e. positions of both a managerial and a technical character, the provision of Article 8 (a) of the Convention revised in 1948 is only applicable if such posts involve responsibility.

7. The categories of women workers to which the request by the Chairman of the Yugoslav National Commission for the International Labour Organisation applies might, according to circumstance, be regarded as holding either managerial or technical positions. It will therefore be necessary to decide on the meaning to be given to each of these terms, and in this respect the preparatory work may throw some light on the matter.
A.

8. The provision relating to women "holding responsible positions of management" was introduced into the Convention revised in 1934 in the light of an Advisory Opinion by the Permanent Court of International Justice. The Opinion of the Court given on 15 November 1932 specified that no limitation of the scope of the Night Work (Women) Convention, 1919, could be held to follow from the sphere of activity of the International Labour Organisation and that the wording of that Convention did not permit its application to be restricted to women performing manual work.1

9. The report prepared by the Office as a basis for discussion by the Conference stated "the question as it appears on the agenda of the Conference relates only to the exclusion from the scope of the Convention of women holding positions of management. If this revision were approved the Convention would still apply to women holding positions of supervision".2

10. The report of the Committee set up by the Conference at its 18th Session to draft a partially revised text of the Night Work (Women) Convention, 1919 (No. 4) shows that during the Committee's proceedings an amendment was proposed, the purpose of which was to extend the exception provided for in Article 8 of the Convention to "responsible positions of supervision" and to "persons employed in a confidential capacity". The report shows that this amendment, which was rejected by the Committee, was opposed not only by Workers' and Employers' members but also by the representatives of certain governments, who felt that its adoption would result in an undue extension of the range of the exceptions.3

11. A more general examination of the various provisions in international labour Conventions with regard to the exclusion from their scope of workers holding more or less responsible positions in undertakings shows that neither the provisions of Article 8 of the Night Work (Women) Convention (Revised), 1948 (No. 89), nor similar provisions in other Conventions permit the exemption of persons holding positions of supervision.4

B.

12. With regard to women "holding responsible positions of a technical character", it may be recalled that the revision of Article 8 of the 1934 Convention relating to this point was placed on the agenda of the Conference as a result of suggestions by the United States and Swiss Governments. The United States Government proposed that the scope of the exception in Article 8 of the 1934 Convention should be extended to apply to "individual women workers where they meet certain tests of training and possess the necessary qualifications".5 The United States Government further considered that such an exception must be carefully drawn, "and its limitations defined within clearly recognisable limits, so that only such women workers as meet the special qualifications are brought within its terms".5 The Swiss Government proposed the insertion in the Convention of an exception "for women holding a superior position of management or of important responsibility in an undertaking".6

13. This point was included by the Governing Body of the International Labour Office among those for possible revision in the 1934 Convention, and the report prepared by the Office as a basis for discussion by the Conference contained a draft amendment which was adopted without change by the Conference and which constitutes the present text of Article 8 (a) of the Night Work (Women) Convention (Revised), 1948 (No. 89). In suggesting this amendment, the Office report said "in view of the recent developments of women's employment, in particular their access to higher posts of a technical character... it may seem desirable to extend the scope of the exception provided for in Article 8 and to include these categories of women workers within its terms".6

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3 Ibid., Record of Proceedings, pp. 651-652.
6 Ibid., p. 32.
14. The report of the 1948 Conference Committee on the Revision of the Night Work (Women) Conventions shows that there was an amendment before the Committee to exclude from the application of the Convention "women engaged in work of a scientific, technical or related nature, the performance of which requires specialised knowledge and the exercise of discretion and independent judgment, such as a chemist, bio-chemist, biologist, statistician or other work of a scientific, technical or similar specialised nature". The proposer of this amendment, however, taking into account the discussions which had taken place in the Committee, asked for permission to withdraw it. It may be assumed that the withdrawal of the amendment was due to the fact that the classes of workers to which it referred are covered by the general description "women holding responsible positions of a... technical character" employed in the Convention.

15. It therefore follows that the Night Work (Women) Convention (Revised), 1948 (No. 89) does not apply to—

(a) women holding responsible positions of a managerial character (although it does apply to women holding "positions of supervision" and "women employed in a confidential capacity");

(b) to women holding responsible positions of a technical character (although it would appear that in respect of this category of women workers the Conference wished the wording of the Convention to be left fairly flexible).

16. It is therefore for States Members which have ratified the Convention to determine in detail, having regard to the above information, which categories of workers may be excluded from the application of national legislation giving effect to the Convention, subject to the procedure set up by the International Labour Organisation for the scrutiny of the annual reports which States Members are required to furnish under article 22 of the Constitution of the International Labour Organisation on the application of Conventions which they have ratified.

Protection of Wages Convention, 1949 (No. 95)

By letter dated 12 October 1955 the Minister for Social Administration of Austria requested from the International Labour Office certain information concerning the interpretation of the Protection of Wages Convention, 1949 (No. 95). With the usual reservation that the Constitution does not give him any special authority to interpret Conventions adopted by the International Labour Conference, the Director-General of the International Labour Office, by letter dated 10 December 1955, transmitted to the Minister for Social Administration of Austria a memorandum prepared by the International Labour Office on this question.

The text of this document is as follows:

Memorandum by the International Labour Office

1. By letter dated 12 October 1955, the Minister for Social Administration of Austria asked the Director-General of the International Labour Office for information concerning the meaning of Article 11, paragraph 2, of the Protection of Wages Convention, 1949 (No. 95) which provides as follows:

Wages constituting a privileged debt shall be paid in full before ordinary creditors may establish any claim to a share of the assets.

2. In his letter the Minister for Social Administration of Austria states—

In connection with the modification of the Austrian law concerning bankruptcy and composition, the question of the adaptation of these provisions to the Protection of Wages Convention (No. 95), which has been ratified by Austria, was examined. Already in its existing form the law concerning bankruptcy and composition provided for the payment of privileged debts by categories. It was found, however, that the question of the payment

of privileged debts would have to be re-examined together with the provisions of Article 11, paragraph 2, of the Convention. In this connection, difficulties arose as a result of the fact that the original text of the Convention contains the term "recevoir", while this was replaced in the final text by the term "revendiquer". The Federal Ministry for Social Administration would be grateful if it could be informed of the reasons for this change in the text and the legal consequences flowing therefrom.

3. It is perfectly true that the French version of the text of Article 11, paragraph 2, of the Convention originally contained the word "recevoir". However, in the text submitted to the Conference for the second discussion, the term "recevoir" had been replaced by the term "revendiquer".

4. As noted above, the English version of the text, which according to Article 27 of the Convention is equally authoritative, is drafted as follows:

Wages constituting a privileged debt shall be paid in full before ordinary creditors may establish any claim to a share of the assets.

An examination of the preparatory work shows that the English text of that Article was not changed at any time, and that the words "establish any claim", which correspond to the French term "revendiquer", which was finally adopted by the Conference at its 32nd Session, already figured in the text presented to the Conference for the first discussion. It can be concluded therefore that the Conference considered the drafting of the provision in English to be completely satisfactory.

5. Neither the reports submitted to the Conference nor the minutes of the Conference Committee concerned contain any indication as to the reasons for which the term "recevoir", which appeared in the original French text, was replaced by the term "revendiquer" which appears in the text adopted by the Conference. Accordingly, it may perhaps be presumed that the purpose of that change was merely to bring the French text into closer conformity with the English text of the Convention. It would appear that that change should not have any "legal consequence"; it merely shows that the English version of the text corresponds more closely to the intention of the authors of the Convention.

6. Since it appears from the letter of the Federal Minister for Social Administration of Austria that this question has been raised in connection with the modification of the Austrian law concerning bankruptcy and composition, it may be useful to point out that the Office has already given some information concerning the meaning of Article 11, paragraph 2, of the Protection of Wages Convention, as a result of a request for information from the Government of the Federal Republic of Germany in a letter dated 1 December 1953.

7. This information is given in paragraphs 25 and 26 of the memorandum prepared by the International Labour Office on that occasion. These paragraphs are as follows:

25. Neither the text of Article 11 nor the preparatory work suggests that it was the intention of the authors of the Convention to lay down a special procedure for the establishment of claims in bankruptcy proceedings in which there are wage claims on existing assets. It would be for national law to determine what formal steps are necessary for the establishment of claims, the period during which such claims must be put forward and the legal proof necessary for their establishment. On the other hand, the provisions of the Convention concerning the priority of payment of established claims are categorical: wage claims, in so far as they constitute a privileged debt in conformity with paragraph I of Article 11, must be paid in full before ordinary creditors can be paid even in part.

26. It might be maintained, however, that the requirements of the Convention in this respect are satisfied if sufficient assets for the full payment of wage claims are set aside pending legal proof of such claims, and even though claims of ordinary creditors are established or even paid before the actual payment of the wage claims.

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Relations with Other International Organisations

Decisions taken in this respect by the Conference and by the Governing Body are recorded in the Official Bulletin in the issues devoted to Conference decisions and in the notes on sessions of the Governing Body.

A summary of discussions in the Governing Body on such questions will be found in the minutes of the Governing Body; the text or an analysis of the principal documents on which the decisions of the Governing Body are based will be found in the appendices to the minutes (more particularly in the appendices concerning relations of the International Labour Organisation with other international bodies).

With a very few exceptions the texts mentioned above are not reproduced here. The purpose of the present section is to provide a record of the more important aspects of the development of relations between the International Labour Organisation and other international organisations; it contains the texts of the more important communications exchanged between the International Labour Organisation and other international organisations in connection with relations established between them.

United Nations

1. International Co-operation on the Peaceful Uses of Atomic Energy

In pursuance of the resolution concerning international co-operation on the peaceful uses of atomic energy, adopted by the General Assembly of the United Nations at its Ninth Session (September-December 1954)\(^1\), the following memorandum was communicated on 14 January 1955 by the Director-General of the International Labour Office to the Secretary-General of the United Nations:

Memorandum on the Interest of the International Labour Organisation in the Peaceful Uses of Atomic Energy

The development of the peaceful uses of atomic energy is likely to give rise to a number of problems with which the Organisation must be prepared in advance to deal by bringing them to the attention of all concerned, suggesting measures for meeting them and, where necessary, proposing international action. These can be considered under such heads as:

1. Conditions of employment of workers.
2. The provision of adequate protection for the life and health of workers.
3. Social security protection.
4. Problems arising out of technological advances.

1. Conditions of Employment

The tapping of such a formidable source of energy will undoubtedly produce far-reaching economic changes which will affect the working and social conditions of large numbers of workers. It is difficult to foresee how soon nuclear energy will be widely used as a commercial source of electric power or when its influence on conditions of employment will make itself strongly felt. Already, however, it is clear that these developments are expected to occur sooner than was generally anticipated some five years ago. Hence the need for the I.L.O. to follow developments closely from the outset. Some of the changes which are likely to occur are the following:

\(^1\) Resolution 810 (IX) of the General Assembly of the United Nations.
(a) Some existing industries are likely to disappear involving loss of employment for the workers concerned. Precautions must be taken in advance so that the resulting readjustments take place with a minimum of social dislocation and hardship to individuals.

(b) New industries will spring up, both to manufacture equipment for atomic energy installations and to work up the by-products of atomic energy production for industrial, scientific, medical and other uses. This may provide employment for some at least of the workers displaced elsewhere, but special vocational training will no doubt be required.

(c) Industries will be established in areas where none exist at present because of the absence or prohibitive cost of traditional fuels for providing electric energy. This will involve considerable migrations of workers, and here again care must be taken to reduce to a minimum the dislocation and hardship which may ensue.

(d) The atomic energy industry itself is likely to raise extensive problems of training. Although a large proportion of the staff required will be scientists and skilled engineers, there will also be other grades of workers for whom special training will be required. This could appropriately be promoted by the I.L.O., which might in certain cases assist in the organisation of training schemes. There may also be special problems of industrial relations in the industry which would be of concern to the I.L.O.

These are merely some examples of problems likely to arise out of the peaceful uses of atomic energy in which the I.L.O. is vitally interested.

As regards the subject matter of the proposed Conference, the I.L.O. has an interest in any discussions on the economic aspects of the development of atomic power, since it is these economic aspects which will determine the social repercussions.

2. Health and Safety

In this field the I.L.O. is in a position to make an immediate contribution to international progress. The atomic energy industry is so far widely believed to be safer than other comparable branches of industry, partly because it is still in the experimental stage and is progressing cautiously under government auspices, and partly because accident rates are in any case normally lower in particularly dangerous industries where the risks are so grave and widely known that special precautions are enforced and readily accepted. But the situation may well change as plants are established in areas with little industrial experience or undeveloped inspection services. Competition to reduce the cost of power from nuclear energy may also tend to lower the margin of safety hitherto observed in such plants. The I.L.O. must therefore be in a position to advise on the dangers involved and the safety measures to be taken. For this it is fully qualified by its past experience. The safety and health hazards in the atomic energy industry are in the main the same as in chemical and metal factories, and these have been studied by the Office since its early days. The one unusual hazard is radiation—a subject already dealt with by the Office since the war. Since then, study of this particular menace to health has continued. In February 1949 a Committee of Experts on Dangerous Radiations met in Geneva and discussed the risks involved and the precautions to be taken. Its conclusions form Chapter XI (Dangerous Radiations) of the Model Code of Safety Regulations for Industrial Establishments for the Guidance of Governments and Industry, published by the I.L.O. in 1949. New developments in this field are regularly dealt with in the Office publication Occupational Safety and Health.

It may be noted that the resolution of the General Assembly on the peaceful uses of atomic energy suggests as one of the technical items to be dealt with at the proposed Conference the subject of "radiation protection". While this is a wide subject, including the protection of the public against radiation from the waste products of atomic plants, it also covers the very important problem of the protection of the workers in such plants, and this latter aspect falls fully within the purview of the I.L.O.

3. Social Security

In view of the potential risks, it is important that all workers employed in atomic energy plants should be adequately protected by insurance or workers' compensation provisions. This will be particularly important as atomic plants are established in the less developed countries, where the legislation in these fields may at present be inadequate. In this sphere also, therefore, the I.L.O. will have a contribution to make. In may be noted that the Workmen's Compensation (Occupational Diseases) Convention (Revised), which was adopted by the International Labour Conference in 1934, includes among the diseases to be considered as of occupational origin "pathological manifestations due to radium and other radioactive substances". A panel of experts from the Correspondence Committee on Occupational Safety
and Health, meeting in Geneva in November and December 1954, recommended as one of
the items to be included in an International List of Notifiable Occupational Diseases "ionising
radiations, such as X-rays and radiations from radium or other natural or artificial radioactive
substances".

4. Problems Arising Out of Technological Advances

The use of atomic energy is of course only one of many forms of technological progress
which are constantly developing. Technological advance, however, always raises certain prob-
lems of general social policy, including changes in skill requirements, adjustment of the
individual worker to new techniques and the distribution of the product of industry. Claims
will inevitably be made that the workers should obtain, in the form of increased earnings,
shorter hours, greater leisure and improved working and living conditions in general, a reason-
able share of the benefits resulting from this as from other technological advances. It is
important that these matters should be dealt with through regular procedures, and the I.L.O.
may well be able to render some useful service in this direction.

2. International Conference on the Peaceful Uses of Atomic Energy

In connection with the First International Conference on the Peaceful Uses of
Atomic Energy (August 1955) the I.L.O. communicated to the United Nations,
and presented orally at the Conference itself, a paper entitled "The Protection of
Workers against Ionising Radiations".1

Food and Agriculture Organisation of the
United Nations

Understanding Supplementary to the Agreement between the
International Labour Organisation and the Food and Agriculture Organisation

The Directors-General of the I.L.O. and the F.A.O., in application of
Article 8 of the Agreement between the two Organisations, which provides that
they may enter such supplementary arrangements as may be found desirable
in the light of experience, drew up a supplementary understanding on 28 April
1955. The exchange of correspondence which took place in this connection and
the text of the understanding are given below.

Letter from the Director-General of the International Labour Office
to the Director-General of the Food and Agriculture Organisation


Dear Dr. Cardon,

I am glad to confirm that the attached Understanding Supplementary to the Agreement
between the International Labour Organisation and the Food and Agriculture Organisation
of the United Nations is fully acceptable to me and that I am giving the instructions necessary
to ensure that I.L.O. operations are conducted in accordance with its terms to all headquarters
and field officers concerned.

I warmly welcome this further step towards the effective co-ordination of the activities of
our respective organisations.

Sincerely,

(Signed) David A. Morse,
Director-General.

1 This paper has appeared in printed form as a separate pamphlet and in a double number of the
Letter from the Director-General of the Food and Agriculture Organisation to the Director-General of the International Labour Office

Geneva 1, 28 April 1955.

Dear Mr. Morse,

Thank you for your letter of to-day's date. I also am glad to confirm that the attached Understanding Supplementary to the Agreement between the International Labour Organisation and the Food and Agriculture Organisation of the United Nations is fully acceptable to me and that I am giving the instructions necessary to ensure that F.A.O. operations are conducted in accordance with its terms to all headquarters and field officers concerned.

I join with you in welcoming warmly this further step towards the effective co-ordination of the activities of our respective organisations.

Sincerely,

(Signed) P. V. CARDON,
Director-General.

Letter from the Director-General of the International Labour Office to the Director-General of the Food and Agriculture Organisation

(Translation)


Sir,

I have the honour to inform you that the Governing Body of the I.L.O. had before it at its 129th Session (Geneva, May 1955), the Understanding Supplementary to the Agreement between the International Labour Organisation and the Food and Agriculture Organisation and duly noted this Understanding and its two annexes.

I have the honour to be, etc.,

(Signed) David A. MORSE,
Director-General.

Understanding Supplementary to the Agreement between the International Labour Organisation and the Food and Agriculture Organisation

It is provided by article 8 of the Agreement between the International Labour Organisation and the Food and Agriculture Organisation, which came into force on 11 September 1947, that the Directors-General of the two Organisations may enter into such supplementary arrangements as may be found desirable in the light of experience. As an example of one such arrangement, the Memorandum of Understanding in May 1951 on the subject of migration for land settlement may be cited.

In the interest of further clarification, and in order to avoid overlapping, it is thought desirable to put on record the following outline of respective responsibilities in the fields of vocational training in agriculture, migration for land settlement, co-operatives and rural industries, and of consultations which have taken place concerning the immediate programme of the I.L.O. in respect of social policy in agriculture.

It is recognised that the I.L.O. by its Constitution has special responsibilities in connection with the adoption of Conventions and Recommendations concerning social legislation and policy. In discharging one part of this responsibility it endeavours to obtain recognition of the general importance of agricultural vocational training, with the object of establishing standards but not to the extent of dealing with the technical content of particular forms of agricultural training. It is agreed that the consultations concerning the proposed Recommendation on this subject which have been initiated by the I.L.O. will be continued at each successive stage of the procedure and similar consultations will take place concerning any action of the same type which may be proposed in future. The responsibility of F.A.O. in this field includes the development of regional programmes of inter-country co-operation designed to assist member Governments in improving training institutions, facilities and services, and extends to meeting requests from governments for vocational training, particularly in all agricultural techniques, including food processing, fishing, forestry, nutritional problems and economic and statistical studies.

1 The Director-General of F.A.O. was attending a meeting in Geneva at that time.
With regard to migration for land settlement the Memorandum of Understanding which was confirmed in May 1951 remains the key to effective co-ordination.

Where co-operatives are concerned both Organisations have responsibility for administrative, educational, legislative and structural aspects. Although the I.L.O. is interested in all types of co-operatives, including agricultural societies, it is recognised that F.A.O.'s primary interest is in agricultural co-operatives. Annex I gives in detail the guiding lines for collaboration in this field.

In regard to rural industries both Organisations are necessarily concerned with the general issues of policy involved, but for immediate technical assistance purposes the broad division of responsibility is that the I.L.O. is interested in cottage industries and handicrafts, while F.A.O.'s interest is in industries for processing agricultural products and for the manufacture of agricultural requisites. Subject to further joint consultation on the subject with the United Nations, this part of the agreement is to be interpreted in the light of the specimen list which forms Annex II to this Memorandum.

The two Organisations will continue the successful collaboration which they have already established in association with the United Nations and other specialised agencies in respect of agrarian reforms and community organisation and development, and in such matters as vocational training of forestry workers. They are agreed that, when arranging conferences or technical meetings concerned with the improvement of conditions among rural populations and covering topics which are the concern of both Organisations, the possibility of joint action should be considered.

In general, it is agreed that it is very important to have regular consultations and exchanges of information regarding the two Organisations' respective programmes of work in these fields. The aim will be to have frequent consultations between the technical officers concerned in regard to specific projects and activities of joint interest, and periodical meetings between senior officers as often as may be necessary to discuss general questions at the policy level.

In accordance with this principle consultations have taken place concerning the immediate programme of the I.L.O. in respect of social policy in agriculture. Due note has been taken that consideration may be given by the Governing Body of the I.L.O. and the International Labour Conference to the adoption of further Conventions or Recommendations embodying international standards in respect of the regulation of the employment of children and young persons in agriculture, placement problems and employment services in agriculture, and the extension of social security to agriculture. It is agreed that these are essentially matters for the I.L.O. Note has also been taken that fuller consideration may be given by the I.L.O. to the question of the prevention of occupational accidents and diseases in agriculture; it has been agreed that this is also a question which should be further pursued by the I.L.O. but in regard to which F.A.O. may be in a position to make a major technical contribution of which the I.L.O. would wish to take full advantage.

APPENDIX I

Note on I.L.O.-F.A.O. Responsibilities on Co-operatives

1. It is recognised that in the whole field of co-operatives the closest collaboration between I.L.O. and F.A.O. must be established and maintained.

2. The I.L.O.'s concern with co-operatives derives from its international responsibilities in improving labour conditions, raising living standards and promoting standards of economic and social justice. The F.A.O.'s concern arises from its primary responsibility for securing improvements in the efficiency of the production of all food and agricultural products and for bettering the conditions of rural people. Each organisation has a technical contribution to make in developing co-operatives along the most constructive lines from the standpoint of world economic and social development.

3. It is also recognised that a number of other international organisations are likewise concerned with various aspects of co-operatives and that their collaboration on matters within their competence is equally essential to successful planning and execution of co-operative projects. The purpose of this note, however, is to indicate primary areas of concern to and methods of collaboration between the two Organisations carrying major responsibility in the field of co-operatives: F.A.O. and I.L.O.

4. Exchange of Information on Programmes.

To ensure close collaboration and avoid duplication and waste of efforts it is essential that there should be free and frequent exchange of information between the two Organisations.
To this end it is agreed that at the earliest possible date, when programmes of work or plans for future activities are being prepared, each Organisation should provide the other with details of the proposed programmes and projects, including plans for publications, surveys, studies, conferences, seminars, training centres and technical meetings. When it is found that both Organisations are planning similar projects there will be full consultation as to which Organisation should carry out the project or whether it should be undertaken jointly.

5. General Programme.

(a) By reason of its terms of reference the F.A.O. is necessarily interested in agricultural co-operatives and their development throughout the world. The I.L.O recognises the essential interest of the F.A.O. in this field, while continuing to give attention to agricultural co-operatives in relation to its own programme of work. The two Organisations will endeavour, by constant collaboration, to develop joint or complementary action wherever possible.

(b) The I.L.O. will continue to deal with organisational, legislative, administrative and educational aspects of all types of co-operative, and the F.A.O. will also participate in these matters in so far as they relate to projects in its own programme for agricultural co-operation.


(a) In view of the necessity for ensuring some degree of flexibility in determining the respective activities of the two Organisations in projects under the Expanded Programme of Technical Assistance, it is agreed that, in assuming commitments for Technical Assistance projects, the two Organisations should primarily be governed by their respective approaches to general programme work on co-operatives.

(b) Where a project appears to be equally relevant to I.L.O. and F.A.O. interests, the possibility of joint action shall be explored.

(c) Where either of the Organisations may be preparing or implementing in a given country a project or series of projects related to the co-operative project proposed, the possibility of associating the new project with an existing project shall be given special consideration.

(d) Where more than one expert is required consideration shall be given to the possibility of appointing a joint team.

(e) In all cases, there shall be consultation with a view to agreement on a concerted line of action before either agency enters into definite commitments.

7. Conferences or Technical Meetings.

The following considerations will be taken into account by both Organisations when arranging conferences or technical meetings:

(i) If, after consultations, it is deemed desirable that the meeting or conference should be arranged by one Organisation, that Organisation will invite the other to attend.

(ii) If the meeting or conference is to cover topics which are the concern of both Organisations the possibility of a joint meeting or conference will be considered.

(iii) If the meeting or conference is held or sponsored by one Organisation the other Organisation will as soon as possible be informed of the resolutions passed and, where necessary, consultations will be initiated on any proposed action to be taken thereon.

8. Publications.

(a) Each Organisation will inform the other of studies and papers on co-operatives subjects which it proposes to prepare and publish.

(b) Where the subject matter of the publication relates to aspects of co-operation which lie within the fields of interests of both Organisations, the possibility of a joint publication will be considered.

(c) Each Organisation will put at the disposal of the other all possible information relevant to publications.


Each Organisation will inform the other of proposed visits by co-operatives officers abroad. Where visits are contemplated to the same country by officers of the two Organisations,
arrangements will be made, if possible, for the visits of officers of the two Organisations to coincide so that local consultation may be arranged.

10. In order to ensure the closest possible co-operation between the two Organisations, particularly in field activities, frequent meetings between the principal technical officers concerned shall be held.

APPENDIX II

Division of Rural Industries

I.L.O.                                   F.A.O.

Cottage industries and handicrafts

Bookbinding
Ceramics (bricks, tiles, pottery, china)
Carpentry and joinery
Carving (wood, ivory, etc.)
Lacework and embroidery
Lapidary work
Mats and carpets
Metal work
Sports requisites
Stone cutting
Upholstery
Wicker work

Processing of agricultural products, e.g.
dates, hides and skins (including curing, tanning), rice, rubber, sago, sugar,
tapioca, vegetable oils and fibres.

Manufacture of agricultural implements
and requisites.

Note. In borderline cases, such as spinning and weaving, all projects will be the subject of consultation. If a project in this field comes out of another already undertaken by one Organisation, then the same Organisation would have responsibility notwithstanding the above list, e.g. an F.A.O. tanning expert might undertake certain other forms of leather work.

Organisation for European Economic Co-operation

Conclusions concerning the Relations between the International Labour Organisation and the Organisation for European Economic Co-operation

On 8 November 1955 the Director-General of the I.L.O. and the Secretary-General of the O.E.E.C. agreed on the text of conclusions concerning relations between their respective organisations. The exchange of correspondence which took place in this connection and the text of the conclusions are reproduced below.

Letter from the Director-General of the International Labour Office to the Secretary-General of the Organisation for European Economic Co-operation

Geneva, 8 November 1955.

Dear Mr. Sergent,

I am glad to confirm that the attached document contains the Conclusions reached at the recent consultations between myself, Mr. Colonna and certain members of our staffs regarding the development of the relations between the International Labour Office and the Secretariat of the O.E.E.C.

I warmly welcome this further step towards the strengthening of co-operation between our respective Organisations.

1 The arrangements provided for in these conclusions were approved by the Council of the O.E.E.C. on 13 January 1956 and by the Governing Body of the I.L.O. at its 131st Session (Geneva, March 1956).
I will keep you informed of the action taken by the Governing Body of the International Labour Office concerning the question of attendance of O.E.E.C. observers at meetings of the International Labour Organisation dealing with issues of common concern mentioned in paragraph 3 (e) of the Conclusions. Would you be good enough to let me know in due course of the action of your Council with regard to the question of attendance of I.L.O. observers at meetings of your Organisation.

Sincerely,

(Signed) David A. Morse,
Director-General.

Letter from the Secretary-General of the Organisation for European Economic Co-operation to the Director-General of the International Labour Office

Paris, 8 November 1955.

Dear Mr. Morse,

I am glad to confirm that the attached paper contains the Conclusions reached at the recent consultations between you, Mr. Colonna and certain members of our staff regarding the development of the relations between the International Labour Office and the Secretariat of the O.E.E.C.

I trust that the measures that are envisaged will further strengthen the co-operation between our Organisations.

I should be very grateful if you would keep me informed of the action taken by the Governing Body of the International Labour Office concerning the question of attendance of O.E.E.C. observers at meetings of the International Labour Organisation dealing with issues of common concern mentioned in paragraph 3 (e) of the Conclusions. For my part, I shall not fail to inform you of the action taken by the Council of my Organisation with regard to the attendance of I.L.O. observers at the meetings of the Organisation.

Yours sincerely,

(Signed) René Sergent,
Secretary-General.

Text of the Conclusions of the Consultations between the Director-General of the I.L.O. and the Secretary-General of the O.E.E.C. concerning Relations between Their Respective Organisations

(Geneva, June 1955)

1. In the course of an exchange of views which took place on 27 June 1955, and was completed in September of that year, between the Director-General of the I.L.O. and Mr. G. Colonna, Deputy Secretary-General of the O.E.E.C., and members of their staffs, concerning the development of relations between their respective Organisations, note was taken of the positive results achieved hitherto through mutual consultation and collaboration on matters of common concern, especially as regards manpower problems.

2. It was recognised that, in order to avoid duplication, overlapping and confusion, the field of mutual consultation should be widened in future and, in addition to activities of the two Organisations relating to manpower problems, should cover also other activities of common concern such as those relating to problems of productivity and, in particular, human relations in industry, as well as to problems concerning the possible incidence of disparities in the social policies of European countries on further progress in co-operation in the field of trade and payments.

Where appropriate, such consultations should lead to the formulation of proposals concerning the collaboration between the two Organisations on a specific problem.

3. To give effect to these Conclusions the Director-General of the International Labour Office and the Secretary-General of the O.E.E.C. have agreed as follows:

(a) The existing liaison arrangements between the International Labour Office and the Secretariat of the O.E.E.C. should be maintained and, where appropriate, improved.
(b) The International Labour Office and the Secretariat of the O.E.E.C. should continue to keep each other informed—by the transmission of documents or otherwise—of developments in the work of their Organisations which are of common interest. Safeguards should be provided to preserve the confidential character of restricted documents.

(c) Mutual consultation between the International Labour Office and the Secretariat of the O.E.E.C. should aim at the elaboration of the best forms of co-ordination with regard to the handling of matters of common interest. The International Labour Office will give prompt and sympathetic consideration to any request on behalf of the Secretary-General of the O.E.E.C. to undertake or participate in a Project of the European Productivity Agency.

(d) At least once a year members of the International Labour Office and the Secretariat of the O.E.E.C., from services concerned with matters of common interest to the two Organisations as well as with the liaison between them, should meet in Geneva or Paris and jointly proceed to a general review of the current activities and programmes of the two Organisations in relation to matters of common concern.

(e) The Director-General of the International Labour Office and the Secretary-General of the O.E.E.C. should request authority from the Governing Body and the Council, respectively, to invite observers to attend meetings of their Organisations whenever issues of common concern are on the agenda. The observers should have the right, with the permission of the Chairman of the meeting, to take part, without vote, in the discussion.

Letter from the Director-General of the International Labour Office to the Secretary-General of the Organisation for European Economic Co-operation


Sir,

I have the honour to acknowledge with thanks the receipt of your letter (RS-227) of 8 November 1955, confirming that you agree with the Conclusions on the consultations that took place recently between the Secretariats of our two Organisations.

Your letter arrived after the meeting of the competent committee of the Governing Body and it therefore has not been possible to submit to the Governing Body, at its present session, the question of inviting observers from the O.E.E.C. to attend meetings on matters of common concern. You may rest assured, however, that I shall not fail to submit this question to the Governing Body at its next session and to inform you of the Governing Body’s decision in this connection.

I have the honour to be, etc.,

(Signed) David A. Morse,
Director-General.
ADDENDUM TO OFFICIAL BULLETIN,
VOL. XXXVII, No. 7, 31 DECEMBER 1954

Add the following text to the section entitled: “Official Action on the Decisions of the International Labour Conference”, under “Ratifications, Cancellation of Registration of Ratification and Denunciation of International Labour Conventions, and Declarations concerning the Application of Conventions to Non-Metropolitan Territories”.

DENMARK

Declarations concerning the Application to Non-Metropolitan Territories of the Unemployment Convention, 1919 (No. 2), Minimum Age (Industry) Convention, 1919 (No. 5), Night Work of Young Persons (Industry) Convention, 1919 (No. 6), Minimum Age (Sea) Convention, 1920 (No. 7), Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), Placing of Seamen Convention, 1920 (No. 9), Right of Association (Agriculture) Convention, 1921 (No. 11), Workmen’s Compensation (Agriculture) Convention, 1921 (No. 12), Weekly Rest (Industry) Convention, 1921 (No. 14), Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16), Workmen’s Compensation (Occupational Diseases) Convention, 1925 (No. 18), Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), Forced Labour Convention, 1930 (No. 29), Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), Holidays with Pay Convention, 1936 (No. 52), Officers’ Competency Certificates Convention, 1936 (No. 53), Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), and Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

By letter dated 28 May 1954 the Permanent Under-Secretary of State to the Ministry of Social Affairs communicated to the Director-General of the International Labour Office declarations concerning the application to Greenland of the above-mentioned Conventions.

These declarations were registered by the Director-General on 31 May 1954.

The text of the communication of the Permanent Under-Secretary of State to the Ministry of Social Affairs is as follows:

Copenhagen, 28 May 1954.

Sir,

Conventions Nos. 11 (Right of Association (Agriculture)), 29 (Forced Labour) and 87 (Freedom of Association) are applicable to Greenland.

Convention No. 2 on Unemployment is at present inapplicable to Greenland, no employment offices nor unemployment statistics existing in that territory. For the years to come the number of unemployed is not likely to reach such figures as to require the introduction of regulations governing these problems.

Convention No. 5 on Minimum Age (Industry) is applicable, the provisions of the Convention relating to the Minimum Age being observed. However, no regulations exist concerning the obligation of the employer to report cases of employment of persons below the age of 16 years.
Convention No. 6 on Night Work (Young Persons) is applicable.

Convention No. 7 on Minimum Age (Sea): the above observations on the application of Convention No. 5 on Minimum Age (Industry) hold true also as far as this Convention is concerned.

Convention No. 8 on Unemployment Indemnity (Shipwreck) is inapplicable, no regulations existing at present governing the question concerned.

Convention No. 9 on Placing of Seamen is inapplicable as no regulations exist relating to this subject.

Convention No. 12 on Workmen's Compensation (Agriculture) is inapplicable as no regulations exist as yet relating to employment injury insurance.

Convention No. 14 on Weekly Rest (Industry) is applicable without modifications.

Convention No. 15 on Minimum Age (Trimmers and Stokers) is applicable without modifications.

Convention No. 16 on Medical Examination of Young Persons (Sea) is applicable without modifications.

Convention No. 18 on Workmen's Compensation (Occupational Diseases) is inapplicable, as no regulations exist as yet relating to compensation for occupational diseases.

Convention No. 19 on Equality of Treatment (Accident Compensation) is applicable.

Convention No. 42 on Workmen's Compensation (Occupational Diseases) is inapplicable; see above the remarks on Convention No. 18.

Convention No. 52 on Holidays with Pay is inapplicable as no regulations exist relating to holidays with pay covering workers and employees engaged by private employers. As concerns persons sent out from Denmark to employment in Greenland, the persons in question are entitled to holidays with pay after their return to Denmark, the holidays relating to several years' employment being accumulated in one consecutive period. Persons residing regularly in Greenland and employed by public authorities are entitled to $1\frac{1}{2}$ days' holiday with pay for every month's work during a preceding 12-month period.

Convention No. 53 on Officers' Competency Certificates is inapplicable, no maritime merchant navigation taking place in Greenland.

Convention No. 63 on Statistics of Wages and Hours of Work is inapplicable, the statistics required in the Convention not yet being compiled in Greenland.

I have the honour to be, etc.,

(Signed) KOCH.

ITALY

Declarations concerning the Application of the Maternity Protection Convention, 1919 (No. 3), Night Work (Women) Convention, 1919 (No. 4), Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), and Underground Work (Women) Convention, 1935 (No. 45).

By letter dated 3 June 1954 the Permanent Delegate of Italy to the Specialised Agencies of the United Nations transmitted to the Director-General of the International Labour Office declarations dated 31 May 1954 from the Minister of Foreign Affairs of Italy concerning the application of Conventions Nos. 3, 4 and 45 to the Trusteehip Territory of Somaliland.

These declarations were registered by the Director-General on 7 June 1954.

The text of the communication from the Minister of Foreign Affairs is as follows:
Sir,

I have the honour to inform you that the Italian Government, in its capacity as Administrative Authority of the Trusteeship Territory of Somaliland, and in accordance with article 35, paragraph 4, of the Constitution of the International Labour Organisation, accepts, on behalf of the aforesaid territory, the obligations arising out of the following international Conventions, subject to the modifications stated:

**Convention (No. 3) concerning Employment of Women Before and After Childbirth.**

The Ordinance applying this Convention does not enumerate the industrial establishments covered. In view of the clearly defined characteristics of Somali agriculture, it was felt to be superfluous to draw a line between the latter and industrial and commercial activity. The term “working woman” has been used in preference to “woman” and it has not been considered necessary to define the term “child”.

Pending the introduction of a special insurance scheme, which is at present being studied, the allowance payable to a working woman during her absence from work is fixed at 50 per cent. of her wages; it is payable by the employer.

No mention has been made of the granting of free medical care, as expectant mothers are in practice already given such care by the Administration.

The Ordinance does not apply to relatives (as far as the third degree) of the employer who are living with him at his expense, to women homeworkers, and to female pupils of non-profit-making practical schools.

**Convention (No. 4) concerning the Employment of Women during the Night.**

The Ordinance does not enumerate the industrial establishments to which it applies nor is any line drawn between industry on the one hand and commerce and agriculture on the other, in view of the primitive nature of the Somali economy. It has been thought necessary to extend the exceptions provided for in Article 4 of the Convention to cover continuous processes which are essential to the economy of the territory, subject to authorisation by the Central Labour Inspectorate. This is designed to enable local needs to be met as far as possible with the limited industrial equipment of the territory, particularly where textiles are concerned.

**Convention (No. 45) concerning the Employment of Women on Underground Work in Mines of All Kinds.**

The Convention is applicable without restrictions or modifications.

I have also the honour to send you herewith a copy of the Official Bulletin of the Italian Administration of Somaliland (Bollettino Ufficiale dell'Amministrazione Fiduciaria Italiana della Somalia) No. 3 of 10 March 1954, Supplement No. 3, in which is published Ordinance No. 4 of 27 February 1954, giving effect to the provisions governing women’s work in Somaliland.

I have the honour to be, etc.,

(Signed) PICCIONI.

Moreover, on 21 June 1954 the Permanent Delegate of Italy to the Specialised Agencies of the United Nations communicated to the Director-General of the International Labour Office a declaration dated 4 June 1954 from the Minister of Foreign Affairs of Italy concerning the application of Convention No. 42 to the Trusteeship Territory of Somaliland.

This declaration was registered by the Director-General on 23 June 1954.

The text of the communication from the Minister of Foreign Affairs is as follows:
Sir,

I have the honour to inform you that the Italian Government, in its capacity as the Administrative Authority of the Trusteeship Territory of Somaliland, and in accordance with article 35, paragraph 4, of the Constitution of the International Labour Organisation, accepts, on behalf of the aforesaid territory, the obligations arising from international labour Convention No. 42, with the following exceptions.

The scope of the insurance scheme is extended to cover all the occupational diseases listed in the Convention except silicosis and anthrax infection:

(a) Silicosis is not included in the list of occupational diseases appended to the relevant Order as the productive activities at present being carried on in Somaliland do not include any processes generally recognised to give rise to a risk of silicosis.

(b) Anthrax infection has been omitted from the list of occupational diseases because, under Order No. 27 of 7 December 1951, it is already covered by the industrial accident insurance scheme, as it is in Italian legislation.

(c) On the other hand, the list includes the following occupational diseases, which it was felt should be covered by the insurance scheme but are not mentioned in the list in Convention No. 42:

1. diseases caused by chromium and its compounds and their direct sequelae;
2. diseases caused by bromine, chlorine, fluorine, iodine and their compounds and their direct sequelae;
3. diseases caused by sulphur dioxide, sulphuric acid and hydrogen sulphide and their direct sequelae;
4. diseases caused by carbon monoxide and their direct sequelae;
5. diseases caused by carbon disulphide and their direct sequelae;
6. diseases caused by petroleum ether and benzine and their direct sequelae;
7. diseases caused by hydrocarbons of the benzene group (benzol, toluol, xylol and their homologues) and their direct sequelae;
8. diseases caused by phenols, thiophenols and cresols and their direct sequelae;
9. diseases caused by formaldehyde and formic acid and their direct sequelae;
10. osteo-articular and angino-neurotic diseases caused by the vibration of flexible-drive tools and tools using compressed air;
11. diseases caused by working in compressed air;
12. deafness caused by noise.

I also have the honour to send you herewith a copy of the Official Bulletin of the Italian Administration of Somaliland (Bollettino Ufficiale dell'Amministrazione Fiduciaria Italiana della Somalia), No. 4 of 1 April 1954, in which is published Ordinance No. 7 of 9 March 1954 giving effect in Somaliland to the provisions laid down in Convention No. 42 (with the modifications referred to above).

I have the honour to be, etc.,

(Signed) PICCIONI.
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