

# INTERNATIONAL LABOUR CONFERENCE

TWENTY-FIFTH SESSION

GENEVA, 1939

SUMMARY OF ANNUAL REPORTS  
UNDER ARTICLE 22  
OF THE CONSTITUTION OF THE  
INTERNATIONAL LABOUR ORGANISATION

## APPENDIX

REPORT OF THE COMMITTEE OF EXPERTS  
ON THE APPLICATION OF CONVENTIONS



INTERNATIONAL LABOUR OFFICE

GENEVA, 1939

09661



## APPENDIX.

### Report of the Committee of Experts on the Application of Conventions (Article 22 of the Constitution of the International Labour Organisation).

The Committee of Experts appointed to examine and report to the Governing Body of the International Labour Office on the annual reports submitted by Governments under Article 22 of the Constitution of the International Labour Organisation upon the application of the Conventions ratified by the respective Members of the Organisation met at Geneva from 27 to 30 March 1939.

The following members of the Committee were present :

Mr. Arnold D. McNAIR, C.B.E., LL.D.,  
(British),

Vice-Chancellor of the University of Liverpool ;

Mr. Wacław MAKOWSKI (Polish),

Professor in the University of Warsaw,  
President of the Sejm, former Minister of  
Justice ;

Mr. William RAPPARD (Swiss),

Professor in the University of Geneva,  
Director of the Graduate Institute of Inter-  
national Studies ;

Mr. Georges SCELLE (French),

Professor in the Faculty of Law of the Uni-  
versity of Paris, Associate Member of the  
Institute of International Law, former Pro-  
fessor in the University of Geneva, and in the  
Graduate Institute of International Studies,  
Deputy Secretary-General of The Hague  
Academy of International Law ;

Mr. Ilia YANOULOFF (Bulgarian),

Professor in the Free University of Sofia,  
Honorary Professor at the State University  
of Sofia, Member of the Bulgarian Academy  
of Science.

During the year that has elapsed since the last meeting of the Committee, three members resigned their seats on the Committee.

By letter dated 21 October 1938, His Excellency Mr. Raphael ERICH (Finnish) tendered his resignation on his being appointed a Judge of the Permanent Court of International Justice at The Hague. His colleagues on the Committee beg to convey their congratulations to Mr. Erich on the eminent position to which he has

been appointed, while regretting the fact that his valuable collaboration will no longer be available to the Committee in its work.

On 12 November 1938 Mr. Shunzo YOSHISAKA (Japanese) tendered his resignation following the decision of the Japanese Government to withdraw from the International Labour Organisation. Mr. Yoshisaka has been associated with the work of the International Labour Organisation for twenty years, as representative of his Government on the Governing Body for a considerable part of this period and subsequently as a member of the Committee of Experts. His wide knowledge of labour conditions, particularly in Asia, has enabled him to render invaluable services to the cause of international labour legislation.

On 21 March 1939 Mr. Otakar QUADRAT (Czecho-Slovak) felt it to be necessary in view of the situation prevailing in his country to resign his seat on the Committee. His colleagues greatly regret his loss, for his practical knowledge of labour conditions derived from his experience in one of the leading industrial countries was of great value to the Committee.

At its Eighty-sixth Session (February 1939), the Governing Body reappointed as members of the Committee for a further period of three years Professor RAPPARD and Mr. Paul TSCHOFFEN (Belgian) on the expiry of their terms of membership.

The authorised strength of the Committee of Experts is thirteen members. There are at present five vacancies in the Committee, as follows: the seats vacated by Mr. Erich, Mr. Perassi (Italian), Mr. Quadratt, and Mr. Yoshisaka, as well as one of the two additional seats for extra-European experts created by the Governing Body in 1936 which has remained unfilled.

The Committee understands that at an early session the Governing Body will be

called upon to fill these vacancies, and sincerely hopes that this will be done.

Mr. César CHARLONE (Uruguayan), Sir Atul CHATTERJEE (Indian), and Mr. TSCHOFFEN were prevented by a variety of reasons from being present at this meeting.

The Committee elected Mr. SCELLE as Chairman and Mr. MCNAIR as Reporter. As before, Professor RAPPARD accepted responsibility for the preparation of the separate Appendix (II) relating to colonies, possessions and protectorates.

The total number of annual reports due for the year 1 October 1937 to 30 September 1938 or for a part of that period is 748 (including the reports from the Government of Burma in respect of the application of the 14 Conventions ratified by India up to 1 April 1937 when Burma ceased to be a part of India). The number of reports which had been received by the Office on 30 March 1939 is 619, which leaves 129 reports missing.

This last figure includes reports in respect of 17 Conventions ratified by *Germany* and 30 Conventions ratified by *Nicaragua*. (These States ceased to be Members of the International Labour Organisation on 21 October 1935 and 27 June 1938 respectively)<sup>1</sup>. It also includes reports in respect of 13 Conventions ratified by the *Japanese* Government, which notified its withdrawal from the Organisation on 2 November 1938, as well as 20 reports from the *Italian* Government, which gave notice of withdrawal on 15 December 1937.

This leaves a balance of 18 (not counting 31 reports outstanding from Spain, where abnormal conditions prevail) missing reports, a number which is made up as follows :

Countries	Reports missing
<i>Albania</i> .....	4 (Conventions Nos. 4, 5, 6 and 21).
<i>Brazil</i> .....	8 (Conventions Nos. 3, 4, 5, 6, 7, 16, 41 and 42).
<i>Chile</i> .....	4 (Conventions Nos. 35, 36, 37 and 38).
<i>Dominican Republic</i> .....	1 (Convention No. 10).
<i>Lithuania</i> .....	1 (Convention No. 27).

In the case of Brazil, however, instead of reports drawn up in accordance with the forms prescribed by the Governing Body, the Office received a communication dated 23 February 1939 from the Minister of Labour in which it is stated that the Brazilian Government, in order to give effect to the Draft Conventions and Recommendations adopted at successive

<sup>1</sup> By letter dated 29 August 1938 the Government of Nicaragua informed the Office that Nicaragua considered herself as remaining bound by the international labour conventions which she had ratified.

sessions of the International Labour Conference, are engaged in examining the measures for their application in Brazil, and that for this purpose the Minister has appointed a committee for examining the various Bills concerning social legislation which were submitted to a former Chamber of Deputies. The communication adds that, in accordance with the spirit of Article 22 of the Constitution, a considerable number of the Draft Conventions and Recommendations have been incorporated in the national legislation and the others are being examined by the technical committee set up at the Ministry. The Committee feels obliged to state that it is not possible to regard an abbreviated statement of this kind as fulfilling the requirements of Article 22.

It should further be pointed out that a fairly large number of reports was received too late to be examined by the Committee with the necessary thoroughness. The Committee wishes nevertheless to record its satisfaction that the abnormal international conditions prevailing in several parts of the world and the preoccupation of Governments which they entail have not prevented a majority of the Governments concerned from supplying in good time the reports upon which the Committee has to base its observations.

As in previous years, the observations of the Committee on the application of the various Conventions in certain countries from an appendix to the present report. In accordance with the procedure hitherto followed for dealing with the late reports, the Committee of the Conference will no doubt devote special attention to the examination of these reports.

\* \* \*

The Committee beg to draw attention to the request made towards the end of their report of last year that, even when no change has occurred in the legislative and other measures taken for the purpose of applying the Conventions, it is still necessary, if the Committee are to discharge their task with confidence, that the general information asked for in the following paragraphs of the annual report form should be supplied :

Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.

Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of inspection and registration services and information concerning the number and nature of the contraventions reported, etc.

Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by

your communicating a summary of these observations, to which you might add any comments that you consider useful.

The Committee beg once more to remind Governments that in view of the nature of the questions put, the replies to these questions are liable to change from year to year and should therefore be supplied in the reports each year.

In the course of its work this year the Committee's attention was drawn to the wording of paragraph 2 of Point I in the report forms. As it seemed to the Committee that the present drafting of this question is likely to lead to confusion and even misunderstanding, the Committee, in order to clarify the intention of the question, ventures to suggest for the consideration of the Governing Body the following drafting for this part of Point I :

Where the national law is not already in complete harmony with the provisions of the Convention, please indicate (a) to what extent the ratification has modified previously existing law, and (b) what steps have been taken to ensure the observance of the provisions of the Convention.

\* \* \*

Last year the Committee of Experts was informed that the Governing Body decided to ask the Office to submit proposals for the convening of a Preparatory Technical Conference in 1939 for the purpose of preparing the way for the adoption in 1940 of a Draft Convention on labour inspection. The Committee have been glad to learn of this step as they have no doubt that labour inspection constitutes one of the principal guarantees for the proper enforcement of the national legislative and other measures taken for the purpose of applying the provisions of the ratified Conventions. It is for the same reason that the Committee of Experts would welcome steps which might be taken for establishing contact between the inspection services of the Members of the Organisation and between each of them and the technical staff of the International Labour Office.

\* \* \*

It was decided in 1936 that, in regard to the application of the Conventions to colonies, protectorates and possessions which are not fully self-governing, a detailed and comprehensive report should be made only once every three years. This triennial report falls due this year. Accordingly the Committee have devoted special attention to the position of the application of the ratified Conventions to colonies, etc. on the basis of the detailed information contained in the annual reports supplied by the various Governments responsible for the administration of the territories covered by Article 35 of the Constitution. In this connection it should be remembered that the application of

Conventions to colonies depends upon the action of the metropolitan countries and does not result automatically from ratification.

From a careful scrutiny of the information supplied, the Committee came to the conclusion that it would be difficult categorically to state that in a specific number of cases the Conventions have been applied and that in a specific number they have not been applied. The information shows, however, the gradual extension of the application of the Conventions to these territories, which was described by the Committee last year as "one of the most interesting developments of international labour legislation with which the Committee has to deal". It may be said that the development of social legislation in many colonial territories has been one of the urgent necessities of recent years, and, in the accelerated tempo of legislative action to meet this necessity, international Conventions are increasingly serving as pointers.

The comparison between the situation in this respect say in 1932, i.e. six years ago, and that revealed by the survey undertaken by the Committee this year is instructive. In the case of some Conventions there has been no appreciably greater application, while in other cases the change in the situation is marked. In regard, for example, to the Night Work (Women) Convention, the situation in 1932 was that measures of application existed in nine British dependencies and in the Netherlands Indies; the present survey shows for the same Convention (and the revised Convention of 1934) measures of application in all the Belgian and French dependencies, in the Netherlands Indies, and in 43 British dependencies. The Conventions concerning the protection of women and children have all had a wide measure of application (excluding agriculture and non-industrial employment), while an appreciable number of measures of application have also been taken in the case of the simple workmen's compensation Conventions and in the case particularly of some of the Conventions for the protection of seamen and dockers.

It would seem that, given favourable circumstances, this movement is likely to continue. It is a result of the widening geographical scope of modern labour problems due to the extension of industry, and an index of the assistance in their regulation which can be afforded by the International Labour Organisation.

In view of the special character of the Forced Labour Convention (No. 29) and the direct bearing of its provisions upon conditions of labour in colonies, the Committee also devoted special attention this year to the application of this Convention (See Appendix I). The Committee notes that this Convention, which is detailed in its provisions and wide in scope, has not stabilised conditions at the level

which seemed possible in 1930, when the Convention was adopted, but that it continues to play an active part in the progressive abolition of all forms of forced or compulsory labour.

\* \* \*

The Committee cannot conclude without expressing once more their appreciation of the services of the officials of the Members of the Organisation and of the International Labour Office for the careful manner in which they continue to supply the Committee with the information upon which this report is based.

*Signed: Georges SCELLE,  
Chairman.*

*Signed: Arnold D. McNAIR,  
Reporter.*

Geneva, 30 March 1939.

## APPENDIX I.

### A. GENERAL OBSERVATIONS ON THE REPORTS SUPPLIED BY CERTAIN COUNTRIES.

*Burma.* — The Committee has taken note with much interest of the detailed reports that the Government of Burma has supplied this year on the application in Burma of the fourteen Conventions which India had ratified before the separation of Burma from India on 1 April 1937 under the Government of India Act 1935. (Conventions Nos. 1, 2, 4, 6, 11, 14, 15, 16, 18, 19, 21, 22, 27, and 41).

*Canada.* — The Canadian Government, in a letter dated 10 March 1939, states that:

"As regards the three Conventions dealing with *Hours of Work in Industry* (No. 1), *Weekly Rest in Industry* (No. 14) and *Minimum Wage-Fixing Machinery* (No. 26), attention is directed to the letter which was sent to you on January 8, 1938, advising that three Acts of Parliament, which had been adopted to give effect to these respective Conventions, were declared by the Judicial Committee of the Privy Council to be *ultra vires* of the Parliament of Canada, and referring to the Royal Commission on Dominion-Provincial Relations, which was appointed to re-examine the economic and financial basis of confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years.

"The general position indicated in the foregoing letter is unchanged, except that it is anticipated that the report of the Royal Commission will be received in the course of the next few months."

The Committee takes note of this statement and ventures to express the hope that in its next report the Canadian Government will be in a position to supply fuller information regarding the situation in connection with the application in Canada of the three Conventions mentioned above.

*Czecho-Slovakia.* — By a letter dated 10 February 1939 the Ministry of Social Administration and Public Health informed the Office in respect of the thirteen Conventions (Nos. 1, 4, 5, 10, 11, 13, 14, 18, 19, 21, 24, 25, and 27), on the application of which annual reports are due from the Czecho-Slovak Government, that during the period under review these Conventions were applied in the same

way as during the preceding period. The Ministry therefore refers the Office to the reports for the year 1936-37 and concludes by requesting the Office to submit this report to the competent authorities under Article 22 of the Constitution of the Organisation.

The Committee takes note of this summary report.

*Mexico.* — The Government of Mexico has supplied Annual Reports on the application in this country of Conventions Nos. 34, 43, 45, 49, and 52, although no reports were called for from the Government for the period 1937-38 as the Conventions in question were not in force for Mexico during this period.

The Committee takes note of these reports voluntarily submitted by the Mexican Government with much appreciation.

### B. LIST OF POINTS ON WHICH THE COMMITTEE CONSIDERED THAT THE REPORTS EXAMINED CALL FOR OBSERVATIONS OR UPON WHICH SUPPLEMENTARY INFORMATION SEEMED DESIRABLE

#### 1. *Hours of Work (Industry).*

Number of reports due : 20.

Number of reports received : 18.

Reports missing : *Nicaragua, Spain.*

*Canada (Ratification : 21.3.1935).*

See under Appendix IA (General observations on the reports supplied by certain countries).

*Cuba (Ratification : 20.9.1934).*

1. *Article 2 (b).* — With reference to the statement made by the representative of the Cuban Government in 1938 at the Conference Committee on the application of Conventions to the effect that a Presidential Decree had been drafted which provides that the daily hours of work shall not exceed the legal maximum by more than one hour, the Committee ventures to express the hope that the Decree in question will be adopted at an early date.

*Articles 3 and 6.* — The Committee recalls the observations that it made in 1936 with regard to the provision in Cuban legislation permitting an extension of hours of work in "special circumstances" and in the case of industrial processes connected with the sugar-cane crop, and ventures to suggest that the Government might be good enough to supply additional information on these points in order that a clear idea of the position in this respect may be obtained.

The Committee notes with satisfaction that by the adoption of Decree No 798 of 13 April 1938, which provides in §40 that overtime work shall be remunerated at at least time and a quarter the normal rate, the divergency between Article 6 (last paragraph) and Cuban legislation to which it had called attention, has been removed.

2. The report states that in a large number of cases prosecutions are followed by acquittal in view of the fact that in the opinion of the Supreme Court provision for fines should be made in the legislation and not merely in the regulations as at present. The Government should therefore be requested to secure the adoption of legislation providing for the imposition of fines.

*Dominican Republic (Ratification : 4.2.1933).*

In 1938 the Committee pointed out that the Act of 21 June 1935 which implements the Convention does not apply to small undertakings situated in rural areas, whereas the Convention does not provide for any such exemption. As this discrepancy seems to subsist, the Committee can only reiterate the hope that it expressed last year that the Government will take the necessary measures at an early date to remove it.

The Committee also notes that the report does not give the list of processes which are classed as being necessarily continuous (Point III of the report form) and expresses the hope that this information will be supplied in future reports.

*India (Ratification : 14.7.1921).*

The report states that the Government of India received a representation from the National Trade Union Federation, Bombay, supporting a resolution passed at the first Bombay Provincial Labour Conference, and demanding the extension of the scope of the Convention to all railway workers. The Government states that the question of extending the Hours of Employment Regulations to the remaining principal railways is under consideration.

The Committee takes note of the above information.

*New Zealand (Ratification : 29.3.1938).*

The Committee has taken note of this first report from the New Zealand Government with much interest and wishes to thank the Government for the ordered and complete character of the report.

It notes with satisfaction that the weekly hours of work which are applied as a general rule are based on the 40-hour week and are considerably below the limits authorised by the Convention. The Committee, however, notes that as regards a number of industries and occupations and, in particular, the categories of undertakings listed in Schedule II of the Factories Act 1921/22, as amended, to which the hours of work provisions of the said Act do not apply, construction and transport, no legislation on the lines of the Convention applies. Hours of work in such cases are regulated by awards issued or agreements approved by the Court of Industrial Conciliation and Arbitration.

The Committee recognises that, in so far as these awards or agreements are binding on the whole of the industry or occupation covered in the industrial districts in which they apply, they may, if their provisions are in accordance with the Convention, be held to apply that Convention to such categories of industries or occupations in the districts concerned. It is also admitted that such awards or agreements may be regarded as "regulations made by public authority" to which reference is made in Article 6 of the Convention.

In view of the fact that the measures of application of the Convention in New Zealand are somewhat different from those adopted in other countries which have ratified it, but without wishing to suggest that these measures are insufficient to secure the proper application of the Convention, the Committee would welcome an assurance in the next report that the Government is satisfied that in practice all the provisions of the Convention are applied to all the industrial undertakings covered by the Convention throughout the territory of the Dominion.

*Rumania (Ratification : 13.6.1921).*

The report mentions the Act of 3 August 1938 regulating working conditions in offices attached to commercial and industrial undertakings as well as the hours of opening and closing of shops. The Government states that this new Act supplements previous legislation concerning hours of work in industrial undertakings. The Act of 9 April 1928 whose provisions are in harmony with the Washington Convention would seem, therefore, to remain in force. The Committee ventures to point out, however, that the Act of 3 August 1938 mentioned above, which is applicable to offices forming part of the industrial undertakings covered by the Washington Convention, is based upon the provisions of Convention No. 30 concerning hours of work in commerce and offices and would seem to be at divergence from the Convention on the following points :

(1) § 4 of the Act of 1938 authorises subject to certain conditions the making up of lost hours of work on account of a collective suspension of work due to local festivals, accidental causes or *force*

*majeure*. The Washington Convention does not provide for any prolongation to compensate hours of work lost.

(2) § 3 of the Act provides for the possibility of an unequal distribution of hours of work over the different days of the week subject to the condition that the maximum daily limit does not exceed 10 hours. Article 2, paragraph (b), of the Washington Convention authorises a prolongation of daily hours of work, but subject to a maximum of nine hours.

(3) The Act provides in § 5, paragraph (a), for temporary exceptions to carry out special work such as the drawing up of balance sheets, inventories, etc. The Washington Convention does not provide for temporary exceptions of this kind.

The Committee would be grateful if the Rumanian Government would be good enough to clarify the position in respect of the points noted above.

2. *Unemployment.*

Number of reports due : 31.

Number of reports received : 26.

Reports missing : *Germany, Italy, Japan, Nicaragua, Spain.*

*Argentine Republic (Ratification : 30.11.1933).*

It appears from the report that from the standpoint of the application of the Convention no progress was made during the period under review. Although the existing legislation provides for the creation of a co-ordinated system of public employment agencies it would appear that only one national agency is actually working in the country and if a certain number of provincial agencies exist no measures have been taken to co-ordinate their activities. Draft regulations were prepared in 1935 by the National Department of Labour in order to secure the application of the legislation. The annual reports received since then have not, however, made any reference to these regulations.

In these circumstances the Committee ventures to suggest that the Government of the Argentine Republic might be requested to state what are its intentions concerning the measures to be adopted for the effective application of the provisions of the Convention.

*Belgium (Ratification : 25.8.1930).*

With regard to the application of Article 3 of the Convention in Belgium, the Polish Government, in its report, recalls the declaration made by the representative of the Belgian Government before the Committee on the Application of Conventions of the Twenty-third Session of the International Labour Conference (Cf. Record of Proceedings, p. 575) and says that, in spite of that declaration, compulsory unemployment insurance has not yet been adopted in Belgium. An Unemployment Insurance Bill has been submitted to Parliament but has not yet been adopted. The Polish report adds that an examination of the Bill does not justify the assurance given in 1937 by the representative of the Belgian Government that with its adoption "the differences in the points of view between the Polish and Belgian Governments would thus lose their practical importance since whatever the system adopted relief would no longer be included in it".

The Polish Government considers that in view of the considerable restrictions on the rights of foreigners provided for in § 22 of the Bill and of the relations, which are not clear, between the provisions of the Bill and the obligations resulting from Article 3 of the Convention, the adoption of the Bill in its present wording would not put an end to the difference of opinion which exists on this question between the Polish and Belgian Governments. In any case, at the present time the state of affairs remains unchanged and Polish citizens continue to be excluded from the unemployment insurance funds in violation of the obligations of Article 3 of the Convention. The report concludes that, in spite of the steps taken by the Polish

Government by way of bi-lateral negotiations and also before the International Labour Conference, the Belgian Government has done nothing to adapt its legislation with regard to the situation of Polish workers to the obligations resulting from the Convention.

With regard to the rights of foreign workers, § 22 of the Belgian Bill in the form in which it is now before the Senate, (Jan. 1939) would seem to make a distinction between what it calls "benefit" and what it calls "assistance allowances". The Polish Government considers that this distinction is not in harmony with the Convention, that both "benefits" and "allowances" as defined in the Belgian Bill should be considered as "benefit" under Article 3 of the Convention; and that equality of treatment should apply to both in the conditions prescribed by that Article.

Recalling the declaration of the representative of the Belgian Government before the Conference Committee on the Application of Conventions in 1937, to the effect that "the differences in the points of view between the Polish and Belgian Governments would thus lose their practical importance since whatever the system adopted relief would no longer be included in it", the Committee suggests that the attention of the Belgian Government be drawn to the observations of the Polish Government and that the Belgian Government be asked for further information as to the way in which it interprets § 22 of the Bill in relation to the provisions of Article 3 of the Convention. It expresses the hope that the new system of unemployment insurance, the early adoption of which was announced by the representative of the Belgian Government at the Conference of 1937, will soon come into force, and that its provisions will be such as to remove the differences in the points of view between the Polish and Belgian Governments as was foreshadowed in 1937.

#### *Colombia (Ratification : 20.6.1933).*

Last year the Committee ventured to express the hope that the Government would be in a position to supply information in its next report on the working and results of the official employment exchange set up by the municipality of Bogota. As the report this year does not contain any information on this point the Committee ventures to repeat its previous request.

#### *New Zealand (Ratification : 29.3.1938).*

This is the first report of the New Zealand Government and the Committee takes note of it with much interest.

The report states that the committees referred to in Article 2 of the Convention have "ceased to function". The attention of the Government might be called to the fact that the setting up of joint committees is one of the obligations imposed by Article 2 of the Convention.

The report also states that "no private, free employment agencies giving service to all applicants exist". It may therefore be presumed that such agencies exist for particular categories of workers. The Government might be asked whether this assumption is correct and if so to supply information concerning these agencies, especially whether any steps have been taken to co-ordinate their operations with those of the public employment agencies.

#### *Poland (Ratification : 21.6.1924).*

See under *Belgium*.

#### *Uruguay (Ratification : 6.6.1933).*

Two years ago the Government stated that it had so far been impossible to organise a system of unemployment statistics and create a national system of placing.

As the report for this year does not contain any fresh information on this subject it seems desirable to enquire what are the measures contemplated by the Government for the application of this Convention.

### 3. *Childbirth.*

Number of reports due : 16.

Number of reports received : 12.

Reports missing : *Germany, Brazil, Nicaragua, Spain.*

#### *Bulgaria (Ratification : 14.2.1922).*

The Committee would recall that in taking note of the information supplied by the Bulgarian Government in a letter of 25 May 1938, the Committee on the application of Conventions set up by the Twenty-fourth Session of the Conference had observed that as regards *maternity benefits* the insurance legislation in Bulgaria seemed to be in conformity with the provisions of the Convention, but that as regards *maternity leave* there was room for doubt whether the Act concerning labour contracts prescribed the same period as laid down in the Convention, namely, six weeks before confinement at the request of the woman worker concerned, and in any case six weeks after confinement, making a total of twelve weeks. The Conference Committee expressed the hope that this point would be clarified in the Government's next report.

As the report for this year simply refers to the letter of 25 May 1938 without giving additional information, the Committee ventures to repeat the request for clarification that it made last year.

#### *Chile (Ratification : 15.9.1925).*

The report for this year does not show that any progress has been made in connection with the measures indicated in the previous report for ensuring the application of paragraphs (c) and (d) of Article 3 of the Convention. The Committee's observations of last year are repeated this year. It is suggested in the circumstances that the Chilean Government might be requested to remedy the situation and inform the International Labour Office, in its next report of the measures taken for this purpose.

#### *Colombia (Ratification : 20.6.1933).*

It would have given the Committee much satisfaction to note the adoption, during the period under review, of the Bill, previously announced, to secure the application of the Convention if the Bill were in complete harmony with the provisions of the Convention. The Committee ventures to call the attention of the Colombian Government to three important divergences between the newly adopted legislation and the provisions of the Convention : (a) the period of the leave authorised by the above Act before and after childbirth is markedly shorter than that provided by the Convention, namely eight weeks in all, instead of six weeks before and six weeks after confinement; (b) the burden of the benefits to be paid to the worker on maternity leave is placed by Colombian legislation on the employer, who is required to pay wages during the leave, whereas the Convention provides that the benefits should be paid out of public funds or provided by a system of insurance; (c) the Colombian Act does not provide for the granting of free medical assistance in connection with childbirth, as required by the Convention.

The Committee ventures to enquire whether it is not the intention of the Colombian Government to take steps to bring its legislation into fuller conformity with the Convention.

#### *Uruguay (Ratification : 6.6.1933).*

The Committee notes that the situation has not changed since the report for the preceding year, to which the present report refers. It can therefore only express again the hope that the steps taken to make the necessary amendments to the national legislation in order to secure the application of the Convention will be expedited. The Committee would be grateful if the Government would be good enough to communicate to the International Labour Office the text of the Bill or Bills which have been prepared for this purpose.



#### 4. Night Work (Women).

Number of reports due : 26.

Number of reports received : 21.

Reports missing : *Albania, Brazil, Italy, Nicaragua, Spain.*

*Chile (Ratification : 8.10.1931).*

Chilean legislation does not seem to be in harmony with the Convention (Article 3), since it applies only to working women and not to *all* women as required by the Convention. The national legislation would, however, seem to be in harmony with Convention No. 41, which allows for certain exceptions, particularly in respect of women employed in positions of management, etc.

The Committee ventures to express the hope that the Government will secure harmony between the national legislation and the international regulations.

*Colombia (Ratification : 20.6.1933).*

The report refers to previous reports, in which the Government had stated that preparatory work had been undertaken in order to secure the adoption of legislation applying the Convention. The Committee ventures to express its earnest hope that the preparatory work referred to above will be expedited, and will be grateful if the Government will be good enough to communicate to the International Labour Office the Bill or Bills which have been prepared for this purpose.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes with satisfaction the statement in the report that the Bill for the application of the Convention, mentioned in the previous report as having been submitted, has been adopted by the Chamber of Deputies.

It ventures to express the hope that the Bill in question, which is at present before the Senate, will be adopted at an early date.

*Yugoslavia (Ratification : 1.4.1927).*

In response to the observations made by the Committee last year, the annual report states in confirmation of the Government's letter of 18 May 1938 that Convention No. 41, with which the national legislation is in harmony, was submitted to the legislative authorities on 31 December 1936, but that a definite decision has not yet been taken with regard to its ratification.

The Committee takes note of this information.

#### 5. Minimum Age (Industry).

Number of reports due : 27.

Number of reports received : 22.

Reports missing : *Albania, Brazil, Japan, Nicaragua, Spain.*

*Colombia. (Ratification : 20.6.1933).*

The report refers to previous reports in which the Government had stated that preparatory work had been undertaken for the purpose of securing the adoption of legislation applying the Convention. The Committee ventures to express its earnest hope that the preparatory work in question will be expedited.

*Dominican Republic (Ratification : 4.2.1933).*

Last year the Committee had suggested that the Government of the Dominican Republic might be requested to supply additional information in its next report for the purpose of elucidating certain points in connection with Articles 1, 3 and 4 of the Convention, which did not appear to be sufficiently clear. The Committee notes, however, that the information requested is not given in the present report, and it ventures, therefore, to suggest that the Government might be requested to supply supplementary information on these points.

*Norway (Ratification : 7.7.1937).*

The Committee, in taking note of this first report, due from the Norwegian Government, with much interest, suggests that the Government might be requested to furnish information on the following points :

(1) In view of the fact that transportation is ordinarily included in industrial work within the meaning of Article 1, paragraph (d) of the Convention (with the exception of transportation by hand), the Committee ventures to suggest that the Norwegian Government might be asked whether the delivery of articles, etc. upon which the employment of children under 14 years of age is authorised under § 27 paragraph 2 of the Workers' Protection Act of 1936, is limited to transportation by and.

(2) It is noted that the obligation to keep a register of young persons has not yet been imposed on all undertakings covered by the enlarged scope of the new Workers' Protection Act but that in this connection the system established by the Act of 1915 is still in force. In view of the fact that the scope of the Act of 1915 was somewhat narrower than that of the Convention, the Committee also ventures to ask whether it is the Norwegian Government's intention to extend, at any rate to all industrial undertakings as defined by the Convention, the obligation to keep a register of young persons as laid down in Article 4 of the said Convention.

*Uruguay (Ratification : 6.6.1933).*

The Committee takes note of the statement of the Government to the effect that the situation has not changed since the last report. In these circumstances, the Committee ventures to express the hope that the proposed amendments to the Children's Code in order to bring the Code into harmony with the provisions of the Convention will be passed without further delay.

#### 6. Night Work, Young Persons (Industry).

Number of reports due : 31.

Number of reports received : 26.

Reports missing : *Albania, Brazil, Italy, Nicaragua, Spain.*

*Chile (Ratification : 15.9.1925).*

The Committee notes with satisfaction the statement contained in the report, to the effect that the Convention is, generally speaking, applied in a satisfactory manner.

With regard to the utilisation of the exceptions laid down in Articles 2, 3 and 4 of the Convention, the report recalls the statements contained in previous reports where it was stated that it was necessary to issue regulations for determining the cases, the formalities and the conditions for the use of these exceptions. Since it appears from the report for the present year that these regulations have not yet been issued, the Committee feels justified in assuming that in the circumstances no use has been made of the exceptions in question. It would be grateful if the Chilean Government would be good enough to indicate whether this assumption is correct.

*Mexico (Ratification : 20.5.1937).*

The Committee notes with appreciation the information supplied by the Mexican Government in its report with regard to the difficulties which have so far prevented the complete application of the Convention, as well as the measures contemplated for solving them. It expresses the hope that it may be possible for the projected Constitutional and legislative amendments to be brought into effect at an early date.

## 7. *Minimum Age (Sea).*

Number of reports due : 32.

Number of reports received : 26.

Reports missing : *Germany, Brazil, Italy, Japan, Nicaragua, Spain.*

*Dominican Republic (Ratification : 4.2.1933).*

The Committee repeats the observation that was made last year with regard to the application of Article 4 of the Convention (obligation of the master or owner to keep a register of young persons under 16 years of age employed on board). The Government might be requested to be good enough to take the necessary measures for removing this discrepancy without further delay.

## 8. *Unemployment Indemnity (Shipwreck).*

Number of reports due : 28.

Number of reports received : 24.

Reports missing : *Germany, Italy, Nicaragua, Spain.*

### *General Observations.*

(1) It would appear from the national laws or regulations implementing this Convention in certain countries :

(a) that persons employed on board ship who are not engaged by the shipowner or the master are not entitled to the benefit of the unemployment (shipwreck) indemnity ; and

(b) that in the case of foreign seamen the benefit of the indemnity is extended to them on condition that they are nationals of countries which have or shall have ratified the Convention.

Without wishing to exaggerate the importance in practice of these limitations on the scope of national laws or regulations the Committee suggests that Governments might be asked, in case the limitations exist expressly or impliedly in their national laws or regulations, to supply information with regard to the extent and nature of the employment of persons not engaged by the shipowner or master, and the extent of the employment of foreign seamen not belonging to countries which have ratified the Convention.

(2) The Committee notes that apart from a very few Governments which have reported that no cases occurred during the year involving the need for applying the Convention, it is very rare for a Government to supply in reply to Point VI of the report form information as to the numbers of vessels wrecked or otherwise lost and the number of cases in which indemnities have been paid. The Committee recognises that it may be difficult for some Governments to collect this information every year. At the same time, if it could be supplied simultaneously by the great majority of Governments for at least one year from time to time, it might prove a striking demonstration of the value of the Convention and the benefits it confers on seamen. As, therefore, the Convention has now been in force for most countries for a considerable number of years, the Committee ventures to suggest that an appeal should be made to Governments to make special efforts to collect and supply for next year the information in question, i.e. as to the number of vessels wrecked or otherwise lost and the number of cases (if possible including the number of seamen) in which indemnities were paid in accordance with the Convention.

*Argentine Republic (Ratification : 30.11.1933).*

The Government had declared in previous reports that the Bill for amending the Commercial Code (in particular § 1004) for the purpose of giving effect to the Convention, was approved by the Senate on 16 August 1934 but that it had not yet been examined by the Chamber of Deputies. The report for this year simply states that there is nothing to add to the information contained in previous reports.

In these circumstances the Committee wishes to associate itself with the observation made by

the Conference Committee last year and ventures to express its earnest hope that the proposed amendment of the legislation will be adopted without further delay.

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Cuba (Ratification : 6.8.1928).*

The Committee ventures to repeat its observations of previous years with regard to the discrepancies which exist between the provisions of the Cuban legislation and Articles 1 (paragraphs 1 and 2) and 3 of the Convention. The Committee expresses the hope that the necessary steps will be taken at an early date to remove these discrepancies.

*Latvia (Ratification : 29.8.1930).*

It seems doubtful whether Latvian legislation implementing the Convention applies to *masters*. The Government might be requested to furnish supplementary information on this point.

*Netherlands (Ratification : 15.12.1937).*

This is the first report due from the Netherlands Government, and the Committee has taken note of it with much interest. It is noted, however, that the national legislation (Section 450 of the Revised Commercial Code) does not include masters of vessels among the beneficiaries of the unemployment indemnity, whereas masters are specifically included in the scope of application of the Convention.

The Committee expresses the hope that the Netherlands Government will take the necessary measures for removing this divergence between the Convention and the national legislation.

*Poland (Ratification : 21.6.1924).*

It is not clear, having regard to the definition of "seamen" given in § 2 of the Seamen's Code of 1902, whether the master is covered by the unemployment (shipwreck) indemnity provisions contained in the Act of 17 March 1933, and the Committee would be glad to have any information which the Polish Government can supply to elucidate this point.

*Uruguay (Ratification : 6.6.1933).*

The Committee ventures to express the hope that the bills to apply the provisions of the Convention which are now before Parliament will be adopted at an early date and will be brought into force as soon as possible.

## 9. *Placing of Seamen.*

Number of reports due : 25.

Number of reports received : 20.

Reports missing : *Germany, Italy, Japan, Nicaragua, Spain.*

*Argentine Republic (Ratification : 30.11.1933).*

The Committee notes that in connection with the application of Article 7 of the Convention, the situation remains unchanged. It therefore expresses the hope that the legislative measures in course of adoption will be brought into force at an early date.

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Cuba (Ratification : 6.8.1928).*

The Committee notes from the report that no special seamen's employment agencies have yet been put into operation in the conditions provided for in Decree No. 660 of 1934 ; that public labour exchanges organised by the State exist for the general body of workers, including seamen, but do not appear to be organised or equipped in accordance with the Convention for the placing of seamen

and did not in fact place any seamen during the year; and that the Secretariat of Labour is considering the appointment of committees of shipowners to operate in conjunction with the Maritime Questions Bureau of the Secretariat, which already deals with matters relating to the protection and welfare of maritime and port workers.

Having regard to these considerations, the Committee ventures to suggest that the Cuban Government might consider the advisability of creating special sections for the placing of seamen (in charge of persons with maritime experience) in the general public labour exchanges which already exist in the principal ports and of setting up one committee of shipowners and seamen for the whole country for advising on matters concerning the carrying on of these special sections.

*New Zealand (Ratification : 29.3.1938).*

The Committee notes the statement in the report that owing to the short time during which the Convention has been in operation in New Zealand the Government has had no opportunity of studying its results or preparing any statistics, but that this will be done in the next report. In this connection the Committee ventures to suggest that the Government might also give some indications in its next report as to the way in which the State Placement Service acts in co-operation with the Government shipping offices in the ports.

*Uruguay (Ratification : 6.6.1933).*

See under Convention No. 8.

#### 10. *Minimum Age (Agriculture).*

Number of reports due : 19.

Number of reports received : 14.

Reports missing : *Dominican Republic, Italy, Japan, Nicaragua, Spain.*

*Argentine Republic (Ratification : 26.5.1936).*

The Committee notes the statement of the Government in its report that a Bill is being prepared for the purpose of bringing the national legislation into harmony with the Convention. It ventures to express the hope that the Government will keep the International Labour Office informed of the progress realised in this connection.

*Chile (Ratification : 18.10.1935).*

With reference to the observations made last year, the Committee takes note of the information given in the Government's report this year with appreciation.

*Cuba (Ratification : 22.8.1935).*

Last year the Committee requested information on the following points :

(1) To what extent is school attendance compulsory in the countryside in Cuba ?

(2) Under what conditions can children be exempted from such compulsory attendance ?

(3) What is the net length of the school year, not including holidays, in rural elementary schools ?

The Committee notes with appreciation the information on these points given by the Government representative at the 1938 Conference as well as in the report for this year.

*Rumania (Ratification : 10.11.1930).*

According to § 10 of the Act of 13 August 1938 amending certain provisions of the Act concerning primary education, the upper primary course (5th, 6th and 7th classes) which will have a practical character will cover the period 15 October to 15 April.

The Committee would be glad to know what is the usual age of children beginning the upper primary course and whether the change as regards primary education refers only to the nature of the instruction given or whether it affects, at the same time, the scope of compulsory school education in Rumania. What was the duration of the

upper primary course before the Act of 13 August 1938, and is the upper primary course compulsory for all children ?

*Uruguay (Ratification : 6.6.1933).*

The report does not contain any fresh information on the Bill which was to be submitted to the Ministry of Industry and Labour for the purpose of bringing the provisions of the Children's Code into full harmony with the Convention. The Committee ventures to suggest that the Government might be requested to keep the International Labour Office informed of the progress realised in connection with the adoption of the Bill.

#### 11. *Right of Association (Agriculture).*

Number of reports due : 31.

Number of reports received : 27.

Reports missing : *Germany, Italy, Nicaragua, Spain.*

*China (Ratification : 27.4.1934).*

Last year the Committee noted the statement in the Government's report that the Judicial Yuan had not yet given an official interpretation of the question referred to it by the Executive Yuan, whether agricultural workers in China are entitled to form trade unions under the same conditions as industrial workers. This year's report is silent on the point.

The Committee expresses the hope that the Chinese Government will not lose sight of this question and that the decision of the Judicial Yuan when given will be communicated to the International Labour Office.

*Cuba (Ratification : 22.8.1935).*

The report states that the workers' organisations have complained that § 1 of Decree No. 2605 is an obstacle to the establishment of federations consisting of workers belonging to the specialised professions or to various other occupations, and that as a result of this situation the President of the Republic, in his last Message to Congress, has proposed the modification of these principles in order to permit the establishment of important trade union groups.

The Committee ventures to enquire precisely what is the practical bearing of the proposed modifications upon the right of agricultural workers to combine.

*Rumania (Ratification : 10.11.1930).*

The Committee takes note of the statement in the report that previous legislation has been superseded by the Act concerning the recognition and working of occupational corporations for wage-earners, salaried employees and artisans (*corps de métier de travailleurs, d'employés et d'artisans*) and ventures to suggest that the Government might be requested to be good enough to state in its next report whether an occupational corporation (*corps de métier*) has been set up for agriculture.

#### 12. *Workmen's Compensation (Agriculture).*

Number of reports due : 23.

Number of reports received : 19.

Reports missing : *Germany, Italy, Nicaragua, Spain.*

*Argentine Republic (Ratification : 26.5.1936).*

The report refers to those supplied for the years 1935-1936 and 1936-1937.

The report for 1935-1936 stated that a Bill had been submitted to the Chamber by its Committee on Social Legislation providing that the restriction of the accident compensation system in agriculture and in silviculture to persons engaged in transport or in connection with machinery must be abolished. This Bill, however, has not yet been approved by Parliament.

In the meantime, the courts have been called upon to give decisions on this question. As indic-

ated in the appendices to the report for the year 1937-1938, two judgments have been given on the application of the Convention.

In the decision of the Appeal Court of Rosario, it was held that the ratification of the Convention by Act No. 12232 had not *ipso facto* had the effect of including all wage-earners in agriculture among the beneficiaries of Act No. 9688 concerning workmen's compensation for accidents, and that a new Act was necessary to give effect to the requirements of Article 1 of the Convention.

The judgment of the Appeal Court of La Plata propounds the contrary view, and holds that the text of Act No. 9688, in so far as it restrains the right of agricultural workers to compensation, has been modified by the enactment of Act No. 12232, which approved the Conventions adopted by the International Labour Conference at its 1921 session. It is not necessary to enact a new law modifying the national legislation where there exists another law for the ratification of an international Convention on the same subject. In case of conflict between a national law and a Convention, the latter must prevail when its ratification calls for a decision by the competent legislative authorities posterior to the national law whose text is in contradiction with the Convention in question.

In view of the fact that contradictory judgments have been given on the legal effect of the ratification of the present Convention, the Committee again ventures to express the hope that either by regulations or by means of legislation, the application of the provisions of the Convention may be secured throughout the territory of the Republic.

#### *Colombia (Ratification : 20.6.1933).*

The report shows that the situation as regards legislation for implementing the provisions of the Convention remains unchanged. The Committee therefore can only repeat its previous observations and express the hope that the contemplated extension of Act No. 57 of 1915 to cover agricultural workers may be made in the near future.

#### *Poland (Ratification : 21.6.1924).*

The report states that the Senate, by a resolution of 14 July 1938, has requested the Government to submit to Parliament within a period of three years a Bill concerning the compulsory insurance of agricultural workers in case of invalidity or death, such insurance to cover the whole of the national territory.

The report adds that the Ministry of Social Assistance, in preparing this Bill, would take up the work which had previously been done in connection with a special Act for the insurance of agricultural workers against the risks of invalidity and death which was submitted to the Diet in 1934 but which lapsed subsequently. This Bill, as mentioned in the report of the Committee of Experts for 1934, covered also the risk of incapacity and death resulting from accidents at work.

The Committee ventures to express the hope that, as a result of the resolution adopted by the Senate on 14 July 1938, a system of compulsory social insurance for agricultural workers covering also the risk of incapacity and death resulting from accidents at work may be established in the near future.

#### 13. *White Lead (Painting).*

Number of reports due : 23.

Number of reports received : 21.

Reports missing : *Nicaragua, Spain.*

#### *Argentine Republic (Ratification : 26.5.1936).*

The Committee noted last year that it appeared from the report that only Article 3 of the Convention seemed to be specifically applied. In the City of Buenos Aires certain provisions are in force for the application of the Convention. For the rest of the country the report stated that the necessary regulations were under consideration.

As the report this year does not contain any fresh information the Committee will be glad to know whether the measures in question have been

adopted and ventures to express the hope that the next report will contain full information on the application of the Convention throughout the country.

#### *Bulgaria (Ratification : 6.3.1925).*

Last year the Committee enquired whether the Government had consulted the employers' and workers' organisations concerned for the purposes of Article 6 of the Convention. By a letter dated 25 May 1938 the Government replied that no occasions had arisen on which the competent authorities had, for certain purposes, to consult the organisations of workers and employers concerned, as provided for in Article 6. This information is now embodied in the report of the Government.

In taking note of this information the Committee would recall the fact that the terms of Article 6 are general in scope and that consultation of the employers' and workers' organisations concerned would seem to be obligatory.

#### *Chile (Ratification : 15.9.1925).*

The report for this year repeats the statement made last year that other urgent work has prevented the Ministry of Labour from taking the necessary measures for the final revision and promulgation of the regulations required to give effect to various provisions of the Convention.

The Committee can only express its earnest hope that the regulations in question will be adopted and promulgated without further delay so that the Convention can be fully applied.

#### *Colombia (Ratification : 20.6.1933).*

Last year the Committee noted the statement in the report that the National Health Department was aware of the provisions of the Convention and that it would take the necessary steps for their application. This statement was confirmed by a representative of the Colombian Government at the Conference in 1938. The report this year, however, does not contain any fresh information on the subject. The Committee accordingly ventures again to express the hope that the provisions necessary for the application of the Convention will be adopted in the near future.

#### *Cuba (Ratification : 7.7.1928).*

The Committee takes note of the statement in the report with reference to Article 6 of the Convention that the Director-General of Hygiene and Social Welfare has not been called upon to apply the provisions of Legislative Decree No. 215 of 16 May 1934, prohibiting the use of white lead in painting. The Government might be requested to be good enough to indicate the reasons why the Legislative Decree in question was not applied during the period under review.

#### *France (Ratification : 19.2.1926).*

The report which is complete and interesting, states that owing to the prohibition of the use of white lead and sulphate of lead as prescribed by the Convention, there are practically no cases of lead poisoning among working painters in France. This is borne out by the statistics of occupational diseases.

The Committee takes note of this statement with great satisfaction.

#### *Mexico (Ratification : 7.1.1938).*

This is the first report submitted by the Mexican Government and the Committee takes note of it with interest.

The Committee notes with satisfaction the statement in the report that the Mexican Government intends to prepare regulations concerning industrial hygiene by the application of which the various provisions of the Convention will be brought into effect.

#### *Rumania (Ratification : 4.12.1925).*

The report states that it is not possible at present to indicate the number of workers covered by the relevant legislation nor the number of infractions.

The Committee takes note of this statement and ventures to express the hope that the Government's inability to supply information on these points is due to temporary causes and that such information will be supplied in future reports.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes with much satisfaction the decision of the Government to eliminate the deficiencies in the Resolution of 3 March 1937 to which attention was called last year.

14. *Weekly Rest (Industry).*

Number of reports due : 32.

Number of reports received : 29.

Reports missing : *Italy, Nicaragua, Spain.*

*Canada (Ratification : 21.3.1935).*

See under Appendix 1 A (General observations on the reports supplied by certain countries).

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Mexico (Ratification : 7.1.1938).*

This is the first report due from the Mexican Government and the Committee takes note of it with much interest.

The Committee suggests that the Government might be requested to be good enough to supply in future reports (1) the list of the partial exceptions provided for in Article 6 of the Convention ; (2) information regarding the methods by which supervision of the application of the relevant legislation is ensured, in particular the organisation and working of inspection, and (3) particulars with regard to the practical application of the Convention (Point VI of the Report Form).

*New Zealand (Ratification : 29.3.1938).*

See under Convention No. 1.

15. *Minimum Age (Trimmers and Stokers).*

Number of reports due : 33.

Number of reports received : 28.

Reports missing : *Germany, Italy, Japan, Nicaragua, Spain.*

*Argentine Republic (Ratification : 26.5.1936).*

As the report this year contains no fresh information, the Committee associates itself with the observation made by the Conference Committee in 1938 and ventures to express the hope once more that the Government will be in a position to report next year that the proposed amendments to the regulations relating to the registration of the crew of the mercantile marine with a view to ensuring the full application of Articles 2 and 6 of the Convention have been made.

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Cuba (Ratification : 7.7.1928).*

With regard to Article 6 of the Convention, the Committee takes note of the statement contained in the report to the effect that the Secretary for Labour has under consideration the draft of an Order for making obligatory the inclusion of the provisions of the Convention in the articles of agreement. It ventures to express the hope that the Order in question may be issued at an early date.

*Greece (Ratification : 14.6.1930).*

The report was received too late to be examined by the Committee.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes from the report that a Bill is being prepared to bring the provisions of the Child Labour Code into complete harmony with those of the Convention. The Committee ventures to express the hope that these new provisions which are required to implement the Convention will be enacted at an early date.

16. *Medical Examination, Young Persons (Sea).*

Number of reports due : 34.

Number of reports received : 28.

Reports missing : *Brazil, Germany, Italy, Japan, Nicaragua, Spain.*

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Mexico (Ratification : 9.3.1938).*

The Committee notes that Regulations are being prepared for implementing the Convention, and hopes that the Mexican Government will be able to announce the adoption and coming into operation of these Regulations in next year's report.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes from the report that a Bill is being prepared to bring the provisions of the Child Labour Code into complete harmony with those of the Convention. The Committee ventures to express the hope that these new provisions which are required to implement the Convention will be enacted at an early date.

17. *Workmen's Compensation (Accidents).*

Number of reports due : 18.

Number of reports received : 16.

Reports missing : *Nicaragua, Spain.*

*Chile (Ratification : 8.10.1931).*

The Government again states in its report that it has not yet been possible to introduce the amendments necessary to provide for the compensation of cases of permanent partial incapacity in the form of periodical payments (Article 5 of the Convention).

The Committee ventures once more to express the hope that the amendments in question will be adopted at an early date.

*Colombia (Ratification : 20.6.1933).*

Last year the Committee suggested that the Government might be requested to be good enough to keep the International Labour Office informed of the progress made in connection with the adoption of a Bill concerning workmen's compensation for industry which the Committee noted in 1936 had been laid before the Legislative Chambers.

As the report this year contains no fresh information on the matter, the Committee ventures once more to express the hope that the Bill in question will be adopted at an early date.

*Mexico (Ratification : 12.5.1934).*

The Government points out in this, as in the previous report, that the Federal Labour Act is at variance with several articles of the Convention, namely, Article 5 concerning the form of compensation in case of permanent incapacity and death, Article 7 concerning additional compensation in cases where constant help is required, Article 10 concerning the supply and normal renewal of artificial limbs and surgical appliances, and Article 11 concerning provisions for ensuring the payment of compensation in the event of the insolvency of the employer or insurer.

The Committee is glad to observe that the Government intends to remove these divergencies and has included the necessary provisions to this effect in a Bill to amend the Federal Labour Act.

The Committee ventures to express the hope

that the passage of the Bill in question will not be long delayed.

*New Zealand (Ratification : 29.3.1938).*

The report, which is the first submitted by the New Zealand Government since ratification of the Convention, states that the law in New Zealand is generally in harmony with the Convention.

The report on the whole is very comprehensive, but the Committee would be glad to have supplementary information on the following points :

Art. 5, § 1. Are weekly payments in case of total or partial incapacity subject to limitations not only in respect of the total aggregate amount but also in respect of duration, even where incapacity persists ?

Art. 5, § 2. Where weekly payments are, by agreement between the parties, redeemed by a lump sum, must a guarantee be furnished to the competent authority that this sum will be properly utilised ?

Art. 9. Can the maximum fixed for medical and surgical expenses be deemed sufficient for procuring to the injured worker such aid as is recognised to be necessary in consequence of accidents ?

Art. 10. Are there any special arrangements of a practical nature for facilitating the supply and renewal of artificial limbs and surgical appliances necessary in consequence of the accident to the injured worker ?

*Portugal (Ratification : 27.3.1929).*

The Committee hopes that next year it may prove possible to include in the report some statistics of the working of the legislation.

*Uruguay (Ratification : 6.6.1933).*

In previous years the Committee had noted certain divergencies between Uruguayan legislation and the Convention. These divergencies relate to Article 6 (waiting period), Article 9 (surgical assistance) and Article 10 (the supply and normal renewal of artificial limbs and surgical appliances).

Last year the Committee was pleased to take note of a communication dated 23 September 1937 which stated that the National Labour Institute had submitted to the Ministry of Industry and Labour a Bill concerning workmen's compensation, which would establish conformity between the national legislations and the provisions of the Convention.

In view of the fact that the present report does not make any reference to the communication quoted above, the Committee ventures to suggest that the Government might be requested to be good enough to keep the International Labour Office informed of the progress made in connection with the Bill which has been submitted to the Ministry of Commerce and Industry.

18. *Workmen's Compensation (Diseases).*

Number of reports due : 28.

Number of reports received : 23.

Reports missing : *Germany, Italy, Japan, Nicaragua, Spain.*

*Belgium (Ratification : 3.10.1927).*

Last year the Committee noted that the revision of the legislation concerning workmen's compensation for occupational diseases for the purpose of bringing its provisions into harmony with those of the consolidated legislation concerning industrial accidents from the standpoint of the amount of compensation to be paid had not yet been taken up by Parliament.

As this year's report does not indicate any progress in this connection, the Committee can only express the hope that the necessary amendments to the legislation in question will be made without further delay.

*Bulgaria (Ratification : 5.9.1929).*

The report states that the number of cases of occupational diseases compensated was 33. It would be appreciated if the Government would indicate in its reports in future not only the number of cases compensated but also the nature of the occupational diseases in question.

*Colombia (Ratification : 20.6.1933).*

The report does not contain any fresh information regarding the Bill which has been drafted for the purpose of implementing the provisions of the Convention. The Committee therefore can only repeat the hope that it has already expressed that the Bill in question will be adopted without further delay.

*Denmark (Ratification : 18.6.1934).*

The Committee takes note of the interesting statistical information contained in the report. It would be grateful, however, if in future reports the Government would be good enough to indicate by their appropriate designations the various occupational diseases compensated.

19. *Equality of Treatment (Accident Compensation).*

Number of reports due : 35.

Number of reports received : 30.

Reports missing : *Germany, Italy, Japan, Nicaragua, Spain.*

*Greece (Ratification : 30.5.1936).*

1. The report shows that the situation as regards legislation, which was described in last year's report, has not changed. The report, however, mentions an Order No. 28290 of 1938 regulating the position of foreigners domiciled provisionally in Greece. Such foreigners are not covered by the Social Insurance Act, but are entitled in case of accidents to the benefits provided by Act No. 551 of 24 July 1920. This Act would seem to be in conformity with the Convention.

The Committee would be grateful if, in its next report, the Greek Government would be good enough to supply information on the practical application of the Order of 1938 referred to above.

2. The Committee further ventures to express the hope that the Government will be able without further delay to secure the necessary amendments to the Decree of 23 March 1925, which the Government itself recognised in its last report as not in harmony with the Convention, in so far as foreigners and their surviving dependants are entitled to a pension only if they are resident in Greece.

20. *Night Work (Bakeries).*

Number of reports due : 11.

Number of reports received : 8.

Reports missing : *Nicaragua, Spain.*

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Cuba (Ratification : 6.8.1928).*

The Committee, in taking note of the information supplied in the report in response to its observations in previous years, notes with satisfaction that the employers' and workers' organisations concerned were consulted and that these organisations approved Decree No. 2133, which embodies regulations for the application of the Act of 2 June 1928 concerning night work in bakeries.

21. *Inspection of Emigrants.*

Number of report due : 18.

Number of reports received : 15.

Reports missing : *Albania, Japan, Nicaragua.*

The reports examined do not call for any observations.

## 22. *Seamen's Articles of Agreement.*

Number of reports due : 25.

Number of reports received : 21.

Reports missing : *Germany, Italy, Nicaragua, Spain.*

*Canada (Ratification : 30.6.1938).*

In welcoming the first report on this Convention from the Government of Canada, for which the Convention was in force for only three months during the year 1937-38, the Committee ventures to express the hope that with the further experience of the working of the Convention which will have been acquired during the year 1938-39, it will be possible for the Government in its next report to give a summarised analysis of the national law and regulations implementing the different Articles of the Convention.

*China (Ratification : 2.12.1936).*

The Government refers to last year's report, in which it was stated that the Convention temporarily had no practical application in the Republic of China, no vessels other than vessels engaged in coasting trade having been registered with the Ministry of Communications.

The Committee would be grateful, however, if the Government would include in its next report a statement of the existing legislation intended to implement the Convention.

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*India (Ratification : 31.10.1932).*

The previous reports to which the report for 1937-38 refers had stated that in respect of Article 10 "this Article is in conformity with the existing law and practice in India" and with respect to Articles 11 and 12 that "the provisions of these Articles are covered by the ordinary law of India".

The Committee would be grateful if the Government of India would be good enough to supplement these statements, for the guidance of the Committee, by particulars of the law and practice to which they refer.

*Mexico (Ratification : 12.5.1934).*

The Committee ventures to repeat the observations that it made last year concerning in particular the application of Articles 5, 7, 8, 13 and 14 of the Convention. It notes, however, the information given by the Government in its report in this connection, namely, that Mexico intends to adapt its legislation more fully to the requirements of Articles 5, 13 and 14 of the Convention, and that the Government will supply without delay the ship's regulations which are referred to in the report in connection with Articles 7 and 8.

*New Zealand (Ratification : 29.3.1938).*

The Committee, while welcoming the full report from New Zealand, ventures to suggest that the Government might be asked

(a) whether the provisions of § 56 of the Shipping and Seamen Act 1908 concerning reports of character apply only to seamen discharged in New Zealand and, if so, what rights seamen discharged elsewhere have in this respect; and

(b) whether the Government would be prepared on some suitable occasion to consider introducing the provisions of Article 13 into the national law.

It would also be appreciated if the Government could furnish with its next report, for the information of the Committee, copies of the approved forms for agreement with the crew and for certificates of discharge.

*Uruguay (Ratification : 6.6.1933).*

The Committee ventures to express the hope that the steps which it was reported last year were being taken by Parliament to implement the

Convention in national law will shortly be completed.

## 23. *Repatriation of Seamen.*

Number of reports due : 17.

Number of reports received : 13.

Reports missing : *Germany, Italy, Nicaragua, Spain.*

*China (Ratification : 2.12.1936).*

See under Convention No. 22.

*Colombia (Ratification : 20.6.1933).*

The report was received too late to be examined by the Committee.

*Mexico (Ratification : 12.5.1934).*

The Committee ventures to repeat the observations that it made last year concerning the application of Articles 3 and 4 of the Convention. It notes, however, the information supplied by the Government in its report to the effect that the Secretary of State intends to adapt the provisions in force concerning the repatriation of foreign seamen more fully to those of the Convention.

*Uruguay (Ratification : 6.6.1933).*

See under Convention No. 22.

## 24. *Sickness Insurance (Industry, etc.).*

Number of reports due : 15.

Number of reports received : 12.

Reports missing : *Germany, Nicaragua, Spain.*

*Bulgaria (Ratification : 1.11.1930).*

The report for the year 1937-38 does not indicate any change in the legislation. It seems necessary, therefore, to point out, as in previous years, that under § 18 of the Act of 25 March 1924 the right to medical treatment is subject to a qualifying period of eight consecutive weeks, whereas the Convention does not provide for a qualifying period in respect of medical treatment.

The Committee takes note of the statement contained in a letter of 25 May 1938 that the Government is contemplating the suppression of the qualifying period of eight consecutive weeks as soon as the finances of the sickness funds are stabilised, and ventures to express the hope that such stabilisation will be realised at an early date.

*Chile (Ratification : 8.10.1931).*

A waiting period of four days is imposed by Act No. 4054 for entitlement to sickness benefit, whereas Article 3 of the Convention provides for a maximum of three days. The Government refers to statements in previous reports that an amending Bill to reduce the waiting period from four days to three is in preparation.

The Committee ventures once more to express the hope that the Bill in question may soon be enacted into law.

*Colombia (Ratification : 20.6.1933).*

The Government reports the adoption by the Chambers of a Bill concerning social insurance which, however, has not yet received the assent of the President of the Republic. It is stated that the Government proposes to submit to the next Session of Congress certain amendments to the Bill.

The Committee in these circumstances ventures to express the hope that the projected legislation will be adopted in the near future so that the obligations of the Convention may be carried out.

*Luxemburg (Ratification : 16.4.1928).*

The report refers to the Bill for amending the Social Insurance Code which was laid before the Chamber of Deputies by Order of 17 February 1938. The Bill provides, *inter alia*, for the extension of compulsory sickness insurance to domestic servants. This extension, which is supported by the Luxem-



burg Council of State, should establish conformity with Article 2 of the Convention.

The Committee takes note of the submission of the Bill to the Chamber of Deputies with satisfaction, and ventures to suggest that the Government should be requested to be good enough to keep the International Labour Office informed of the progress made in connection with the adoption of the Bill.

*Uruguay (Ratification : 6.6.1933).*

The report refers to the report supplied last year from which it is seen that there is, at present, no system of compulsory sickness insurance as prescribed by the Convention. The report for 1935-36 moreover stressed the necessity for introducing such a system within the shortest possible period.

The Committee ventures to express again the hope that the necessary measures to apply the Convention may be taken at an early date.

25. *Sickness Insurance (Agriculture).*

Number of reports due : 10.

Number of reports received : 7.

Reports missing : *Germany, Nicaragua, Spain.*

*Bulgaria (Ratification : 1.11.1930).*

See under Convention No. 24.

*Chile (Ratification : 8.10.1931).*

See under Convention No. 24.

*Colombia (Ratification : 20.6.1933).*

See under Convention No. 24.

*Luxemburg (Ratification : 16.4.1928).*

The report refers to that relating to Convention No. 24, according to which the Chamber of Deputies had submitted to it by Order of 17 February 1938 a Bill for the amendment of the Social Insurance Code. The Bill applies also to agriculture and forestry workers, who will now be covered by compulsory sickness insurance.

The Committee notes the submission of the above Bill to the Chamber of Deputies with satisfaction, and ventures to suggest that the Government might be requested to be good enough to keep the International Labour Office informed of the progress made in connection with the adoption of the Bill.

*Uruguay (Ratification : 6.6.1933).*

The report refers to the annual report supplied for 1936-1937 without giving any new information. Agricultural workers are not covered by sickness insurance and according to the report no steps have been taken to establish a system of sickness insurance for agricultural workers in conformity with the provisions of the Convention.

In these circumstances, the Committee ventures to recall the fact that by its ratification of the Convention the Government assumed an obligation to establish a system of compulsory sickness insurance in accordance with its provisions.

26. *Minimum wage fixing machinery.*

Number of reports due : 20.

Number of reports received : 16.

Reports missing : *Germany, Italy, Nicaragua, Spain.*

*Bulgaria (Ratification : 4.6.1935).*

The Committee notes with satisfaction that the Government has been good enough to supply in its report this year detailed information with regard to the rates of minimum wages fixed under the Legislative Decree of 22 September 1936 concerning collective agreements and the settlement of labour disputes, and the approximate number of workers covered by the Regulations as was promised in the Government's letter of 25 May 1938. It may be pointed out, however,

that the report does not indicate whether the Regulations are applicable to home workers. It is further noted that no information is given on the application of § 21 of the Legislative Decree of 5 September 1936 concerning labour contracts.

The Committee ventures to express the hope that the Government will be able to communicate supplementary information on these points to the International Labour Office.

*Canada (Ratification : 25.4.1935).*

See under Appendix 1 A (General observations on the reports supplied by certain countries).

*Chile (Ratification : 31.5.1933).*

In response to the observations made by the Committee last year, the Government states in its report that provisions regarding the setting up and working of joint committees of employers and workers for minimum wages are contained in Decree No. 276 of 12 September 1932. The Committee takes note of this information with satisfaction.

*Hungary (Ratification : 30.7.1932).*

The Committee, in taking note with interest of the legislation passed in 1937 and 1938, which is in harmony with the Convention, wishes to express its appreciation of the fact that, in response to the Committee's observations last year, the Hungarian Government has been good enough to supply in its report this year detailed information with regard to the number of workers covered by the relevant legislation in each industry for whom minimum wages have been fixed, as well as the rate of these wages.

*Mexico (Ratification : 12.5.1934).*

Last year the Committee requested the Mexican Government to comply with the requirements of Article 5 of the Convention by supplying information as to the approximate number of workers covered, etc., by the minimum wage regulations.

The report for this year states that, as the date is approaching for the issue of a new minimum wage (the rate applies for two years); the Social Welfare Office of the Department of Labour has been collecting the necessary technical details relating to the typical family, area, density per kilometre, total population of each of the municipalities of the country, etc.

Copies of the circular sent to the Presidents of the Central Conciliation and Arbitration Boards, and a copy of the questionnaire sent out in order to ascertain the points which must be taken into account in fixing the minimum wage under Section 416 of the Federal Labour Act, have been communicated to the Office.

The Committee takes note of this information with interest, and ventures to express the hope that the Mexican Government will be able in its next report to include the particulars required under Article 5 of the Convention.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes with satisfaction the statistical and other information which the Government has included in its report for this year with regard to the application of the regulations concerning minimum wages at present in force, in particular the Decrees of 4 May 1934, 21 August 1934, and Act No. 9675 of 4 August 1937. It would be appreciated if the Government could supply in its next report similar information regarding the application of the Act of 23 January 1934 providing for the fixing of minimum wages for homework.

Last year the Committee took note of a statement in the Government's report that an Act designed to ensure the full application of the Convention was in preparation. In the absence of any information in this year's report that the legislation in question has been adopted, but without stating that the existing legislation (in particular the Act of 23 January 1934) is insufficient to give effect to the minimum requirements of the Convention, the Committee ventures to



express the hope that the Government will be good enough to inform the International Labour Office whether any progress has been realised in connection with the adoption of the projected legislation.

27. *Marking of weight (packages transported by vessels).*

Number of reports due : 31.

Number of reports received : 25.

Reports missing : *Germany, Italy, Japan, Lithuania, Nicaragua, Spain.*

*General Observations*

Last year the Committee noted that the enquiry undertaken by the Office, by instruction of the Governing Body, with a view to ascertaining by correspondence the precise nature of the difficulties of application or interpretation which had to a very limited extent impeded the uniform practical application of this Convention, had made progress. The Committee understands that the Governing Body at its Eighty-fifth Session (October 1938) examined a report by the Office on this question and decided to postpone further consideration of the matter to a subsequent Session.

In the meantime the Committee notes with pleasure that this important Convention has so far received 35 ratifications.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes with satisfaction the adoption of the Decree of 10 August 1938 issuing Regulations for the prevention of accidents to port and maritime workers, which provides for the application of the Convention.

The Decree does not, however, say who is responsible for marking the weight on packages. The Convention says "it shall be left to national laws or regulations" to determine this.

28. *Protection Against Accidents (Dockers).*

Number of reports due : 3.

Number of reports received : 2.

Report missing : *Nicaragua.*

*Ireland (Ratification : 5.7.1930).*

The Committee notes the statement of the Irish Government to the effect that the possibility of ratifying the revised Convention of 1932, and thereby denouncing the ratification of the present Convention, is still under consideration.

29. *Forced Labour.*

Number of reports due : 18.

Number of reports received : 14.

Reports missing : *Italy, Japan, Nicaragua, Spain.*

*General Observations.*

There is one initial point in regard to which the examination of the reports as a whole may leave a feeling of some uncertainty. Information is given on the legal prohibitions of the use of forms of forced or compulsory labour as prohibited by the Convention. There is less information on the practical means whereby any person, who may illegally be forced to render labour services, can recover his freedom and obtain compensation.

It would be of value if the reporting States could, where this has not already been done, give indications of the practical working of the sanctions which exist for any breach of the laws under which Article 25 of the Convention is applied ("The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member

ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.")

A second question on which more light would be of value arises in connection with the labour of persons convicted before the courts of law. Under Article 2 (c) of the Convention, from the definition of forced or compulsory labour is exempted any work or service exacted from any person as a consequence of a conviction in a court of law "provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations."

As indicated in the observations on the French and British reports, it appears that this provision has been diversely interpreted.

\* \* \*

In regard to the separate reports received this year, the following are points of interest.

*France.*

The ratification of the Convention by France was registered on 24 June 1937. This is therefore the first year for which a report was due.

The report received contains a large amount of information on the measures taken in application of the Convention in French Equatorial Africa, French West Africa, Indo-China, Madagascar, New Caledonia and the Mandated Territories of the Cameroons and Togoland. This information is of considerable value and in view of what may be called the progressive obligations of the Convention, future reports following the main lines of this first report will be awaited with interest.

Certain questions arise affecting the promulgation of the Convention in the various territories. It appears that the basic text is the French Decree of 12 August 1937. According to the report, this Decree was promulgated in the Cameroons under French Mandate by Order of 19 September 1937, in French West Africa by Order of 15 October 1937, in Indo-China by Order of 11 October 1937, in New Caledonia by Order of 1 December 1937 and in Togoland under French Mandate by Order of 13 October 1937. No mention is made of the promulgation of the Decree in French Equatorial Africa, Madagascar and the French possessions in Oceania. It appears, however, that in French Equatorial Africa the Decree was promulgated by Order of 7 November 1937. Perhaps any omissions might be rectified in the next report.

Reference is made under the general observations submitted to the Committee to the question of convict labour in relation to the obligations of the Convention. The French report alludes specifically on this point only to French West Africa. It is explained that under previous legislation convict labour could be hired out to private employers but that a general Order of 28 September 1938 prohibits such action, where it results in taking the prisoners from the supervision and control of the administrative authority. It would be of value to learn (1) what is the law and practice in other French Dependencies, and (2) whether the French Government considers the above practice to be entirely in conformity with Article 2 (c) of the Convention.

In many places in the report useful details are supplied on the practice in regard to the employment of forced or compulsory labour. The value of such information would be greatly increased if in future statistical information could be supplied under Article 22 "regarding the extent to which recourse has been had to forced or compulsory labour." Such information is, for example, already given in the case of Indo-China, where the number of men and of man-days in connection with the compulsory transport of Government officers and stores is indicated, and figures concerning forced labour on public works are given for French Equatorial Africa.

### Great Britain.

It is to be noted that Aden, previously under the administration of the Government of India, was given the status of a colony on 1 April 1937 and should be added to the list of colonies, etc., in which there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention.

The separate reports supplied by the British Government on the Gold Coast (including Togoland under British Mandate), Kenya, Nigeria (including the Cameroons under British Mandate), North Borneo, Nyasaland, the Mandated Territory of Tanganyika, Sierre Leone and Uganda, for the most part reflect advance in the progressive abolition of the use of forced or compulsory labour. In the Mandated Territory of Tanganyika, however, although the incidence of labour exacted in lieu of tax was reduced from 16,092 men to 10,082 men and from 582,026 man-days to 349,330 man-days, forced or compulsory labour for Government portage and public purposes was imposed to a slightly larger extent than in the previous period (4,057 men as compared with 3,324 and 64,313 man-days as compared with 16,711).

With regard to the sanctions for the illegal use of forced labour referred to above under the general observations, an examination of the British reports shows the following situation.

It appears that British Dependencies may be divided into the following groups:

(1) Dependencies where, as in the United Kingdom, there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention and where the illegal exaction of forced labour would form the subject of proceedings before the courts under a writ of *habeas corpus* or at common law;

(2) Dependencies where there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention and where the illegal exaction of forced labour is specifically prohibited by legislation containing appropriate penalties;

(3) Dependencies where legislation exists permitting the exaction of certain forms of forced or compulsory labour as defined by the Convention and prohibiting the exaction of other forms of forced or compulsory labour under appropriate penalties.

The Dependencies which come within these three groups are as follows:

Ad. (1). In Newfoundland and Southern Rhodesia, as well as in the majority of Dependencies which are not fully self-governing, there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention and the position in regard to the illegal exaction of forced or compulsory labour is similar to that in the United Kingdom. The Dependencies which fall into this group appear to include the following: Aden, Bahamas, Barbados, Bermuda, British Guiana, British Honduras, Ceylon, Cyprus, Falkland Islands, Fiji, Gibraltar, Hong Kong, Jamaica, Leeward Islands, Malta, Mauritius, Palestine, St. Helena, Sarawak, Seychelles, South Africa High Commission Territories (Basutoland, Bechuanaland, Swaziland), Trinidad, Western Pacific Islands and Windward Islands. As regards Bechuanaland, however, the British Government, in reply to observations of the Committee of Experts, has supplied information which appears to indicate that it rather falls into the third class.

Ad. (2). In the following Dependencies there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention and the illegal exaction of such labour is specifically prohibited: Federated Malay States, Gambia, Northern Rhodesia, Somaliland, Straits Settlements, Trans-Jordan, (Mandated Territory), Unfederated Malay States and Zanzibar.

Ad. (3). In the following dependencies legislation exists permitting the exaction of certain forms of forced or compulsory labour as defined by the Convention and prohibiting the exaction of other forms of forced or compulsory labour: Gold Coast,

Kenya, Nigeria, North Borneo, Nyasaland, Sierre Leone, Tanganyika (Mandated Territory) and Uganda.

It would be of value if the British Government could state whether the above analysis is correct.

One other legal question arises this year. In respect of Southern Rhodesia the British report states that no forced labour is permitted in Southern Rhodesia and that no illegal exactions have been reported. In view of certain public statements, it would be of value to learn what is the interpretation placed in Southern Rhodesia on Article 2 (c) of the Convention, which excludes from the definition of forced or compulsory labour any work or service exacted from any person as a consequence of a conviction in a court of law "provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations."

### Liberia.

An interesting report has been received from Liberia.

Last year the Committee of Experts asked two questions in connection with the application of the Convention to Liberia.

In the first place, the Committee asked whether the road labour for main highways and trade routes, which was regarded by the Government of Liberia as falling under Article 2 (b) of the Convention ("any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country"), is an obligation which falls equally on all the citizens of the Republic or whether it is exacted only from those inhabitants of the Hinterland who are affected by the Administrative Regulations for governing the Hinterland of the Republic.

In reply, the Government of Liberia reports that it still views road labour for main highways and trade routes as falling under Article 2 (b) and that all male citizens of the Republic are liable to perform road work.

The Committee takes note of this reply.

The second question is connected with portage labour.

Article 34 of the Administrative Regulations provides that (1) any traveller or trader requiring porters shall apply to the chief of the village for the required number, and (2) should the chief, upon the reasonable application of any traveller, refuse to furnish porters as required, a complaint against him shall be made to the District Commissioner who, upon proof of said refusal, shall fine the chief a sum not exceeding \$30. The Committee of Experts drew attention to the reply of the Government of Liberia under Article 4 of the Convention, stating that forced or compulsory labour for private persons, companies or associations has always been illegal. The Committee stated that it would be glad to be informed of the practical application of Article 34 of the Administrative Regulations in view of the reply under Article 4 of the Convention.

In reply, the Government of Liberia this year states that "the service rendered under Article 34 of the Regulations is a public utility which is incumbent on Government to perform. This should not therefore be construed as labour for private persons, and is not, in our opinion, contradictory to the reply heretofore made to this Article."

This interpretation appears to differ from that adopted by other States in relation to the regulation of compulsory portage.

### Netherlands.

The Government of the Netherlands has again, after the interruption noted last year, supplied the valuable tables showing the incidence of *heerendiensten* in the Outer Provinces of the Netherlands Indies.

One legal question arises from the report. Under an Ordinance of 3 December 1934, which came into operation on 1 February 1938, compul-

sory labour for the transport of military forces on the march and their baggage was excluded from the restrictive regulations concerning *heeren-diensten*. The report states that all persons living in the Netherlands Indies are now liable to perform these services on the understanding that only adult men who can be considered as not unused to this kind of work shall be liable. In this way, the report continues, the provisions concerning transport services for the army have been brought into conformity with the regulations in force in this respect in most countries.

It would be of interest to learn under what provision of the Forced Labour Convention such services are regarded as excluded from the definition of forced or compulsory labour.

The reports received from other Governments required to report call for no comment (Australia, Belgium, Chile, Denmark, Finland, Ireland, Mexico, Norway, Sweden and Yugoslavia).

#### *Anglo-Egyptian Sudan (Voluntary Report)*

The Committee wishes once again to record its thanks to the Government of the *Anglo-Egyptian Sudan* for submitting a voluntary report on the Convention. This is the seventh of such reports. As usual, it is of interest and does not call for any particular comments.

#### 30. *Hours of Work (Commerce and Offices).*

Number of reports due : 8.

Number of reports received : 6.

Reports missing : *Nicaragua, Spain.*

#### *Bulgaria (Ratification : 22.6.1932).*

The Committee notes, as it did last year, in the first place that the derogations authorised under Articles 4, 5, 6 and 7 of the Convention do not seem to have been embodied in the regulations; and secondly, that according to the legislation in force, the employer does not seem to be obliged to enter in a register the prolongations of hours of work authorised as temporary exemptions as laid down in Article 11 of the Convention.

The Committee also notes that the report does not contain any indication as to the total number of workers covered by the relevant legislation and the number of breaches reported.

The Committee would be grateful if the Government would be good enough to communicate to the Office supplementary information on these points.

#### *Chile (Ratification : 18.10.1935).*

1. The Committee takes note with satisfaction of the information supplied by the Government in response to the request made last year and concerning the application, by analogy, of the regulations on hours of work in private railway undertakings to employees of State railways.

2. The Committee, while noting from the information supplied by the report that the extension, under § 126 of the Labour Code, of the normal hours of work to 56 hours per week for salaried workers in telegraph, telephone, light and water supply, tramway and other similar undertakings has only been granted in fully justified cases, ventures to point out that those salaried workers do not fall within the categories of persons to whom the exception under Article 7, paragraph 1 (a) of the Convention applies.

#### *Cuba (Ratification : 24.2.1936).*

1. The Committee, in taking note of the statement made by the representative of the Cuban Government last year at the Conference Committee on the Application of Conventions and the information contained in the report explaining the application of the legislation concerning the maximum hours of work to certain categories of staff employed by the State, is glad to state that in the light of these additional particulars it is satisfied that there are no divergences between the Convention and Cuban legislation on this point.

2. The Committee, recalling certain divergences which would seem to subsist between the Convention and Cuban legislation with regard to the prolongation of daily hours of work subject to explicit limitation in the case (a) of a special distribution of weekly hours (Article 4 of the Convention), (b) compensation for hours of work lost in clearly defined circumstances (Article 5), and (c) special work such as the drawing up of balance sheets and inventories (Article 7) repeats the hope that it expressed last year that the Government would remove these divergences in the near future.

3. The Committee, in taking note through the *Gaceta Oficial* of 21 April and 27 May 1938 of the promulgation of Decree No. 798 of 13 April 1938 which provides in § 40 that the wages for overtime shall be increased by at least 25 per cent. of the normal rate, as provided in Article 7 of the Convention, is glad to state that the discrepancy between Cuban legislation and the Convention on this point to which attention had been called has disappeared and ventures to express the hope that the Government would be good enough officially to confirm this conclusion.

4. The Committee, in taking note of the information contained in the report relating to the formalities for the entry in a register of all prolongations of working hours and their remuneration, notes with satisfaction that in the light of this information there is no discrepancy in this matter between the Convention and Cuban legislation.

#### *Finland (Ratification : 13.1.1936).*

The Committee notes with satisfaction the supplementary information supplied by the Government by letter dated 5 May 1938 in response to the observations which were made by the Committee last year.

#### *Mexico (Ratification : 12.5.1934).*

The Committee, recalling that it was suggested in 1937 and 1938 that the Government might be requested to supply the text of the special Administrative Regulations which govern hours of work in the postal and telegraph services, notes that formal regulations on this subject will be issued as soon as Congress approves the new Bill on General Means of Communication, and ventures to hope that the Government will keep the Office informed of any progress made towards the issue of these regulations.

#### *Uruguay (Ratification : 6.6.1933).*

The Committee, referring to the observations made in previous years concerning some discrepancies which seem to exist between the Uruguayan legislation and Article 5 and 7 of the Convention, notes from the report that these observations will be taken into account when the study on the reform of the laws and regulations in force ordered by the Minister is undertaken, and ventures to hope that the Government will keep the International Labour Office informed of the progress made in this connection.

#### 32. *Protection against Accidents (Dockers) Revised.*

Number of reports due : 7.

Number of reports received : 5.

Reports missing : *Italy, Spain.*

#### *Chile (Ratification : 18.10.1935).*

The Committee notes that the Chilean legislation applying the Convention is being amended with a view to giving full effect to certain provisions of the Convention. The Committee hopes that the legislation will soon be brought into complete harmony with the Convention and that the next report will contain full particulars regarding its application.

#### *Mexico (Ratification : 12.5.1934).*

The Committee is glad to note that regulations that will apply the provisions of the Convention

in Mexico have been prepared, and it hopes that the legislation required to bring them into force will be passed in the near future.

35. *Minimum Age (Non-industrial employment).*

Number of reports due : 5.

Number of reports received : 4.

Reports missing : *Spain*.

*Cuba (Ratification : 24.2.1936).*

The Committee notes with satisfaction the statement made by a representative of the Cuban Government at the Committee on the Application of Conventions set up by the Twenty-fourth Session of the Conference, as well as the statement contained in the present report to the effect that in spite of the absence of legislation prohibiting the employment of young persons under 14 years of age in non-industrial activities, such employment is unknown in Cuba.

The Committee also notes that a text is in course of preparation for the purpose of regulating the age of admission in this type of employment, and ventures to express the hope that it will be possible for these regulations to be issued without delay, the more so as they are only meant to confirm an existing state of affairs.

*Uruguay (Ratification : 6.6.1933).*

The Committee notes that the situation has not changed since the last report, to which the present report refers. It can therefore only express the hope again that the measures taken to secure the modification of the national legislation for the application of the Convention will be expedited. The Committee would be grateful if the Government would be good enough to communicate to the International Labour Office the Bill or Bills which have been prepared for this purpose.

34. *Fee-charging Employment Agencies.*

Number of reports due : 4.

Number of reports received : 3.

Report missing : *Spain*.

The reports examined do not call for any observations.

35. *Old Age Insurance (Industry, etc.).*

Number of reports due : 2.

Number of reports received : 1.

Report missing : *Chile*.

The report examined does not call for any observations.

36. *Old Age Insurance (Agriculture).*

Number of reports due : 2.

Number of reports received : 1.

Report missing : *Chile*.

The report examined does not call for any observations.

37. *Invalidity Insurance (Industry, etc.).*

Number of reports due : 2.

Number of reports received : 1.

Report missing : *Chile*.

The report examined does not call for any observations.

38. *Invalidity Insurance (Agriculture).*

Number of reports due : 2.

Number of reports received : 1.

Report missing : *Chile*.

The report examined does not call for any observations.

41. *Night Work (Women) (Revised).*

Number of reports due : 11.

Number of reports received : 10.

Report not received : *Brazil*.

The reports examined do not call for any observations.

42. *Workmen's Compensation (Diseases) (Revised).*

Number of reports due : 9.

Number of reports received : 7.

Reports missing : *Brazil, Japan*.

The reports examined do not call for any observations.

43. *Sheet Glass Works.*

Number of reports due : 2.

Number of reports received : 2.

*Norway (Ratification : 21.5.1935).*

The Committee takes note of the statement that the shift plan in operation in the sheet glass works is in conformity with Article 2 of the Convention and has been approved by the inspectorate.

At the same time the Committee ventures to express the hope that the Norwegian Government will be good enough in its next report to furnish more detailed information respecting the arrangements of the shift plan with regard to hours of work, the period over which the average is calculated, the length of the spell and the length of the interval between two spells of work.

44. *Unemployment Provision.*

Number of reports due : 2.

Number of reports received : 2.

*Ireland (Ratification : 10.6.1937).*

This is the first report of the Irish Government on this Convention. The Committee appreciates the care the Government has taken in replying to the various questions contained in the report form.

There is one point which does not seem to be quite clear. The report states that not more than 156 days' benefit can be obtained in any year commencing on the date on which the claim to benefit is lodged and that the amount of benefit payable in any such year is further limited to one day of benefit for each contribution standing to the claimant's credit in the Unemployment Fund.

It seems possible that under the latter provision benefit may in certain cases be limited to a period which is less than the minimum of 78 working days per year provided for by Article 11 of the Convention. The Committee suggests that the Irish Government be asked for further information on this point.

45. *Underground Work (Women).*

Number of reports due : 10.

Number of reports received : 10.

The reports examined do not call for any observations.

49. *Hours of Work (Glass Bottle Works).*

Number of reports due : 2.

Number of reports received : 2.

*Norway (Ratification : 21.7.1936).*

The Committee takes note of the statement that the shift plan in operation in the glass bottle works is in conformity with Article 2 of the Convention and has been approved by the inspectorate.

At the same time the Committee ventures to express the hope that the Norwegian Government will be good enough in its next report to furnish more detailed information respecting the arrangements of the shift plan with regard to hours of work, the period over which the average is calculated, the length of the spell and the length of the interval between two spells of work.

## APPENDIX II.

### APPLICATION OF CONVENTIONS TO COLONIES, PROTECTORATES AND POSSESSIONS WHICH ARE NOT FULLY SELF-GOVERNING.

A summary is given below of the principal changes which occurred during the period under review.

#### *Australia.*

No change is reported:

#### *Belgium.*

No change is reported, except that the Belgian Government in the Bill concerning unemployment insurance is providing for its application to all non-Native wage-earners employed in the *Belgian Congo* and the *Mandated Territory of Ruanda-Urundi* (Convention No. 2, Unemployment).

#### *France.*

The provisions of the French Maritime Labour Code have been extended to *Saint-Pierre and Miquelon*, thus applying Conventions No. 8 (Unemployment Indemnity, Shipwreck), No. 9 (Placing of Seamen), No. 15 (Minimum Age, Trimmers and Stokers), No. 16 (Medical Examination of Young Persons, Sea), No. 22 (Seamen's Articles of Agreement), and No. 23 (Repatriation of Seamen).

The report also gives the following information :

Convention No. 2 (Unemployment). Details are given of measures taken against unemployment in *Algeria, Morocco, Tunis, the Levant States under French Mandate, French India, Madagascar and St. Pierre and Miquelon.*

Conventions Nos. 4 and 6 (Night Work, Women and Young Persons). It has already been reported that Decrees of 1 July 1933 and 28 December 1937 declared the provisions of these Conventions applicable to all French colonies, as well as to the Mandated Territories of the Cameroons and Togoland. Information is now supplied of the promulgation of the Decrees in *Martinique, Guadeloupe, Reunion, French West Africa, Indo-China, Madagascar and the Cameroons under French Mandate*, and of the adoption of measures of application in the above territories and in *French Guiana, India, Somaliland and New Caledonia.*

Convention No. 11 (Right of Association, Agriculture). Further measures have been taken in *Morocco* to permit the establishment in the French zone of trade unions and associations.

Convention No. 12 (Workmen's Compensation, Agriculture). This Convention has been extended to *French Guiana.*

Convention No. 13 (White Lead, Painting). The Decree of 28 December 1937 has been promulgated in the *Cameroons under French Mandate, French West Africa, Indo-China and Madagascar.*

Convention No. 18 (Workmen's Compensation, Occupational Diseases). In *Morocco*, the question of the advisability of adopting legislation providing workmen's compensation for occupational diseases is being examined.

Convention No. 26 (Minimum Wage Fixing Machinery). Information is given of measures taken in *Algeria and Morocco* for the establishment of minimum wage-fixing machinery. In *Morocco*, minimum wages were fixed under this procedure by Order of 23 June 1938.

Convention No. 27 (Marking of Weight, Packages Transported by Vessels). The possibility of applying this Convention to the French zone of *Morocco* is being studied.

#### *Great Britain.*

In the colony of *Aden*, formerly under the administration of the Government of India, the following Conventions are applied : No. 5 (Minimum Age, Industry), No. 6 (Night Work, Young Persons<sup>1</sup>), No. 7 (Minimum Age, Sea), No. 11 (Right of Association, Agriculture<sup>1</sup>), No. 15 (Minimum Age, Trimmers and Stokers<sup>1</sup>), No. 16 (Medical Examination of Young Persons, Sea<sup>1</sup>), No. 19 (Equality of Treatment, Accident Compensation<sup>1</sup>), No. 22 (Seamen's Articles of Agreement<sup>1</sup>), (Protection against Accidents, Dockers (Revised)<sup>1</sup>), and No. 32 (Night Work, Women (Revised)<sup>1</sup>).

In *British Guiana, Grenada, St. Lucia and St. Vincent*, the 1933 and 1934 Ordinances have been brought into force giving effect to Conventions No. 6 (Night Work, Young Persons), No. 7 (Minimum Age, Sea), and No. 41 (Night Work, Women (Revised)), and with modifications to Convention No. 5 (Minimum Age, Industry).

Other information includes the following :

Conventions No. 5 (Minimum Age, Industry), and No. 6 (Night Work, Young Persons). Applied to *Barbados, Basutoland, Bechuanaland, Somaliland and Swaziland.*

Convention No. 7 (Minimum Age, Sea). Applied to *Barbados, Somaliland and Tanganyika.*

Convention No. 12 (Workmen's Compensation, Agriculture). Applied to *Falkland Islands and Trengganu.*

Conventions No. 15 (Minimum Age, Trimmers and Stokers), and No. 16 (Medical Examination of Young Persons, Sea). Applied to *Somaliland and Tanganyika.*

Convention No. 19 (Equality of Treatment, Accident Compensation). Applied to *Falkland Islands, Jamaica, Leeward Islands and Trengganu.*

Convention No. 26 (Minimum Wage Fixing Machinery). Simple legislation has been enacted in *Barbados, Leeward Islands, North Borneo and Somaliland.* The fixing of minimum wage rates for certain classes of workers is reported in the *Bahamas, Grenada, Gilbert and Ellice Islands, Malta, St. Lucia, St. Vincent and Sarawak.*

Convention No. 32 (Protection against accidents, Dockers, (Revised)). Legislation in pursuance of the Convention has been enacted in *British Guiana, Falkland Islands, Tanganyika and Zanzibar.*

Convention No. 41 (Night Work, Women (Revised)). The first report on the revised Convention shows that it has been applied, in addition to the territories already reported in connection with Convention No. 4, to *Basutoland, Bechuanaland, Nyasaland, Somaliland and Swaziland.* A number of laws were also adopted during the period under review to amend previous legislation on the lines of the Revision.

Convention No. 42 (Workmen's Compensation for Occupational Diseases (Revised)). Legislation is reported in *Trengganu.*

Convention No. 45 (Underground Work, Women). Applied to *Bechuanaland, Brunei, British Guiana, Ceylon, Cyprus, Fiji, Federated Malay States, Gold Coast, Hong Kong, Johore, Kedah, Kelantan, Kenya, Nigeria, Northern Rhodesia, Nyasaland, Perlis, Seychelles, Sierra Leone, Swaziland, Tanganyika, Trans-Jordan, Trengganu and Uganda.*

#### *Netherlands.*

Convention No. 45 (Underground Work, Women) has been applied to the *Netherlands Indies*, and Conventions No. 8 (Unemployment Indemnity, Shipwreck) and No. 22 (Seamen's Articles of

<sup>1</sup> Previously applied under Indian legislation.

*Agreement*) have been applied with modifications. In connection with *Convention No. 26 (Minimum Age Fixing Machinery)* the existence of statutory minimum wage regulations is reported.

In *Curaçao* Regulations came into force on 1 July 1938 in application of *Conventions No. 12 (Workmen's Compensation, Agriculture)*, *No. 17 (Workmen's Compensation, Accidents)*, *No. 18 (Workmen's Compensation, Occupational Diseases)*, and *No. 19 (Equality of Treatment, Accident Compensation)*. A Service for Social Affairs was set up on 15 March 1938 and is re-examining the other Conventions.

#### *New Zealand.*

The first reports of the *New Zealand* Government state that the section of the report form relating to dependencies is inapplicable. It would seem, however, that the *Mandated Territory of Western Samoa* should be regarded as falling under the scope of Article 35 of the Constitution. In any case it may be noted that no other Government responsible for the administration of mandated territories has regarded them as being outside the scope of Article 35. Perhaps the attention of the *New Zealand* Government might be called to this fact.

#### *Portugal.*

No change is reported.

#### *Union of South Africa.*

No change is reported.

### APPENDIX III.

#### LIST OF ANNUAL REPORTS NOT RECEIVED BY THE OFFICE BY 30 MARCH 1939.

##### *Convention No. 1. Hours of work (industry) :*

Nicaragua.  
Spain.

##### *Convention No. 2. Unemployment :*

Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 3. Childbirth :*

Brazil.  
Germany.  
Nicaragua.  
Spain.

##### *Convention No. 4. Night work (women) :*

Albania.  
Brazil.  
Italy.  
Nicaragua.  
Spain.

##### *Convention No. 5. Minimum age (industry) :*

Albania.  
Brazil.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 6. Night work (young persons) :*

Albania.  
Brazil.  
Italy.  
Nicaragua.  
Spain.

##### *Convention No. 7. Minimum age (sea) :*

Brazil.  
Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 8. Unemployment indemnity (shipwreck) :*

Germany.  
Italy.  
Nicaragua.  
Spain.

##### *Convention No. 9. Placing of seamen :*

Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 10. Minimum age (agriculture) :*

Dominican Republic.  
Italy.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 11. Right of association (agriculture) :*

Germany.  
Italy.  
Nicaragua.  
Spain.

##### *Convention No. 12. Workmen's compensation (agriculture) :*

Germany.  
Italy.  
Nicaragua.  
Spain.

##### *Convention No. 13. White load (painting) :*

Nicaragua.  
Spain.

##### *Convention No. 14. Weekly rest (industry) :*

Italy.  
Nicaragua.  
Spain.

##### *Convention No. 15. Minimum age (trimmers and stockers) :*

Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 16. Medical examination of young persons (sea) :*

Brazil.  
Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

##### *Convention No. 17. Workmen's compensation (accidents) :*

Nicaragua.  
Spain.

##### *Convention No. 18. Workmen's compensation (occupational diseases) :*

Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

*Convention No. 19. Equality of treatment (accident compensation) :*

Germany.  
Italy.  
Japan.  
Nicaragua.  
Spain.

*Convention No. 20. Night work (bakeries) :*

Nicaragua.  
Spain.

*Convention No. 21. Inspection of emigrants :*

Albania.  
Japan.  
Nicaragua.

*Convention No. 22. Seamen's articles of agreement :*

Germany.  
Italy.  
Nicaragua.  
Spain.

*Convention No. 23. Repatriation of seamen :*

Germany.  
Italy.  
Nicaragua.  
Spain.

*Convention No. 24. Sickness insurance (industry, etc.) :*

Germany.  
Nicaragua.  
Spain.

*Convention No. 25. Sickness insurance (agriculture) :*

Germany.  
Nicaragua.  
Spain.

*Convention No. 26. Minimum wage-fixing machinery :*

Germany.  
Italy.  
Nicaragua.  
Spain.

*Convention No. 27. Marking of weight (packages transported by vessels) :*

Germany.  
Italy.  
Japan.  
Lithuania.  
Nicaragua.  
Spain.

*Convention No. 28. Protection against accidents (dockers) :*

Nicaragua.

*Convention No. 29. Forced labour :*

Italy.  
Japan.  
Nicaragua.  
Spain.

*Convention No. 30. Hours of work (commerce and offices) :*

Nicaragua.  
Spain.

*Convention No. 32. Protection against accidents (dockers) (revised 1932) :*

Italy.  
Spain.

*Convention No. 33. Minimum age (non-industrial employment) :*

Spain.

*Convention No. 34. Fee-charging employment agencies :*

Spain.

*Convention No. 35. Old-age insurance (industry, etc.) :*

Chile.

*Convention No. 36. Old-age insurance (agriculture) :*

Chile.

*Convention No. 37. Invalidity insurance (industry, etc.) :*

Chile.

*Convention No. 38. Invalidity insurance (agriculture) :*

Chile.

*Convention No. 41. Night work (women) (revised) 1934 :*

Brazil.

*Convention No. 42. Workmen's compensation (occupational diseases) (revised) 1934 :*

Brazil.  
Japan.

List showing by countries, the number of reports not received :

*Albania* : 4 reports (out of 4 reports due).

*Brazil* : 8 reports (out of 8 reports due).

*Chile* : 4 reports (out of 33 reports due).

*Dominican Republic* : 1 report (out of 4 reports due).

*Germany*<sup>1</sup> : 17 reports (out of 17 reports due).

*Italy* : 20 reports (out of 20 reports due).

*Japan* : 13 reports (out of 13 reports due).

*Lithuania* : 1 report (out of 7 reports due).

*Nicaragua*<sup>1</sup> : 30 reports (out of 30 reports due).

*Spain* : 31 reports (out of 31 reports due).

<sup>1</sup> See, however, p. 4.

PRINTED BY "SONOR" S. A., GENEVA.

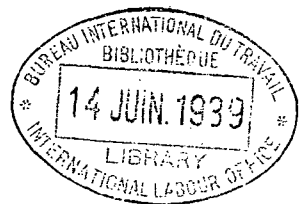


# INTERNATIONAL LABOUR CONFERENCE

TWENTY-FIFTH SESSION

GENEVA, 1939

## SUMMARY OF ANNUAL REPORTS UNDER ARTICLE 22 OF THE CONSTITUTION OF THE INTERNATIONAL LABOUR ORGANISATION



INTERNATIONAL LABOUR OFFICE

GENEVA, 1939

C 1939 (XXV) R 22

# TABLE OF CONTENTS

	Page		Page
Introduction . . . . .	3	Eleventh Session (Geneva, 1928) . .	215
First Session (Washington, 1919) . .	5	26. Convention concerning the creation of minimum wage fixing machinery . . . . .	215
1. Convention limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week . . . . .	5	Twelfth Session (Geneva, 1929) . .	228
2. Convention concerning unemployment . . . . .	18	27. Convention concerning the marking of the weight on heavy packages transported by vessels . . . . .	228
3. Convention concerning the employment of women before and after childbirth . . . . .	31	28. Convention concerning the protection against accidents of workers employed in loading or unloading ships . . . . .	234
4. Convention concerning employment of women during the night . . . . .	39	Fourteenth Session (Geneva, 1930) . .	236
5. Convention fixing the minimum age for admission of children to industrial employment . . . . .	48	29. Convention concerning forced or compulsory labour . . . . .	236
6. Convention concerning the night work of young persons employed in industry . . . . .	56	30. Convention concerning the regulation of hours of work in commerce and offices . . . . .	257
Second Session (Genoa, 1920) . . . .	67	Sixteenth Session (Geneva, 1932) . .	263
7. Convention fixing the minimum age for admission of children to employment at sea . . . . .	67	32. Convention concerning the protection against accidents of workers employed in loading or unloading ships (revised) . . . . .	263
8. Convention concerning unemployment indemnity in case of loss or foundering of the ship . . . . .	72	33. Convention concerning the age for admission of children to non-industrial employment . . . . .	270
9. Convention for establishing facilities for finding employment for seamen . . . . .	80	Seventeenth Session (Geneva, 1933) . .	274
Third Session (Geneva, 1921) . . . .	91	34. Convention concerning fee-charging employment agencies . . . . .	274
10. Convention concerning the age for admission of children to employment in agriculture . . . . .	91	35. Convention concerning compulsory old-age insurance for persons employed in industrial or commercial undertakings, in the liberal professions, and for outworkers and domestic servants . . . . .	277
11. Convention concerning the rights of association and combination of agricultural workers . . . . .	94	36. Convention concerning compulsory old-age insurance for persons employed in agricultural undertakings . . . . .	288
12. Convention concerning workmen's compensation in agriculture . . . . .	99	37. Convention concerning compulsory invalidity insurance for persons employed in industrial or commercial undertakings, in the liberal professions, and for outworkers and domestic servants . . . . .	295
13. Convention concerning the use of white lead in painting . . . . .	105	38. Convention concerning compulsory invalidity insurance for persons employed in agricultural undertakings . . . . .	307
14. Convention concerning the application of the weekly rest in industrial undertakings . . . . .	112	Eighteenth Session (Geneva, 1934) . .	316
15. Convention fixing the minimum age for the admission of young persons to employment as trimmers or stokers . . . . .	125	41. Convention concerning employment of women during the night (revised 1934) . . . . .	316
16. Convention concerning the compulsory medical examination of children and young persons employed at sea . . . . .	132	42. Convention concerning workmen's compensation for occupational diseases (revised) . . . . .	326
Seventh Session (Geneva, 1925) . . . .	141	43. Convention for the regulation of hours of work in automatic sheet-glass works . . . . .	331
17. Convention concerning workmen's compensation for accidents . . . . .	141	44. Convention ensuring benefit or allowances to the involuntarily unemployed . . . . .	335
18. Convention concerning workmen's compensation for occupational diseases . . . . .	152	Nineteenth Session (Geneva, 1935) . .	363
19. Convention concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents . . . . .	160	45. Convention concerning the employment of women in underground work in mines of all kinds . . . . .	363
20. Convention concerning night work in bakeries . . . . .	168	49. Convention concerning the reduction of hours of work in glass-bottle works . . . . .	368
Eighth Session (Geneva, 1926) . . . .	173	Twentieth Session (Geneva, 1939) . .	372
21. Convention concerning the simplification of the inspection of emigrants on board ship . . . . .	173	52. Holidays with pays . . . . .	372
Ninth Session (Geneva, 1926) . . . .	179	Appendix	
22. Convention concerning seamen's articles of agreement . . . . .	179	Report of the Committee of Experts appointed to examine the annual reports made under Article 22 of the Constitution of the International Labour Organisation.	
23. Convention concerning the repatriation of seamen . . . . .	195	(This appendix has been bound separately but accompanies the present volume.)	
Tenth Session (Geneva, 1927) . . . .	203		
24. Convention concerning sickness insurance for workers in industry and commerce and domestic servants . . . . .	203		
25. Convention concerning sickness insurance for agricultural workers . . . . .	209		

## INTRODUCTION.

Article 22 of the Constitution of the International Labour Organisation reads as follows :

Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request. The Director shall lay a summary of these reports before the next meeting of the Conference.

This Article, the first of the series (Articles 22-34) having as their object to secure effective and uniform application of the Conventions adopted by the International Labour Conference, involves three distinct obligations : (1) an obligation on the Governments to make annual reports to the Office on the measures which have been taken to give effect to the provisions of Conventions to which their respective countries are parties ; (2) an obligation on the Governing Body to prescribe the form of such reports and the particulars which they should contain ; (3) an obligation on the Director of the Office to lay a summary of the reports before the next meeting of the Conference.

In conformity with these obligations the Governing Body has prescribed the forms for the annual reports upon the forty-three Conventions in force for which reports have become due. The annual reports themselves have in most cases been regularly received from the Governments ; and, since 1924, summaries of the reports, which had previously been printed *in extenso* in the Report of the Director, have been duly laid before the Conference each year.

In the following pages the summary of the annual reports in respect of the period 1 October 1937-30 September, 1938 is formally laid before the Conference.<sup>1</sup>

It should be explained, however, that by 1933 these summaries had become so voluminous and costly to print that it became necessary to secure economies by reducing the size of the summary notably by the introduction of a system of pu-

blishing a complete summary of the annual reports once in five years and giving in the intervening years only information additional to that contained in the last complete volume. A complete basic volume of this kind was accordingly last published in 1933. The English edition of this volume ran to 483 pages. The intermediary volume for 1937 ran to some 440 pages. The next complete volume would have fallen due to be published in 1938 and if published on the same scale and plan with some 600 reports to summarise would have run to somewhere between 800 and 1,000 pages.

The publication year by year of a volume running to such dimensions was becoming materially difficult and more and more expensive. Moreover, the volume itself by its very size was becoming increasingly unreadable. Consequently the Director has felt obliged to consider the best means of reducing the summary to manageable proportions while at the same time complying with the letter and spirit of Article 22 of the Constitution. This was done as an experiment by preparing the 1938 volume in accordance with the following principles :

(1) the list of national legislation given for each country mentions only the basic laws and regulations (Point I of the report form) ;

(2) the summary of the legislative provisions for the application of a given Convention is made only in the case of the first annual report received. In the case of subsequent reports information is given only on measures seriously modifying the situation in respect of the application of the Convention ;

(3) the information concerning the authorities responsible for the enforcement of the relevant legislation (Point IV of the report form) would under this system be given only on the occasion of the analysis of the first annual report (subject to the inclusion of fresh information when necessary) ; this applies also to the information concerning the application of the Convention to Colonies etc. (Point III) ;

(4) a full summary is given of the information contained in the annual reports under V (judicial decisions), and VI (practical application) of the report forms as this information by its very nature is liable change from year to year.

<sup>1</sup> In pursuance of a suggestion of the Committee of Experts appointed to examine the annual reports made under Article 22, the Governing Body decided, at its Fifty-third Session (May-June 1931), that the period covered by the annual reports in future should be 1 October-30 September instead of 1 January-31 December.

In view of the satisfactory results obtained the Summary for 1939 has also been prepared in accordance with the above principles.

The present volume read in conjunction with the 1933 volume and the intermediary volumes for 1937 and 1938 would thus give a complete summarised account of the measures which have been taken in the various countries to apply the Conventions in force.

Care has however been taken so far as possible to draft the summaries in the present volume in such a way that each one represents a separate item of information intelligible without reference to the previous volumes.

\* \* \*

The report of the Committee of Experts appointed by the Governing Body, in accordance with a Resolution of the Conference at its Eighth (1926) Session, to examine the annual reports submitted under Article 22 of the Constitution is communicated to the Conference as usual in the form of an appendix to the Summary.<sup>1</sup>

Any information under Article 22 received by the Office too late for inclusion in the present volume will be laid before the Conference by being reproduced in an early number of the *Provisional Record* of the Conference.

It may be recalled that although under the new Government of India Act, *Burma* ceased to be part of India as from 1 April 1937 it is agreed that *Burma* remains bound by the 14 Conventions (Nos. 1, 2, 4, 6, 11, 14, 15, 16, 18, 19, 21, 22, 27, 41) which India had ratified up to 31 March 1937.

<sup>1</sup> For an account of the constitution and functions of this Committee see the Introduction to the Second Part of the Director's Report to the Twelfth Session of the Conference.

A report on the application of these Conventions in *Burma* during the period 1 October 1937 to 30 September 1938 has been communicated to the Office by the British Ministry of Labour. The information contained in this report is included in the present volume, under the relevant Conventions.

Germany ceased to be a Member of the Organisation on 21 October 1935. No reports for the years 1935-36 and following have been received from the German Government in respect of the application of the seventeen Conventions ratified by Germany.

Nicaragua ceased to be a Member of the Organisation on 27 June 1938 and no report for the period 1937-1938 has been received from the Nicaraguan Government in respect of the 30 Conventions ratified by that country.<sup>1</sup>

All further reference to the situation in these two countries in respect of the Conventions ratified by them has accordingly been provisionally omitted from the present volume.

Moreover the German Government having intimated by a letter of 8 April 1938 that Austria had become part of Germany further reference to Austria in respect of the Conventions ratified by that country has also been omitted.<sup>2</sup>

<sup>1</sup> By letter dated 29 August 1938 the Government of Nicaragua informed the Office that Nicaragua considered herself as remaining bound by the international labour conventions which she had ratified.

<sup>2</sup> The following abbreviations are used throughout the summary :

B.B. = *Bulletin of the International Labour Office* (Basle).

L.S. = *Legislative Series* of the International Labour Office.

O.B. = *Official Bulletin* of the International Labour Office.

## FIRST SESSION (WASHINGTON, 1919).

## 1. Convention limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week.

This Convention came into force on 18 June 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	30.11.1933	31. 1.1939
Belgium . . . . .	6. 9.1926	21.10.1938
Bulgaria . . . . .	14. 2.1922	2.12.1938
Canada . . . . .	21. 3.1935	24. 3.1939
Chile . . . . .	15. 9.1925	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	20. 9.1934	17.11.1938
Czecho-Slovakia . .	24. 8.1921	16. 2.1939
Dominican Republic	4. 2.1933	4. 1.1939
Greece . . . . .	19.11.1920	21. 3.1939
India . . . . .	14. 7.1921	16.12.1938
Lithuania . . . . .	19. 6.1931	7.11.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
New Zealand . . . .	29. 3.1938	7. 2.1939
Portugal . . . . .	3. 7.1928	8.11.1938
Rumania . . . . .	13. 6.1921	20 2 1939
Spain . . . . .	22. 2.1929 <sup>1</sup>	
Uruguay . . . . .	6. 6.1933	6. 2.1939
* * *	* * *	* * *
Burma <sup>2</sup> . . . . .	14. 7.1921	30. 1.1939

<sup>1</sup> This conditional ratification came into force unconditionally on 1 October 1931.

<sup>2</sup> See the Introduction to the present volume, p. 4.

In a letter dated 10 March 1939, the Government of *Canada* states:

"As regards the three Conventions dealing with *Hours of Work in Industry* (No. 1), *Weekly Rest in Industry* (No. 14) and *Minimum Wage-Fixing Machinery* (No. 26), attention is directed to the letter which was sent you on 8 January 1938, advising that three Acts of Parliament, which had been adopted to give effect to these respective Conventions, were declared by the Judicial Committee of the Privy Council to be *ultra vires* of the Parliament of Canada, and referring to the Royal Commission on Dominion-Provincial Relations, which was appointed to re-examine the economic and financial basis of confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years.

"The general position indicated in the foregoing letter is unchanged, except that it is anticipated that the report of the Royal Commission will be received in the course of the next few months."

The Government of *Luxemburg* states in its report that the legal provisions relating to the hours of work of salaried employees in industrial undertakings have been supplemented by an Order of 21 October 1938 issued in application of § 6 of the Act of 7 July 1937 amending the Act of 31 October 1919 on service agreements for private salaried employees. The Government also calls attention to an Order of 17 October 1938 which authorises a progressive reduction of effective hours of work to forty a week in undertakings in which work is carried on in dangerous, unhealthy or exceptionally arduous conditions. Finally, the Government points out that a series of collective agreements concluded during the period under review establish the principle of an eight-hour working day.

The Government of *Portugal* states in its report that Decree No. 28,130 of 3 November 1937, regulating conditions in the woollen industry, once more repeats the principle which has been laid down for some time by Portuguese legislation

on hours of work in industrial establishments, namely, that the 8-hour day represents the normal working period.

The report also states that during the period under review the principle laid down by the Convention and recognised in Portuguese legislation and the application of which has been strictly supervised, has led to the insertion of various clauses in collective labour contracts and agreements, and has resulted in a certain number of administrative regulations, issued by the Under-Secretary of State for Corporations and Social Welfare, and in several decisions by the Labour Courts. The collective contracts and agreements which have been drawn up and signed during the period under review contain compulsory clauses which not only comply with the principles of the Convention but, in many cases, go even further. These contracts and agreements, whether national or regional, cover the following industries: loading and unloading of goods, preserved fish industry, coopers' sheds, flour and dough-making, match, cutlery, and slate industries. The administrative regulations issued by the Under-Secretary of State for Corporations and Social Welfare deal mostly with activities other than those covered by the Convention.

The report of the Government of *Spain* has not been received.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Argentine Republic.

Act No. 11,544 of 12 September 1929 concerning the eight-hour day (L. S. 1929, Arg. 1).  
Decrees of 11 March 1930 and 16 January 1933 issuing regulations under Act No. 11,544 above (L. S. 1930, Arg. 1 and 1933, Arg. 1).

Decree No. 560 of 31 December 1930 to issue regulations concerning the employment of persons engaged in the railway services (L. S. 1930, Arg. 4), amended by Decrees of 11 February 1931 (L. S. 1931, Arg. 1), 19 August, 26 October and 29 November 1935, and 30 January and 16 July 1936, 31 August 1937.

Decree No. 561 of 31 December 1930 to issue regulations concerning the employment of persons engaged in tramway and omnibus undertakings (L. S. 1930, Arg. 3A), amended by Decree No. 17,816 of 3 March 1933.

Decree No. 562 of 31 December 1930 to issue regulations concerning the employment of persons engaged in maritime and inland navigation and dock and harbour services (L. S. 1930, Arg. 3B), amended by Decree of 14 November 1935.

Decree No. 563 of 31 December 1930 to issue regulations concerning the employment of persons engaged in the telephone, telegraph and wireless telegraphy services (L. S. 1930, Arg. 3C).

Decree No. 564 of 31 December 1930 to issue regulations concerning the employment of persons engaged in electricity and gas undertakings (L. S. 1930, Arg. 3D).

Decree of 24 June 1936 to issue regulations concerning the employment of carders in cotton-spinning and weaving mills.

Various Decrees issued in 1930 and 1931 by the authorities of the Provinces of Buenos Aires, Entre Rios, Corrientes, San Luis, Santa Fé and Tucuman.

### Belgium.

Act of 14 June 1921 to provide for an eight-hour day and a forty-eight hour week (L. S. 1921, Bel. 1).

Royal Orders issued in application of the above Act and relating to exceptions and to the conditions of labour in certain industries and commercial undertakings.

### Bulgaria.

Health and Safety of Workers' Act, 1917 (B.B. 1918, Vol. XIII, p. 26.)

Decree No. 24 of 24 June 1919 concerning the eight and six-hour day.

Order No. 2834 of 2 August 1919 in application of Decree No. 24 of 24 June 1919.

Act of 1922 concerning the ratification of the Hours Convention, giving the force of law to Decree No. 24 of 24 June 1919.

Regulations of the Directorate of Labour and Social Insurance concerning the posting up of hours of work and rest intervals.

### Canada.

See introductory note.

### Chile.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

Decree No. 224 of 16 March 1932 approving the regulations concerning hours of work in private railway undertakings, superseded by Decree No. 702 of 8 June 1935.

### Colombia.

Decree No. 895 of 26 April 1934 to approve an Order of the General Labour Office (L. S. 1934, Col. 1).

Resolution of the General Department of Labour concerning hours of work in bakeries.

*Cuba.*

- Decree No. 1693 of 19 September 1933 concerning the eight-hour day (L. S. 1933, Cuba 4 A).  
 Decree No. 2513 of 19 October 1933 issuing regulations under the above Decree (L. S. 1933, Cuba 4 B).  
 Decree No. 2309 of 29 July 1937 amending § 4 of Decree No. 2513 of 19 October 1933.  
 Decree No. 2699 of 11 November 1933 to amend § XV of Decree No. 2513 (L. S. 1933, Cuba 4 C).  
 Decree No. 2940 of 2 December 1933 to add a paragraph to § V of Decree No. 2513 (L. S. 1933, Cuba 4 D).  
 Decree No. 364 of 3 February 1934 to add a paragraph to § V of Decree No. 2513 (L. S. 1934, Cuba 1 B).  
 Order of the Minister of Communications and Labour of 4 January 1934 to issue rules for the interpretation of §§ I and V of Decree No. 2513 (L. S. 1934, Cuba 1 A).  
 Orders of the Minister of Labour, dated 4 January 1934, 2 March 1934 and 13 May 1935.  
 Decree No. 798 of 13 April 1938 regulating contracts of employment (L. S. 1938, Cuba 1).

*Czecho-Slovakia.*

- Act of 19 December 1918 respecting the eight-hour working day (L. S. 1919, Cz. 1-3).  
 Order of 11 January 1919 in pursuance of the Act respecting the eight-hour working day (L. S. 1919, Cz. 1-3).  
 Circular of the Ministry of Social Welfare to all administrative authorities respecting the interpretation of the provisions relating to the eight-hour day, dated 21 March 1919 (L. S. 1919, Cz. 1-3).

*Dominican Republic.*

- Act No. 929 of 21 June 1935 respecting the hours of work in commercial and industrial establishments (L. S. 1935, Dom. 1).  
 Act No. 1058 of 18 December 1935 empowering the Executive Authority to increase temporarily the length of the working day as fixed by Act No. 929 of 21 June 1935, in cases of general interest.

*Greece.*

- Act No. 2269 of 24 June 1920 to ratify the Convention (O. B. Vol. II, No. 1, p. 20).  
 Decree of 27 June 1932 to consolidate and supplement the provisions relating to the eight-hour working day (L. S. 1932, Gr. 2A).  
 Decree of 1 June 1935 to amend § 14 of the preceding Decree (L. S. 1935, Gr. 3A).  
 Decree of 7 December 1932 to extend the provisions respecting the eight-hour day to Italian paste factories (L. S. 1932, Gr. 2B).  
 Decree of 7 December 1932 respecting the regulation of hours of work for the staff of motor omnibuses (L. S. 1932, Gr. 2C).  
 Decree of 23 November 1933 to extend the provisions respecting the eight-hour day to mechanical engineering workshops not operating independently (L. S. 1933, Gr. 3B).  
 Decree of 29 December 1933 to extend the provisions respecting the eight-hour day to factories for the manufacture of boots and shoes (including Army boots) by machinery (L. S. 1933, Gr. 3C).  
 Decree of 9 July 1935 to extend the provisions concerning the eight-hour day to establishments for the manufacture of oil, cement, oxygen, calcium carbide, soap, and beer (L. S. 1935, Gr. 3B).  
 Decree of 15 September 1935 relating to the application of the Eight-Hour Day Act to the furniture industry (L. S. 1935, Gr. 3C).

Royal Decree of 18 February 1936 to extend the provisions respecting the eight-hour day to ironing work.

Royal Decree of 30 June 1936 to extend the provisions respecting the eight-hour day to the work of welding with oxygen and of soldering articles made of lead and lead substances.

Royal Decree of 10 July 1936 to extend the provisions respecting the eight-hour day to manufactories of wines and alcohol, sugar, dried raisins, spirituous liquors and malt.

Royal Decree of 23 July 1936 to extend the provisions respecting the eight-hour day to all departments of glass works.

Royal Decree of 14 August 1936 to extend the provisions respecting the eight-hour day to different industries and occupations.

Act No. 199/1936 amending certain labour laws.

Act. No. 547/1937 amending and supplementing certain labour laws.

Decree of 28/29 April 1937 to extend the provisions respecting the 8-hour day to the textile industry.

Decree of 10/29 September 1937 to extend the provisions respecting the 8-hour day to all chemical industries as well as to the processes enumerated under §1 of Act No. 2269 of 24 June 1920 ratifying the Convention.

Decree of 3/15 September 1937 fixing 60 hours as the maximum amount of overtime which may be allowed in tanneries and gut factories.

Decree of 28 January 1938 concerning the hours of work of crews of motor lorries. (L. S. 1938, Gr. 1).

Decree of 14 April 1938 concerning hours of work in bakeries. (L. S. 1938, Gr. 2).

*India.*

- Indian Factories Act, 1934 (L. S. 1934, Ind. 2), as subsequently amended (L. S. 1936, Ind. 3).  
 Indian Mines Act, 1923 (L. S. 1923, Ind. 3), as subsequently amended (L. S. 1923, Ind. 3; 1928, Ind. 1 and 1935, Ind. 3).  
 Indian Railways (Amendment) Act, 1930 (L. S. 1930, Ind. 1).  
 The Railways Servants Hours of Employment Rules, 1931.

*Lithuania.*

Act of 30 November 1919 on daily hours of work (L. S. 1920, Lith. 2), amended by Acts of 24 November 1925 (L. S. 1925, Lith. 1) and 2 April 1931 (L. S. 1931, Lith. 2).

*Luxemburg.*

- Act of 7 June 1937, amending the Act of 31 October 1919 on service agreements for private salaried employees (L. S. 1937, Lux. 1).  
 Order of 21 October 1938 issued in application of § 6 of the above Act. (L. S. 1938, Lux. 3).  
 Orders of 14 May 1921 and 26 May 1930 approving §§ 52 and following of the Railway Staff Regulations.  
 Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).  
 Order of 30 March 1932 concerning the application of certain Conventions adopted by the International Labour Conference during its first ten Sessions (L. S. 1932, Lux. 1).  
 Order of 6 January 1933 to amend Order of 30 March 1932 (L. S. 1933, Lux. 1).  
 Order of 17 October 1938 concerning the reduction of hours of work (L. S. 1938, Lux. 2).  
 See also introductory note.

*New Zealand.*

The Coal Mines Act, 1925 (L. S. 1925, N.Z. 2).  
 The Coal Mines Amendment Act, 1937 (L. S. 1937, N.Z. 2).  
 The Mining Act, 1926 (L. S. 1926 N.Z. 1).  
 The Mining Amendment Act, 1937.  
 The Factories Act, 1921-22 (L. S. 1936, N.Z. 2A).  
 The Factories Amendment Act, 1936 (L. S. 1936, N.Z. 2B).  
 The Extension and Modification of the Factories Act, 1921-22 Order, 1936.  
 The Factories Act Modification Order, 1938.  
 The Factories Act Extension Order, 1938.  
 The Factories Act Modification Order, 1938. (No. 2).  
 The Factories Consolidating Regulations, 1937.  
 Transport Licensing Act, 1931.  
 Passenger Service-Regulation 20, 1936.  
 Goods Service Statutory Regulations, 1936.  
 Industrial Conciliation and Arbitration Act, 1925 (L. S. 1925, N.Z. 1).  
 Industrial Conciliation and Arbitration Amendment Act, 1936 (L. S. 1936, N.Z. 1).  
 Various awards made or agreements approved by the Court of Industrial Conciliation and Arbitration in virtue of these Acts.

*Portugal.*

Decree No. 5516 of 7 May 1919, limiting the hours of work of workers and employees in commercial and industrial establishments (L. S. 1919, Por. 1).  
 Decree No. 8244 of 8 July 1922 of the Ministry of Labour concerning hours of work, approving the Regulations issued under Decree No. 5516 of 7 May 1919 (L. S. 1922, Por. 2).  
 Decree No. 10782 of 20 May 1925, to amend the Regulations concerning hours of work in order to ensure the better carrying out of the provisions laid down in Decree No. 5516 (L. S. 1925, Por. 2A).  
 Decree No. 22500 of 19 May 1933 regulating conditions of work in the transport industry (L. S. 1933, Por. 2).  
 Legislative Decree No. 23048 of 23 September 1933 to promulgate the National Labour Code (L. S. 1933, Por. 5).  
 Legislative Decree No. 24402 of 24 August 1934 to regulate hours of work in industrial and commercial undertakings (L. S. 1934, Por. 5).  
 Legislative Decree No. 24403 of 24 August 1934 concerning the supervision of hours of work.  
 Legislative Decree No. 26917 of 24 August 1936 to amend Legislative Decree No. 24402 of 24 August 1934.  
 See also introductory note.

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1), amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).  
 Regulations issued under the above Act, published on 30 January 1929 (L. S. 1929, Rum. 1) and amended on 19 December 1932 (L. S. 1932, Rum. 6 B).  
 Act of 17 October 1932 concerning the establishment of chambers of labour.  
 Regulations of 4 October 1933 for the workers and officials of the Rumanian railways.  
 Regulations of 20 July 1938 for the workers of the Self-governing Fund for Monopolies of the Kingdom of Rumania.  
 Act of 3 August 1938 regulating employment in the offices of commercial and industrial undertakings and the hours of opening and closing of shops (L. S. 1938, Rum. 3).

*Uruguay.*

Act No. 5350 of 17 November 1915 limiting the daily work of workers, employees, etc., to eight hours throughout the territory of the Republic (B. B. 1916, Vol. XI, p. 29).  
 Decree of 15 May 1935, 15 June 1938 and 7 September 1938, issuing Regulations under the above Act.

\* \* \*

*Burma.*

Indian Factories Act of 20 August 1934 (L. S. 1934, Ind. 2) as subsequently amended.  
 Indian Mines Act of 23 February 1923, as subsequently amended (L. S. 1923, Ind. 3, and 1928, Ind. 1).  
 Act of 26 March 1930 amending the Indian Railways Act 1890 (L. S. 1930, Ind. 1).  
 The Burma Factories Rules, 1935.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly:

(a) Mines, quarries, and other works for the extraction of minerals from the earth.

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including shipbuilding and the generation, transformation, and transmission of electricity or motive power of any kind.

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

(d) Transport of passengers or goods by road, rail, sea or inland waterway, including the handling of goods at docks, quays, wharves or warehouses, but excluding transport by hand.

The provisions relative to transport by sea and on inland waterways shall be determined by a special conference dealing with employment at sea and on inland waterways.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

*In addition, please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Cuba.* — The report states that, while Cuban legislation does not define the line of division referred to in this Article of the Convention, the Regulations applying the legislation cover industry as well as commerce and only make exceptions in the cases of persons employed in agriculture



and stock-raising, domestic servants in private houses and drivers of carriages and automobiles for hire. The report adds that § 65 of Decree No. 798 of 13 April 1938 defines the term "agricultural worker".

*Greece.* — The report states that the Convention has now been applied completely by the various laws and regulations issued at different times. It has not, however, been possible to eliminate the sole remaining discrepancy between Greek legislation and the Convention in respect of hours of work in small hand bakeries.

*Luxemburg.* — See the introductory note.

*New Zealand.* — (a) *Mines.*

*Coal.*

The Coal Mines Act, 1925, applies to all mines of coal, claystone, fire clay or shale and all works belonging to such mines.

*Gold or any metal  
or mineral other than coal.*

The Mining Act, 1926, applies to mines of gold and other metals or minerals, to the erection and construction of necessary works and machinery, and may be extended to mining for any specified substance (whether or not it is a mineral within the meaning of the Act) including diamonds and any other specified precious stones. "Mineral" means any metal or mineral other than precious metals, precious stones and coal (Sections 3 and 4).

*Quarries.*

See under (c) *Constructions.*

(b) *Industries (Factories).*

The Factories Act, 1921-22, applies to (a) Any building, office or place in which one or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale, and includes any building, office, or place in which work such as is ordinarily performed in a factory is performed for or on behalf of any local authority whether for trade or sale or not; but does not include any building in the course of erection, nor any temporary workshop or shed for workmen engaged in the erection of such building but . . . includes (b) Every bakehouse (meaning thereby any building or place in which any article of food is baked or prepared for baking for sale for human consumption) and also (c) Every building or place in which steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale, or packing such goods for transit; and also (d) Every building or place in which electrical energy is generated or transformed as an illuminant or a motive power for trade or sale, or in

which coal-gas or any other forms of gas are produced for the like purposes; and also (e) Every laundry (meaning thereby every building or place where laundry work is performed for hire or reward) whether the persons employed therein receive payment or not; and also (f) Every building or place in which any Asiatic is directly or indirectly employed or occupied in laundry work or any other handicraft, or in preparing or manufacturing goods for trade or sale or in packing them for transit.

(c) *Construction (building).*

The provisions of the Convention are applied through awards of the Court of Arbitration affecting tradesmen (bricklayers, carpenters, painters, plasterers, stone-masons, etc.) and labourers. These awards do not in precise terms define construction work as contemplated, but in effect embrace the range of work set out in this clause and in respect of labourers embrace also the quarry work referred to in paragraph (a) in as far as such work is not covered by the Mining Act, 1926. The report states that the appendix to the publication "Book of Awards" contains a full list of such awards.

Railway construction in this country is generally a state activity and as such, as a matter of Government policy, is carried out on a 40-hour week basis under agreement with the workers' organisation.

(d) *Transport.*

The transport Licensing Act applies to goods services, i.e. the carriage or haulage of goods for hire or reward by means of a motor vehicle unless the service is such that it is carried on entirely within the boundaries of a single borough or town district, also to passenger services, i.e. the carriage of passengers for hire or reward by means of a passenger service vehicle or passenger service vehicles. Awards made by the Court of Arbitration, however, extend in addition to all drivers of motors or horses used for the transport of goods.

*Rumania.* — The report states that the legislation on hours of work in industry has been supplemented by an Act of 3 August 1938, which, *inter alia*, regulates employment in the offices of industrial undertakings. The new Act applies to the offices of industrial and commercial undertakings of all kinds, and to the offices of branches, departments, extensions and annexes of such undertakings.

## ARTICLE 2.

The working hours of persons employed in any public or private industrial undertaking or in any branch thereof, other than an undertaking in

which only members of the same family are employed, shall not exceed eight in the day and forty-eight in the week, with the exceptions hereinafter provided for.

(a) The provisions of this Convention shall not apply to persons holding positions of supervision or management, nor to persons employed in a confidential capacity.

(b) Where by law, custom, or agreement between employers' and workers' organisations, or, where no such organisations exist, between employers' and workers' representatives, the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded on the remaining days of the week by the sanction of the competent public authority, or by agreement between such organisations or representatives; provided, however, that in no case under the provisions of this paragraph shall the daily limit of eight hours be exceeded by more than one hour.

(c) Where persons are employed in shifts it shall be permissible to employ persons in excess of eight hours in any one day and forty-eight hours in any one week, if the average number of hours over a period of three weeks or less does not exceed eight per day and forty-eight per week.

*Cuba.* — The report states that, in virtue of the provisions of the Order of 13 May 1935, which in special circumstances authorises certain exceptions to the 8-hour day, two undertakings, one engaged in manufacturing biscuits and the other stationery, obtained permission to prolong the daily hours of work beyond a period of eight hours, subject to previous agreement with their wage-earning and salaried employees, the aggregate hours of work not exceeding forty-eight a week.

*Luxemburg.* — See the introductory note.

*New Zealand.* — (a) *Mines.*

#### *Coal.*

A miner shall be paid overtime when he is employed underground in a mine for more than eight hours in any day . . . (Coal Mines Act, 1925, § 73 (1)). Except in cases where the previous authority in writing of an Inspector of Mines has been obtained, it shall not be lawful for any person to do any skilled or unskilled manual labour in or about any mine on Sunday . . . (ibid., § 72 (1)). No youth shall be employed in a mine for more than forty-eight hours in any week, exclusive for the time allowed for meals, nor more than eight hours in any day, except in cases of emergency (§ 70). "Youth" means a male person not under the age of fourteen years and under the age of eighteen years (section 2). No boy shall be employed in any capacity in or about a mine (§ 66). Awards and agreements under which the work is carried on provide that the ordinary working time at all collieries shall be five days per week, also that the hours of work per day shall be for underground workers, eight hours bank to bank, and for surfacemen eight hours exclusive of mealtimes.

*Gold, or any other metal or mineral other than coal.*

Every workman employed underground in a mine shall be paid overtime for the period during which he is employed underground for more than eight hours in any day . . . (Mining Act, 1926, § 265). Except in cases where the Inspector of Mines is satisfied that the labour cannot be suspended on Sunday without risk or injury to the mine and authority in writing of an Inspector has been obtained, it shall not be lawful for any person or company to directly or indirectly employ any workman on Sunday . . . (§ 260). No person under the age of eighteen years . . . except in cases of breakage or other special emergency shall be employed in any capacity in or about a mine for more than forty-eight hours in any week, or for more than eight hours in any consecutive period of twenty-four hours . . . (§259).

Awards of the Court of Arbitration provide for a 40-hour week and an 8-hour day, bank to bank.

#### *Quarries.*

See under (c) Construction.

#### (b) *Industries-factories.*

§ 3 of the Factories Amendment Act, 1936, provides that no worker shall be employed in or about a factory (a) for more than forty hours (excluding mealtimes) in any one week; or (b) for more than eight hours (excluding mealtimes) in any one day . . . subject, however, to the following qualifications: On application made by any occupier of a factory the Court of Arbitration may by Order extend in respect of the factory for any specified period all or any of the limits of working-hours prescribed by subsection (1) of the Section, if, in the opinion of the Court, it would be impracticable to carry on efficiently the work of the factory without the extension. No order under this subsection shall extend the number of hours (excluding mealtimes) during which any person may be employed to more than 44 hours in any one week. The limits of working hours as prescribed shall not apply with respect to any male worker employed in any works or factory comprised in any of the classes specified in the Second Schedule to the principal Act as amended, i.e.:

1. Freezing works;
2. Dairy factories, including creameries;
3. Fellmongeries and pelt works;
4. Fish-curing or preserving works;
5. Jam factories (during the small fruit season);
6. Bacon factories;
7. Sausage-casing factories;
8. Wool-dumping factories;

9. Low-temperature coal-carbonization factories ;
10. Coal-gas works (where not more than 12,000,000 cubic feet of gas per annum is manufactured);
11. Ice-cream factories ;
12. Fruit and vegetable canning factories (during the canning season);
13. Wool-securing factories;
14. Municipal abattoirs ;
15. Electric power generating and transforming factories ;
16. Fruit packing and fruit grading factories.

(c) *Construction.*

Working hours are limited by the awards of the Court of Arbitration to 40 in the week, but in respect of railway construction work if carried out by the State, as is the usual proceeding, the hours are so limited to 40 per week as a matter of Governmental policy and in pursuance of an agreement with the workers' union.

(d) *Transport.*

Road-passenger transport ; omnibus drivers ; service-car drivers ; road-goods transport ; rail, sea, inland, waterways (State services—as a matter of Government policy a 40-hour week is worked); dockers; warehouse employees.

*All work subject to arbitration awards :*

§ 20 of the Industrial Conciliation and Arbitration Amendment Act, 1936, provides for the Court of Arbitration to fix at not than more forty the maximum number of hours (exclusive of overtime) to be worked in any week by any worker bound by the award unless, in the opinion of the Court, after hearing representatives of employers and of workers it would be impracticable to carry on efficiently any industry to which the award relates if the working hours were so limited.

*Uruguay.* — By Decree of 15 June 1938, the German Trust for the Hydro-Electric Supply Works of Rio Negro was temporarily authorised to introduce, after consultation with the workers' organisations concerned, an hours system involving a maximum limit of 144 hours of work in any period of three weeks, as provided for in paragraph (c) of Article 2 of the Convention.

By Decree of 7 September 1938, the National Institute of Labour and related services was empowered to authorise, with a temporary and revocable character and whenever it deems convenient, the introduction of an hours system involving a maximum limit of 144 hours of work in any period of three weeks. This authorisation may be made only after consultations with the workers' organisations concerned.

### ARTICLE 3.

The limit of hours of work prescribed in Article 2 may be exceeded in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of "force majeure", but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking.

*Greece.* — The report states that the labour inspectors have been instructed by Ministerial Order not to grant permission for overtime, except in cases of absolute necessity and that they only do so after a strict examination of the circumstances of each case.

*Luxemburg.* — See the introductory note.

*New Zealand.* — It is recognised that under existing law in New Zealand the limits of hours may be exceeded (with however, certain exceptions respecting women and boys) subject to the payment of penalty rates. Extensions in the case of women and boys are limited to not more than three hours in any day, not more than two days consecutively, and not more than 90 hours in any year (120 hours in special cases).

### ARTICLE 4.

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 law to the workers in such processes in compensation for the weekly rest day.

*New Zealand.* — The New Zealand Statute does not provide specifically for continuous processes which are to be dealt with pursuant to the power given to the Court of Arbitration to permit extensions where in its opinion it would be impracticable to carry on efficiently the work of the factory without the extension. No such extension is to exceed forty-four hours in one week.

### ARTICLE 5.

In exceptional cases where it is recognised that the provisions of Article 2 cannot be applied, but only in such cases, agreements between workers' and employers' organisations concerning the daily limit of work over a longer period of time may be given the force of regulations, if the Government, to which these agreements shall be submitted, so decides.

The average number of hours worked per week over the number of weeks covered by any such agreement shall not exceed forty-eight.

*New Zealand.* — The New Zealand Factories Act gives an exemption from

limitation in cases where the longer working day is regarded as a necessity. Provision, however, for regulation is contained in awards of the Court of Arbitration, such awards being preceded by discussion between the employers and workers in Conciliation Council. Thus the cheese and butter factory employees have limits as follows:— 52,5 months; 44,4 months; and 38,3 months, while motor and horse drivers in seasonal trades are permitted to work a 52-hour week provided that a 38-hour week is worked during an equivalent period, remuneration throughout being at a weekly rate.

#### ARTICLE 6.

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 limits 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.

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.

*Cuba.* — The report states that with regard to the payment of overtime referred to in this Article of the Convention, § 40 of Decree No. 798 of 13 April 1938 lays down that overtime in excess of 8 hours a day shall be paid at the rate of at least one and one-quarter times the regular rate.

*Luxemburg.* — See the introductory note.

*New Zealand.* — (a) A male worker over the age of eighteen years may be employed in getting up steam for machinery in a factory, or in making preparations for the work of a factory, beyond the working hours prescribed . . . but not for more than one hour in any one day. (§ 3 (4) of the Factories Amendment Act, 1936).

(b) In the case of fruit-canning factories and jam-factories . . . the limitations as to overtime . . . need not be observed during the period between the first day of January and the first day of April in any year (§ 22 of the Factories Act 1921-22).

The prescribed working hours or times may be extended, but such extension shall not in the case of women and boys be (a) more than three hours in any day; or (b) more than two consecutive days in any week; or more than ninety hours in any year, except in any exceptional case arising, in the opinion of the Inspector, from any

unforeseen circumstances in which case he may grant a warrant . . . to work extended hours after the ninety hours in a year have been worked by any employee, but such additional extended hours shall not in the case of any employee exceed thirty in any year (§ 21 (1)).

\* \* \*

*Burma.* — The report supplies the following information concerning regulations issued in Burma under the Indian Factories Act. The regulations required under (a) have been issued in the form of rules made under § 43 of the Factories Act. Rules 54 and 55 of the Burma Factories Rules, 1935, exempt as engaged in intermittent work workers employed in rice-mills and on process work in vegetable oil mills conducted on the single — or double-shift system. Rule 62 similarly exempts engine and boiler attendants as engaged in preparatory and complementary work.

#### ARTICLE 8.

In order to facilitate the enforcement of the provisions of this Convention, every employer shall be required:

(a) To notify by means of the posting of notices in conspicuous places in the works or other suitable place, or by such other method as may be approved by the Government, the hours at which work begins and ends, and, where work is carried on by shifts, the hours at which each shift begins and ends. These hours shall be so fixed that the duration of the work shall not exceed the limits prescribed by this Convention, and when so notified they shall not be changed except with such notice and in such manner as may be approved by the Government.

(b) To notify in the same way such rest intervals accorded during the period of work as are not reckoned as part of the working hours.

(c) To keep a record in the form prescribed by law or regulation in each country of all additional hours worked in pursuance of Articles 3 and 6 of this Convention.

It shall be made an offence against the law to employ any person outside the hours fixed in accordance with paragraph (a) or during the intervals fixed in accordance with paragraph (b).

*In addition, please forward specimen copies of the notices and forms specified in this Article.*

*New Zealand.* — The occupier of a factory shall at all times cause to be exhibited and maintained in some conspicuous place at or near the entrance of the factory, and in such other parts thereof as the Inspector from time to time directs, and in such a position as to be easily read by the persons employed in the factory, a notice containing . . . the working hours of the factory. (§ 16 (4) of the Factories Act 1921-22).

In every factory the occupier shall at all times keep in the prescribed form, or in such other form as may be approved by the Inspector, a record in English (called the wages and overtime book)

showing . . . the hours of his employment during each week (§ 16 (1)).

#### ARTICLE 10 (*British India only*).

In British India the principle of a sixty-hour week shall be adopted for all workers in the industries at present covered by the factory acts administered by the Government of India, in mines, and in such branches of railway work as shall be specified for this purpose by the competent authority. Any modification of this limitation made by the competent authority shall be subject to the provisions of Articles 6 and 7 of this Convention. In other respects the provisions of this Convention shall not apply to India, but further provisions limiting the hours of work in India shall be considered at a future meeting of the General Conference.

*India.* — See under VII.

#### ARTICLE 12 (*Greece only*).

In the application of this Convention to Greece, the date at which its provisions shall be brought into operation in accordance with Article 19 may be extended to not later than 1 July, 1923, in the case of the following industrial undertakings:

- (1) Carbon-bisulphide works;
- (2) Acids works;
- (3) Tanneries;
- (4) Paper mills;
- (5) Printing works;
- (6) Sawmills;
- (7) Warehouses for the handling and preparation of tobacco;
- (8) Surface mining;
- (9) Foundries;
- (10) Limeworks;
- (11) Dyeworks;
- (12) Glassworks (blowers);
- (13) Gasworks (firemen);
- (14) Loading and unloading merchandise;

and to not later than 1 July 1924 in the case of the following industrial undertakings:

- (1) Mechanical industries: Machine shops for engines, safes, scales, beds, tacks, shells (sporting), iron foundries, bronze foundries, tin shops, plating shops, manufactories of hydraulic apparatus;
- (2) Constructional industries: Lime-kilns, cement works, plasterers' shops, tile yards, manufactories of bricks and pavements, potteries, marble yards, excavating and building work;
- (3) Textile industries: Spinning and weaving mills of all kinds except dye works;
- (4) Food industries: Flour and grist-mills, bakeries, macaroni factories, manufactories of wines, alcohol, and drinks, oil works, breweries, manufactories of ice and carbonated drinks, manufactories of confectioners' products and chocolate, manufactories of sausages and preserves, slaughterhouses, and butcher shops;
- (5) Chemical industries: Manufactories of synthetic colours, glassworks (except the blowers), manufactories of essence of turpentine and tartar, manufactories of oxygen and pharmaceutical products, manufactories of flaxseed oil, manufactories of glycerine, manufactories of calcium carbide, gasworks (except the firemen);
- (6) Leather industries: Shoe factories, manufactories of leather goods;
- (7) Paper and printing industries: Manufactories of envelopes, record books, boxes, bags, bookbinding, lithographing, and zinc-engraving shops;
- (8) Clothing industries: Clothing shops, underwear and trimmings, workshops for pressing,

workshops for bed coverings, artificial flowers, feathers, and trimmings, hat and umbrella factories;

(9) Woodworking industries: Joiners' shops, coopers' sheds, wagon factories, manufactories of furniture and chairs, picture-framing establishments, brush and broom factories;

(10) Electrical industries: Power houses, shops for electrical installations;

(11) Transportation by land: Employees on railroads and street cars, firemen, drivers, and carters.

The report of the *Greek* Government contains no fresh information in this connection.

#### ARTICLE 14.

The operation of the provisions of this Convention may be suspended in any country by the Government in the event of war or other emergency endangering the national safety.

*In addition, please state whether such suspension has been effected, and, if so, for what industries, periods and areas.*

*Lithuania.* — The report states that there has been no necessity to make use of the suspension provided for in this Article.

*New Zealand.* — The report states that no such suspension has occurred.

### III.

*Article 7 of the Convention is as follows:*

Each Government shall communicate to the International Labour Office:

(a) A list of the processes which are classed as being necessarily continuous in character under Article 4;

(b) Full information as to working of the agreements mentioned in Article 5; and

(c) Full information concerning the regulations made under Article 6 and their application.

The International Labour Office shall make an annual report thereon to the General Conference of the International Labour Organisation.

*Please give*

(a) *A list of the processes which are deemed to be necessarily continuous in character for the purposes of Article 4.*

(b) *Full information as to working of the agreements mentioned in Article 5, i.e. a list of such agreements, showing the industries and classes of workers covered, together with, as far as possible, the texts of such agreements.*

(c) *Full information concerning the regulations made under Article 6 and their application, i.e. a list of such regulations, together with the texts thereof, in so far as they may not already have been communicated under I of this report, at the same time stating what method was adopted for the consultation of organisations of employers and workers.*

*Belgium.* — The report states that, during the period under review, authorisations for overtime (under § 7 of the Act

of 14 June 1931 and the conditions laid down in this article of the Convention)

were given to the undertakings and industries shown in the following table :—

Industries	Undertakings in which the majority of those employed are members of unions			Undertakings in which the majority of those employed are not members of unions			Total no. of undertakings		
	No. of auth.	No. of workers	No. of hours overtime	No. of auth.	No. of workers	No. of hours overtime	No. of auth.	No. of workers	No. of hours overtime
Building .....	6	127	5,723	2	38	4,848	8	165	10,571
Woodwork and furnishing ..	7	137	6,565	1	19	969	8	156	7,534
Food and drink	3	67	3,154	1	4	40	4	71	3,194
Textiles .....	11	224	21,324	9	155	5,143	20	379	26,467
Metals .....	40	1,149	50,442	5	81	3,839	45	1,230	54,281
Clothing .....	3	73	3,104	10	566	18,300	13	639	21,404
Mines .....	1	100	5,200	—	—	—	1	100	5,200
Artistic and fine work <sup>1</sup> ..	1	5	52	1	9	72	2	14	124
Book printing, binding, etc.	4	805	37,146	—	—	—	4	805	37,146
Hides and skins	—	—	—	1	43	2,193	1	43	2,193
Tobacco .....	1	161	12,236	1	12	312	2	173	12,548
Chemicals ...	—	—	—	2	32	3,936	2	32	3,936
Paper .....	—	—	—	—	—	—	—	—	—
Special .....	4	183	21,016	4	107	12,956	8	290	33,972
Ceramics ....	—	—	—	—	—	—	—	—	—
Quarries .....	—	—	—	—	—	—	—	—	—
Glass .....	1	10	360	—	—	—	1	10	360
Transport ...	—	—	—	—	—	—	—	—	—
Total	82	3,041	166,322	37	1,066	52,608	119	4,107	218,930

<sup>1</sup> Industries inspected by the Mines Department.

*Cuba.* — The report gives the following information :

(a) *Necessarily continuous work (Article 4).*

Industrial operations in connection with the reaping, of sugar canes, transport by ship or railway, blast furnaces, manufacture of paper, manufacture of bottles, textile works (*textilerias*).

*Lithuania.* — The report gives the following information :

(a) *Necessarily continuous processes (Article 4).*

The compulsory limit of hours of work has not been exceeded.

(b) *Agreements provided for in Article 5.*

During the period under review it has not been necessary to give force of law to regulations of the kind mentioned in this paragraph.

(c) *Regulations made under Article 6.*

The report states that as no regulations have been made under this Article, it has not been necessary to consult the employers' and workers' organisations.

*Luxemburg.* — The report states that the Minister of Labour authorised fifteen limited and temporary exceptions, permitting a maximum of two hours' overtime a day, to enable undertakings to cope with exceptional pressure of work.

*New Zealand.* — (a) The following list of continuous processes is supplied :

Sugar refining.

Brewing and malting.

Paper milling.

Gas making and supply, including auxiliary services and by-product production, also coal carbonization.

Electricity generation and supply.

Lime and cement burning.

Brick, tile and pottery—processes relating to kiln burning.

Glass manufacturing—maintenance of furnaces and annealing.

Iron melting—iron rolling.

Starch manufacture.

Chemicals manufacture.

Chemical fertilizer manufacture.

Power supply—electric, steam—compressed air, where necessary for continuous process in any industry.

Preservation of foods or goods by freezing, cooling or chilling—processes necessary to the maintenance of freezing operations.

Water supply—filtering.

Watchmen.

Drying processes as they affect animal and vegetable products in as far as the operations necessarily extend over a period longer than a normal working day.

Grinding processes in as far as the operations necessarily extend over a period longer than a normal working day.

Annealing of metals.

A 40-hour working week has been applied to some of the above industries by award of the Court of Arbitration, in others the weekly limit is 44 hours. In this connection the Government refers to the New Zealand Gasworks Employees' Industrial Agreement and to other awards or agreements covering the industries contained in the Books of Awards.

(b) and (c). See under ARTICLES 5 and 6.

\* \* \*

*Burma.* — (a) and (b). These are not applicable in the case of Burma.

(c) See under ARTICLE 6. The regulations are made after publication in draft in the Official Gazette and local press and circulation in draft to the main employers' and workers' organisations.

#### IV.

*Article 16 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing:

(a) Except where owing to the local conditions its provisions are inapplicable; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates, and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaty of Peace), please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports supplied do not contain any fresh information on this point.

#### V.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Cuba.* — The Government refers to the information supplied in previous reports, and adds that not only is the employer prosecuted for infringing the legislation concerning the 8-hour day but the worker himself is also liable to a fine in the event of an illegal extension of the working day. The amount of the fine inflicted on the worker is equal to his earnings for the overtime worked illegally, and must be paid within the same period and in the same way as that inflicted on the employer.

*India.* — The report states that the number of labour inspectors who assist the Supervisor of Railway Labour has now been raised to 16.

*Lithuania.* — The report states that the supervision and enforcement of the Act on hours of work is entrusted to the Labour Inspection Service and to the Courts. With regard to the Labour Inspection Service, on 24 March 1938 the Minister of the Interior issued an "Order concerning the application of the Act on labour inspection".

*New Zealand.* — Application of the Convention is entrusted and supervision and enforcement is ensured as follows: *Mines:* A Department of State, the Mines Department, with an inspectional service; *Factory production and awards of the Court of Arbitration:* A Department of State, the Department of Labour, with a staff of inspectors; *Transport:* In addition to the supervision by Inspectors of Factories, the Transport Department has its own inspectors (both as to working hours and conditions and accounts); *Construction:* As far as State constructional work is concerned the officers of the Public Works Department supervise the services.

*Rumania.* — The report states that the responsibility for the enforcement of the law relating to the conditions of employment and protection of workers, including those employed in public and private industrial undertakings is entrusted to the Labour Inspection Service set up under the Act of 13 April 1927. Enforcement of the regulations applying to certain classes of undertakings is also entrusted to the Social Insurance Inspectors, to the Inspectors of Mines under the Ministry of National Economy, to the doctors of the health services of the

Ministry of Public Health, to the presidents and secretaries of the Chambers of Labour, and to other administrative authorities. Offences are dealt with by the authorities established by the Act of 15 February 1933 setting up a system of labour courts, the courts of first instance being the labour courts of the justices of the peace, the courts of second instance being the ordinary courts or courts of appeal, and the supreme court being the High Court of Cassation and Justice. The report also mentions that an administrative reorganisation has lately been undertaken in accordance with two Ministerial Decisions published on 14 October and 19 December 1938. A list of the Labour Inspection Services, Chambers of Labour and Labour Courts, as now re-arranged, is given in the report.

\* \* \*

*Burma.* — The report states that the Factories Act is administered by the Government of Burma through the factories inspectorate appointed under § 10 (1) of the Factories Act. District magistrates are *ex officio* inspectors of factories for their districts under § 10 (4) of the Act, while § 10 (5) provides for the appointment of other public officers as additional inspectors. The Mines Act is administered through the inspector of mines appointed under § 4 of the Act. Under §§ 10 to 12 the Government of Burma may constitute mining boards and committees which may exercise such of the powers of the inspectors as they may consider necessary for the purpose of deciding or reporting upon any matter referred to them. District magistrates may also exercise the powers and perform the duties of inspectors subject to general and special orders of the Government. § 5 of the Factories Act and § 6 of the Mines Act give inspectors certain powers of entry, examination, etc.

## VI.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The report states that legal decisions have been and are constantly given with regard to the enforcement of the relevant legislation. The Government appends to its report the texts of two judgments, one imposing a fine of 50 pesos for an infringement of the prohibition regarding the maximum working hours per day, and the other a fine of 200 pesos for failure to post up notices regarding

the hours of work and to keep a record of all additional hours worked.

*Lithuania.* — The Government forwards, as an appendix to its report copies of 92 decisions given by the courts regarding the application of the Convention.

*New Zealand.* — The report states that no decisions have been given by courts of law, or the courts, regarding the application of the Convention.

*Portugal.* — The report states that, during the period under review, several decisions regarding hours of work were given by the Labour Courts.

The remaining reports supplied do not mention any such decisions.

## VII.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, the number of hours overtime worked in the cases covered by Articles 3 and 6 of the Convention, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report gives no new information on this point.

*Belgium.* — During the period under review, 790 cases of proceedings for infringements of the Eight-Hour Day Act were instituted. In certain cases the administrative authorities have brought appeals in order to obtain the revision of decisions of first instance which they considered likely to weaken the work of the inspection service. The total number of staff employed by the undertakings visited by the inspection service during the twelve months covered by the report was 414,562. The employers' organisations have not made any observations with regard to the application either of the Convention or of the national legislation. Cases of infringement reported by the



workers' organisations have been inquired into, and proceedings, to be followed by legal action, have been instituted against the offenders.

*Bulgaria.* — The number of workers protected by the legislation is about 209,641. The number of cases of infringement reported was 1,507.

*Canada.* — See introductory note.

*Chile.* — The reports of the Labour Inspection Service show that the regulations are applied in a satisfactory manner throughout the whole country. The number of workers to whom the eight-hour day and the 48-hour week apply in industrial undertakings is 321,051. The number of workers covered by the provisions concerning hours of work in private railway undertakings is 6,493 of whom 1,471 are salaried employees and 5,022 are workers. The number of persons employed by the State railways is 24,733, of whom 2,819 are salaried employees and 21,914 are workers. The number of offences against the provisions of the Convention was 77. The report states that neither the employers nor the workers' organisations have submitted any observations with regard to the practical application of the provisions of the Convention or of the legislation which implements it.

*Colombia.* — The report does not contain any new information on this point.

*Cuba.* — During the period October 1937 to September 1938 the central labour exchanges in the provinces of Pinar del Rio, Matanzas, Santa Clara, Camagüey and Oriente instituted proceedings in 188 cases. In 93 of these cases no action was taken and in 18 infringements were noted, the fines inflicted amounting 340,12 pesos, while 77 cases are pending. In addition, during the same period 727 cases were lodged with the correctional courts for decision. Of these, 148 were acquitted, in 45 cases sentences were pronounced, while 434 cases are pending. The report adds that the very high number of acquittals is explained by the fact that, when pronouncing sentence, the judges of the correctional courts consider themselves bound by the principle laid down by the Supreme Court, namely, that the provisions relating to the fines in question must be embodied in an Act and not merely in Regulations, as has been the case up to the present. No observations have been received from organisations of employers and workers concerned with regard to the practical application of the Convention or of the legislation which implements it.

*Dominican Republic.* — A report of the Department of Labour for the period

April-June 1937 (a copy of which is appended to the Government's report) states that during this period the inspectors paid 1,815 visits to the undertakings covered by the Act. Practically all the heads of the undertakings visited had complied strictly with the provisions of Act No. 929, but in a few instances, however, there had been breaches of the regulations which had been committed with the complete agreement and sometimes the encouragement of the employees themselves. The total number of infringements was 132.

*Greece.* — The report contains no fresh information on this point. The Government refers to its report for last year.

*India.* — The report states, that the question of extending the hours of employment regulations to the remaining principal railways not yet covered is under consideration. The Government received a representation from the National Trades Union Federation, Bombay, supporting a resolution passed at the first Bombay Provincial Labour Conference, and demanding the extension of the scope of the Convention to all railways.

*Lithuania.* — The report states that the number of industrial workers protected by legislation on hours of work during the period under review amounted to 29,906. The number of infringements was 338, and of this number 193 cases were settled by the labour inspectors and 145 were referred to the courts. The Inspection Service authorised 29,310 hours overtime in the cases covered by Articles 3 and 6 of Convention and by the Act on hours of work and in certain exceptional cases mostly in industries which only work during certain seasons of the year. No observations have been received from employers' or workers' organisations with regard to the application of the Convention.

*Luxemburg.* — The Government states that records three cases of infringement of the relevant legislation during the period under review, all of which occurred in the building industry.

*New Zealand.* — The report states that it is a matter of impossibility in this first report to furnish statistics concerning the number and nature of contraventions, the records not having been retained in a manner that will enable this information to be extracted in respect of a past period. In the Annual Report of the Department of Labour the number of contraventions under each statute administered is given, but analysis to the extent demanded is unfortunately impossible for this period. It is anticipated that a supplementary report for the year ending 31 March 1939,

will be available on the basis of the requirements of the International Labour Office, such information being in Geneva before the 25th Session of the International Labour Conference. No observations have been received from organisations of employers or workers regarding the fulfilment of the conditions prescribed by the Convention. In general it can be stated that a 40-hour week and 8-hour day applies to all workers in industry covered by the Convention except in those industries where, by Order of the Court of Arbitration, it is deemed to be impracticable to limit the hours to those above mentioned.

*Portugal.* — The report states that between January and June 1938, permits were granted for 350,796 hours' overtime, at rates in accordance with the provisions laid down by law. During this period the number of hours overtime worked was 1,187,160 less than during the same period of 1934, thus showing a reduction of 88.10 per cent. The reduction for the same period in the years 1935, 1936 and 1937 was 68.4, 58.1 and 68.8 per cent. respectively.

*Rumania.* — The report states that the legal dispositions giving effect to the Convention are everywhere applied. According to the annual reports of the Labour Inspectors many industrial undertakings work less than 8 hours a day and 48 hours a week. An inquiry into wages and hours of work carried out in October 1938 showed that the legal limits of hours of work are respected. The number of proceedings instituted by Labour Inspectors for offences against the Act of 9 April 1928 on the protection of women and children and the limitation of hours of work in 1938 was 379. During the same period the number of offences against that Act was 259 and the number of exception permits withdrawn by Labour Inspectors was 36. During the year 1937, the Labour Inspectors made 1,414 recommendations concerning hours of work in industrial and commercial undertakings inspected and found on re-inspection visits that 696 of these had already given effect by the employers. As regards overtime, 476 recommendations had been made, of which 241 had taken effect by the end of the year.

*Uruguay.* — During the year 1936 the labour inspection services made 50,810 visits. Infringements reported numbered 354; fines inflicted amounted to 8,813 pesos.

\* \* \*

*Burma.* — The Government states that reports on the working of the Factories and Mines Acts in Burma, containing such statistics as are available, are published annually and furnished to the International Labour Office.

## 2. Convention concerning unemployment.

This Convention came into force on 14 July 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	30.11.1933	31. 1.1939
Belgium . . . . .	25. 8.1930	21.10.1938
Bulgaria . . . . .	14. 2.1922	2.12.1938
Chile . . . . .	31. 5.1933	2. 2.1939
Colombia . . . . .	26. 6.1933	10. 3.1939
Denmark . . . . .	13.10.1921	21.11.1938
Estonia . . . . .	20.12.1922	11.10.1938
Finland . . . . .	19.10.1921	5.11.1938
France . . . . .	25. 8.1925	12. 1.1939
Great Britain . . .	14. 7.1921	16. 1.1939
Greece . . . . .	19.11.1920	21. 3.1939
Hungary . . . . .	1. 3.1928	1.11.1938
India <sup>1</sup> . . . . .	14. 7.1921	16.12.1938
Ireland . . . . .	4. 9.1925	16.11.1938
Italy . . . . .	10. 4.1923	
Japan . . . . .	23.11.1922	
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Netherlands . . . .	6. 2.1932	1.10.1938
New Zealand . . . .	29. 3.1938	7. 2.1939
Norway . . . . .	23.11.1921	22.11.1938
Poland . . . . .	21. 6.1924	28.12.1938
Rumania . . . . .	13. 6.1921	20. 2.1939
Spain . . . . .	4. 7.1923	
Sweden . . . . .	27. 9.1921	28.11.1938
Switzerland . . . . .	9.10.1922	1.11.1938
Union of South Africa	20. 2.1924	22.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>2</sup> . . . . .	14. 7.1921	30. 1.1939

<sup>1</sup> Ratification denounced 16.4.1938.

<sup>2</sup> See the Introduction to the present volume, p. 4.

The Belgian Government states in its report that a Bill with a view to replacing voluntary unemployment insurance by compulsory insurance has been approved by the Chamber and submitted to the Senate for approval. The Government hopes that it may be possible to bring the new system into force in 1939.

The Government of Colombia refers to its previous reports in which it stated that during the period covered by the report there was little unemployment in the country. For this reason there was no need to keep the register for recording offers of employment and applications for work prescribed by Decree No. 837 of 1928. The report added that moreover, this Decree had been replaced by Decree No. 666 of 1936, §12 (23) of which prescribes that the National Labour Directorate shall keep itself informed of the state of the demand for, and supply of, labour in the different parts of the country. The first official labour exchange had been established by the municipality of Bogota. The report added that, in view of the circumstances mentioned, it had been impossible to reply to the various points contained in the report form.

The report of the Government of Italy has not been received.

The report of the Government of Japan has not been received.

The report of the Government of Spain has not been received.

The Government of Uruguay refers to its previous reports in which it stated that Chapter IV of the Act of 11 January 1934 and its Administrative Regulations (Decree of 2 April 1934) provide for the creation of a national system of employment exchanges for the purpose of co-ordinating the supply of and demand for labour throughout the Republic. It has not yet been possible, however, to bring these provisions into force and to set up a system of employment exchanges. On 25 March 1936, the Minister of Industry and Labour laid before Parliament a Bill to amend the provisions of Chapter IV of the Act of 11 January 1934. This Bill provides, *inter alia*, for the extension of the activities of the labour exchanges, which, under the terms of the Bill, will be responsible for placing work in regard to all salaried employees and workers in industry without exception.

The Yugoslav Government states in its report that a Decree of 25 November 1937 concerning assistance for unemployed workmen supersedes the Decree of 26 November 1927 concerning the organisation of placing. No change whatever is made in the organisation and working of public employment exchanges by the Decree of

25 November 1937. With regard to assistance to the unemployed, the new Decree fixes the following categories of allowances from 1 July 1938 : (a) ordinary allowances ; (b) extended allowances ; (c) travelling allowances ; (d) extraordinary allowances in cash and in kind.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Argentine Republic.

Act No. 8,999 of 8 October 1912 concerning the National Department of Labour.

Act No. 9,148 of 25 September 1913 concerning official labour exchanges.

Act No. 11,868 of 21 August 1934 concerning the unemployment census.

Act No. 11,896 of 28 August 1934 concerning the institution of a National Unemployment Board.

Act No. 12,101 of 29 September 1934 to amend Act No. 9,148 of 25 September 1913 (L. S. 1934, Arg. 2).

### Belgium.

Royal Order of 19 February 1924 concerning the organisation of public employment exchanges (L. S. 1924, Bel. 2), amended by Royal Order of 19 January 1925 (L. S. 1925, Bel. 1).

Royal Order of 27 July 1935 to set up the National Employment and Unemployment Office, amended by Royal Order of 23 August 1935 (L. S. 1935, Bel. 10 A and B).

Royal Order of 31 July 1935 to give effect to the above Royal Order of 27 July 1935.

Royal Order of 25 May 1936 respecting the organisation of free public employment exchanges for workers, amended by Royal Order of 25 August 1938.

Various legislative and administrative measures concerning employment-finding or unemployment relief.

### Bulgaria.

Act of 12 April 1925 respecting employment exchanges and unemployment insurance (L. S. 1925, Bulg. 2).

### Chile.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

Decree No. 113 of 12 March 1926 concerning labour contracts.

Decree No. 1636 of 3 September 1928 concerning collective placing in agriculture.

Decree No. 399 of 5 May 1934 concerning the placing of dockers and seamen (L. S. 1934, Chile 3), amended by Decree No. 481 of 4 April 1935.

Notices of the General Inspection Service, Nos. 9095 of 1936, 3699, 5211 and 5566 of 1937 concerning the supervision of the collective placing of workers.

### *Colombia.*

See introductory note.

### *Denmark.*

Act of 20 May 1933 concerning employment exchanges and unemployment insurance (L. S. 1933, Den. 7) as amended by the Acts of 31 March 1937 and 14 April 1937.

### *Estonia.*

Act of 20 June 1934 concerning the organisation of employment exchanges and public works (L. S. 1934, Est. 5).

Decree of the Minister of Communications of 17 July 1934 concerning the placing service of the employment exchanges (L. S. 1934, Est. 5).

### *Finland.*

Act of 23 March 1934 concerning unemployment exchanges entitled to a subsidy from public funds.

Order 23 March 1934 for the application of the above Act.

Act of 23 July 1936 concerning the finding of employment.

Order of 23 July 1936 to implement the above Act.

Order of 23 July 1936, concerning placings effected by the Society of Hospital Nurses.

Act of 30 December 1936 to amend the Act concerning unemployment exchanges entitled to a subsidy from public funds.

Order of 30 December 1936 to amend the Order of 23 March 1934.

### *France.*

Act of 14 March 1904 concerning the finding of employment for employees and workers of both sexes and in all occupations: Book I, Part IV, of the Labour Code (French text in B.B. 1904, Vol. III, p. 46).

Act of 2 February 1925 to amend § 85 of Book I, Part IV of the Code of Labour and Social Welfare with regard to employment exchanges and departmental employment offices (L. S. 1925, Fr. 4).

Decree of 9 March 1926 to issue public administrative regulations to enforce the Act of 2 February 1925.

Act of 16 March 1928 concerning the finding of employment in the theatrical profession, amending § 98 of Book I of the Labour Code.

Act of 19 July 1928 to amend §§ 79, 81, 82, 83, 88 and 102 of Book I of the Labour Code.

Decree of 28 March 1922, as amended by Decrees of 18 December 1927, 25 September 1933, and 9 January and 10 June 1934, concerning grants to public employment exchanges.

Decree of 28 December 1926 as amended by a series of Decrees concerning the conditions to be fulfilled by municipal or departmental unemployment funds which grant subsidies to workers wholly unemployed, in order to obtain grants from the national unemployment benefit Fund.

Decree of 22 October 1932 concerning the conditions to be fulfilled by partial unemployment relief funds.

Decree of 9 September 1905, as amended, concerning subventions for unemployment societies (B.B. 1906, Vol. I., p. 14).

Various Decree 8 of 1931, 1932, 1933, 1935 and 1937 concerning the granting of State subsidies to unemployment funds and relief works for different categories of worker (dockers; seamen; painters, sculptors, dramatists, and musicians not in receipt of fixed salaries; unemployed workers following vocational guidance courses; children of unemployed workers in holiday camps; independent workers; craftsmen).

### *Great Britain.*

Labour Exchanges Act, 1909 (B. B. Vol. V, 1910, p. 21).

Unemployment Insurance Act, 1935 (consolidated text) (L. S. 1935, G. B. 1.)

Unemployment Insurance (Agriculture) Act, 1936 (L. S. 1936, G. B. 1).

National Economy Act, 1931.

The administration of unemployment insurance in Northern Ireland was transferred to the Northern Ireland Government on 1 January 1922. The Acts passed up to and including 1921 in Great Britain apply to Northern Ireland, but since that date legislation corresponding to the Acts passed at Westminster has been enacted in Belfast and consolidated in the Unemployment Insurance (Northern Ireland) Act of 1936.

### *Greece.*

Act No. 5288 of 31 August 1931 respecting the regulation of the labour market (L. S. 1932, Gr. 7), amended by the Act of 10 June 1935 (L. S. 1935, Gr. 4).

Decree of 19 November 1935 to establish advisory committees relating to public employment exchanges.

Act No. 394 of 1936 regulating conditions of employment of persons engaged in hotels (§2).

Ministerial Decree No. 42.901 of 1937 concerning the establishment of employment exchanges.

Act No. 940 of 1937 supplementing the provisions concerning the labour inspection service.

Various legislative measures relating to unemployment benefit, the organisation of occupations, protection of ex-service men, etc.

### *Hungary.*

Act No. XVI of 1916 respecting official employment bureaux for industry, mining and commerce (B.B. Vol. XVI, 1916, p. 225).

Act No. XV/1928, approving the ratification of the Convention.

Ministerial Orders and Decisions concerning the organisation of placing: Order No. 92815 of 1916: Ministerial Decisions of 2 February 1919, Orders Nos. 77,000 of 1926, 85,237 of 1928 (L. S. 1928, Hung. 5), and No. 27,600 of 1930.

### *India.*

No new legislation was adopted. The Provincial Famine Codes regulate the provision of relief for the rural population unemployed by reason of famine or scarcity.

### *Ireland.*

The Labour Exchanges Act, 1909, and the Unemployment Insurance Acts, 1920-35 (L. S. 1920, G.B. 3; 1921, G.B. 2; 1922, G.B. 1; 1923, I.F.S. 2; 1924, I.F.S. 1 and 4; 1926, I.F.S. 3; 1930, I.F.S. 1; 1933, I.F.S. 3).

Unemployment assistance Act 1933, and Unemployment assistance (amendment) Acts 1935 and 1938.

*Luxemburg.*

- Act of 2 May 1913 concerning the organisation of employment exchanges.
- Grand-Ducal Order of 21 August 1913 concerning employment exchanges.
- Act of 6 August 1921 concerning the organisation of unemployment exchanges and unemployment funds.
- Grand-Ducal Order of 5 January 1931 concerning the scale of unemployment benefits.
- Grand-Ducal Order of 20 April 1933 concerning the organisation of assistance for the unemployed in the form of productive work.
- Act of 27 July 1938 concerning the setting up of an emergency reserve fund.
- Grand Ducal Order of 30 July 1938 concerning new regulations with regard to unemployment assistance.

*Netherlands.*

- Decree of 2 December 1916 issuing general regulations for the granting of subsidies to Unemployment Funds (B.B. 1917, Vol. XII, p. 99).
- Act of 29 November 1930 regulating employment-finding (L. S. 1930, Neth. 5).

*New Zealand.*

- Employment Promotion Act, 1936.  
(This Act will be repealed as from 1.4.39 and replaced by the Social Security Act, 1938).
- Labour Department (Amendment) Act, 1936.

*Norway.*

- Employment Exchanges Act of 12 June 1896.
- Public Employment Exchanges Act of 12 June 1906 (B.B. Vol. I, 1906, p. 205).
- Act of 30 June 1921 to amend the Act of 6 August 1915 respecting State and communal subsidies to Norwegian unemployment funds, and the supplementary Act of 29 July 1918 (L. S. 1921, Nor. 1).
- Unemployment Insurance Act of 24 June 1938.

*Poland.*

- Decree of 27 January 1919 relating to the organisation of employment exchanges and of aid to emigrants.
- Act of 21 October 1921 respecting private employment agencies carried on by way of trade, and amending Acts and Orders (L. S. 1921, Part II, Pol. 1) text as published by Act of 3 March 1926.
- Act of 6 July 1923 to extend the legal provisions respecting compensation for industrial accidents, invalidity, old age, death and unemployment to nationals of other States (L. S. 1923, Pol. 3).
- Act of 10 June 1924 respecting employment agencies, and Orders issued under the Act (L. S. 1924, Pol. 5 and 11).
- Decree of the President of the Republic of 27 October 1933 relating to the abolition of State employment exchanges and State aid to emigrants.
- Decree of the President of the Republic of 24 October 1934 concerning the amalgamation of the Unemployment Fund and the Labour Fund.
- Order of the Minister of Social Welfare of 26 March 1935 concerning the undertaking of placing by the Labour Fund.
- Order of the Minister of Social Welfare of 27 March 1935 concerning the employment exchange for dockers at Gdynia.
- Ministerial Decree of 9 January 1933 concerning the rights of workers employed abroad to unemployment insurance benefits.

- Notification of 24 June 1932 to promulgate the consolidated text of the Act concerning unemployment insurance (L. S. 1932, Pol. 3).
- Order of the Minister of Social Assistance of 12 March 1938 concerning the transfer of the functions of the regional offices of the Labour Fund to the communal authorities and other public institutions.
- Order of the Minister of Social Assistance of 12 March 1938 concerning the suppression of the communal employment offices.
- Various legislative and administrative measures dealing especially with Posnanian, Pomeranian and Upper Silesia.

*Rumania.*

- Employment Exchanges Act of 22/30 September 1921 (L. S. 1921, Rum. 2).
- Ministerial Instruction No. 13.300 of 12 December 1938 concerning the prevention of unemployment, measures to combat unemployment and assistance to the unemployed.

*Sweden.*

- Act of 15 June 1934 concerning the public employment exchange service (L. S. 1934, Swe. 3).
- Royal Decree of 23 November 1934 concerning the co-ordination of public employment exchanges.
- Royal Decree of 23 November 1934 concerning methods of procedure with regard to State subsidies for the public employment exchange service.

*Switzerland.*

- Federal Order of 29 October 1909 respecting the promotion of employment bureaux by the Federal Government (B.B. Vol. V, 1910, p. 68).
- Regulations of 25 June 1923 concerning the use of a uniform procedure in the finding of employment.
- Order of the Federal Council of 11 November 1924 respecting public employment exchanges (L. S. 1924, Switz. 5).
- Federal Act of 17 October 1924 respecting the payment of subsidies for unemployment insurance (L. S. 1924, Switz. 3).
- Orders of 9 April 1925, 20 December 1929, 26 September 1932, 27 February 1934 and 27 March 1936 relating to the Federal Act of 17 October 1924.
- Federal Order of 13 April 1933 granting emergency assistance to the unemployed, extended by Federal Order of 11 December 1935.
- Order of 23 October 1933 regulating the distribution of relief funds to the unemployed in various industries.
- Federal Order of 21 December 1934 concerning the struggle against the depression and the creation of possibilities of employment (L. S. 1934, Switz. 3).
- Order of 24 May 1935 concerning placing, occupational development, and suitable measures for facilitating the transfer of unemployed workers.
- Federal Order of 20 June 1936 concerning assistance for internal settlement and settlement in foreign countries.
- Order of 14 December 1936 to encourage internal settlement and to facilitate the establishment of Swiss citizens in other European countries.
- Federal Order of 23 December 1936 regulating the distribution of emergency relief to the unemployed.
- Federal Order of 23 December 1936 replacing in part the Federal Order of 21 December 1934.
- Order of 19 January 1937 relating to the Federal Act of 17 October 1924 which concerns the payment of subsidies for unemployment insurance.

Order of 12 February 1937 to give effect to the Federal Order concerning the campaign against the depression and the creation of openings for employment.

Order of the Federal Council of 28 May 1937 supplementing the Order of 23 October 1933 which regulates the distribution of relief funds to the unemployed.

Federal Order of 1 April 1938 concerning assistance to emigrants.

Order of the Federal Council of 16 September 1938 concerning assistance to emigrants.

#### *Union of South Africa.*

Juveniles Act of 1921 (L. S. 1921, Part II, S. A. 1).

Unemployment Benefit Act, 1937 (L.S. 1937. S. A. 1).

The report states that "the national law of the Union cannot be said to be in full harmony with the Convention, compliance therewith being obtained by means of administrative action on the part of the Government. The ratification of the Convention has not had any actual legal effect, nor has it modified existing legislation in any degree. So far as Europeans are concerned, free employment agencies throughout the Union of South Africa are conducted by the Government; compliance with the terms of the Convention is thus ensured."

#### *Uruguay.*

Legislative Decree of 23 February 1933.

Decree of 23 February 1933 issuing regulations in application of the above Decree.

Act of 11 January 1934 to make additions and adjustments in the pension system on the basis of the Pensions Fund for industry, commerce and the public services, Chapter IV (employment exchanges) (L. S. 1934, Ur. 1).

Decree of 2 April 1934 issuing administrative Regulations in pursuance of the above Act.

Act of 11 May 1934.

Act of 20 June 1934.

Decree of 21 August 1934.

Act of 26 November 1934.

Act of 3 January 1935.

#### *Yugoslavia.*

Workers' Protection Act of 28 February 1922 (L. S. 1922, S. C. S. 1).

Order of 12 June 1928 concerning private fee-charging employment exchanges (L. S. 1928, S. C. S. 2).

Decree of 25 November 1937 concerning assistance to the unemployed.

\* \* \*

#### *Burma.*

The report states that no new legislation was adopted. The Famine Code regulates the provision of relief for the rural population unemployed by reason of famine or scarcity.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Each Member which ratifies this Convention shall communicate to the International Labour Office, at intervals as short as possible and not exceeding three months, all available information, statistical or otherwise, concerning unemployment, including reports on measures taken or contemplated to combat unemployment. Whenever practicable, the information shall be made available for such communication not later than three months after the end of the period to which it relates.

*Please describe the action taken to give effect to this Article.*

*Argentine Republic.* — The Government refers to the report of the National Committee to Combat Unemployment for 1937. This report shows that, while statistical information regarding the problem of unemployment is not at present compiled regularly, the census and enquiries undertaken in recent years make it possible to form a fairly comprehensive opinion of the importance of the problem and its main features.

*Great Britain.* — The unemployment insurance scheme was amended by the Unemployment Insurance Act, 1938, and by Orders and Regulations. The scheme has now been extended to include employment in domestic service, except where the employed person is a private, indoor domestic servant or a domestic servant rendering services in any one or more of certain specified capacities to or for the benefit of persons residing at an educational establishment. With the exception of chauffeurs, the majority of outdoor domestic servants are insurable under the agricultural scheme. The Unemployment Insurance Act, 1938, extended the provisions relating to the crediting of contributions to men leaving His Majesty's forces, so that contributions credited correspond as exactly as possible with those which would be payable in respect of workpeople insurably employed in civil life for periods equal to the periods served in His Majesty's forces. Men discharged from the forces in consequence of convictions for civil or service offences are, however, subject to a disqualification for the receipt of unemployment benefit during six weeks after the date of discharge. Certain reductions in the rates of contributions and increases in rates of benefit and in the number of days' benefit payable were made by the Unemployment Insurance (Additional Benefits) Order, 1938, and the Unemployment Insurance (Additional Benefits and Reduction in Contributions) (Agriculture) Order, 1938. The latter Order also effected the reduction of the waiting period for benefit from six days to three in all circumstances. No other important changes were made in the scheme during the year. The legislation relating to unemployment in Northern Ireland and the method of its application have continued to correspond in all essential particulars with the legislation and

administration in operation in Great Britain. The number of persons covered by this legislation in Northern Ireland was approximately 394,000 at 31 December 1937. This figure represents the total number of persons within the scope of the unemployment assistance scheme which came fully into operation on 1 April 1937 and includes approximately 324,000 persons covered by the unemployment insurance scheme. The unemployment assistance scheme continued throughout the year. Reciprocal arrangements were made with Northern Ireland. Provision was also made to increase the unemployment assistance allowances in appropriate cases on account of special needs due to winter conditions.

*Greece.* — The report gives particulars of the measures taken by the Government to combat unemployment, in particular, the strict application of the 8-hour day, the carrying out of large-scale national public works, the organisation of the labour market, and restrictions regarding the engagement of foreign workers in certain professions.

*New Zealand.* — The Government refers to the the Departmental Handbook relating to measures in operation for the promotion of employment under the Employment Promotion Act, 1936, and states that statistics are published monthly in the Abstract of Statistics, yearly in Statistical Reports, the New Zealand Year Book, the Annual Report of the Department of Labour, and in the Annual Report of the Employment Division, Department of Labour, and periodically in special reports and statements.

*Norway.* — The report states that the Unemployment Insurance Act of 24 June 1938 which has not yet come into operation, and which sets up a compulsory insurance system for all persons subject to sickness insurance will apply to foreign workers employed in Norway.

*Rumania.* — The Government gives particulars of the measures provided for in the Ministerial Order of 12 December 1938 to combat unemployment and to provide assistance for the unemployed.

\* \* \*

*Burma.* — The report states that "the Royal Commission on Labour recommended that Government should examine the possibilities of making preparations to deal with urban unemployment among industrial workers when it arises, and of taking action where it is now required on the lines of the system devised to deal with famine in rural areas. This recommendation has been accepted in principle".

## ARTICLE 2.

Each Member which ratifies this Convention shall establish a system of free public employment agencies under the control of a central authority. Committees, which shall include representatives of employers and of workers, shall be appointed to advise on matters concerning the carrying on of these agencies.

Where both public and private free employment agencies exist, steps shall be taken to co-ordinate the operations of such agencies on a national scale.

The operations of the various national systems shall be co-ordinated by the International Labour Office in agreement with the countries concerned.

*In addition.*

- (a) *Please give a general account of the working of the system of free public employment agencies, stating how the Committees referred to in paragraph 1 are constituted and appointed and what method is adopted for the choice of the employers' and workers' representatives. Please indicate in particular the number of free employment agencies set up, the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment, by such agencies.*
- (b) *If private free employment agencies exist, please describe the steps which have been taken to co-ordinate their operations with those of the public agencies on a national scale.*
- (c) *Please state the views of your Government on the means of securing the application of the last paragraph of Article 2, viz. co-ordination of the operations of the various national systems by the International Labour Office in agreement with the countries concerned.*

*Argentine Republic.* — During the period 1 October 1937-30 September 1938 the Employment Registry received 53,084 notices of vacancies and 23,131 applications for employment and effected 20,606 placings.

*Belgium.* — By Royal Decree of 25 August 1938, National Advisory Committees were set up, under the National Employment and Unemployment Office, for the purpose of giving advice in placing operations in those industries or professions in which placing is organised on a national scale. The National Office has set up in Brussels a National Service for the placing of employees which includes a section for men and one for women and which carries out the clearing operations of the specialised offices for the same professional branch at Ghent, Antwerp, Liège and Charleroi. The National Service also handles the placing of University graduates. During the period 30 October 1937 to 31 August 1938, the free employment exchanges received 191,799 applications for employment, 37,940 notices of vacancies, and effected 23,784 placings. With regard to the placings effected by the public exchanges, the report refers to statistics published regularly in the Monthly Bulletin of the National Employment and Unemployment Office, a copy of which is forwarded to the International Labour Office at regular intervals.

*Chile.* — During the period 1 October 1937 to 30 September 1938 the National

Placing Service received in all 47,298 applications for employment and effected 11,798 placings.

*Denmark.* — The report states that on 1 April 1937 there were 29 free employment offices. During the period 1 April 1936-31 March 1937 these offices received 971,300 applications for employment; the number of vacancies notified amounted to 103,918 and the number of posts filled 95,095.

*Estonia.* — The report states that the number of employment exchanges was 17. During the period 1 August 1937-31 July 1938, the number of applications for employment received by the employment exchanges was 13,041, the number of vacancies notified was 25,673 and the number of vacancies filled was 20,754.

*Finland.* — The report does not indicate any change in the system adopted with regard to placing operations, and refers to previous reports for information in this connection. Owing to the position of Finland international placing is not for the moment of much importance. Under the Order 1 of April 1938, when foreigners come to Finland and settle there the Government makes every effort to ensure that all available employment in the country should be reserved by preference for its own nationals. Labour permits are as a rule only granted to foreign workers in cases where there are no persons in the country with the appropriate qualifications to fill the vacant posts in question, or where special reasons may be considered to justify such a permit.

*France.* — (a) . . . The report states that in 1938 the number of employment offices and exchanges in France was as follows: 90 departmental offices (1 in each department); 1,166 municipal exchanges (as against 1,160 last year), 687 of which are attached to departmental offices and operate as sections of these offices. In addition, 88 departmental offices have appointed approximately 20,000 local correspondents. The number of vacancies filled in 1937 by the public employment exchanges was 920,009 (as compared with 1,156,466 in 1936).

*Great Britain.* — The number of free employment agencies is 1,651 (Great Britain 1,623, Northern Ireland 28); the average number of applicants registered for employment was 1,806,602 (Great Britain 1,716,861, Northern Ireland 89,741). The report states that these latter figures are not strictly comparable with those furnished in respect of previous periods owing to a change in the procedure for counting the unemployed introduced in September 1937. The number of vacancies notified was 3,054,407 (Great Britain 3,019,768, Northern Ireland 34,639); the

number of vacancies filled was 2,591,475 (Great Britain 2,560,720, Northern Ireland 30,755).

*Greece.* — The report states that there are at present 12 free employment exchanges in the larger towns, 6 of which were set up during 1938. The information supplied regarding the activity of these exchanges shows that they found employment for 26,015 persons. Employment exchanges are attached to the labour inspection service, under the Unemployment Section of the General Labour Directorate. Advisory committees set up in each employment exchange are presided over by a factory inspector. These committees consist of an equal number of employers' and workers' representatives which varies according to the size of the district. The members of the committees are appointed by the Minister of Labour from a list which is submitted to him by the most representative occupational associations, the number of names being three times that of the seats to be filled. The public employment exchanges are obliged to submit each month particulars of their activities to the Ministry of Labour. The expenses of the employment exchanges are borne by the Ministry of Labour. Private employment exchanges for domestic servants which were formerly in existence have now ceased to function, the placing of these workers being entrusted to a special office which is attached to the free public employment exchanges. The only private employment exchange which is at present allowed to carry on temporarily is that attached to the National Council of Women. This exchange finds employment for women free of charge.

*Hungary.* — (a) The report states that in Budapest and in the neighbouring districts the placing of workers is entrusted to the Hungarian Royal Employment Exchange. There are in addition 7 public employment exchanges with 320 branch offices; the number of free private employment agencies is 135. During the period 1 October 1937 to 30 September 1938 the free public employment exchanges received 555,148 applications for employment and 190,026 notices of vacancies, and effected 150,893 placings. During 1937 the free agricultural employment exchanges received 113,017 applications for employment and 88,599 notices of vacancies and effected 123,699 placings.

*Ireland.* — The total number of workers on the live register was 68,809 on 25 October 1937, 94,414 on 29 November 1937, 89,879 on 20 December 1937, 105,449 on 31 January 1938, 104,829 on 28 February 1938, 102,515 on 28 March 1938, 100,076 on 25 April 1938, 97,571 on 30 May 1938, 71,959 on 27 June 1938, 68,320 on 25 July 1938, 70,552 on 29 August 1938 and 70,411 on 26 September 1938. During the twelve



months from October 1937 to September 1938, 131,884 vacancies were notified and 126,965 vacancies were filled.

*Luxemburg.* — (a).... in 1937, the Luxemburg Labour Exchange registered 9,875 offers of and 11,725 applications for employment, and effected 6,436 placings. The corresponding figures for labour exchanges in Esch-sur-Alzette and Diekirch are as follows: 9,859; 10,371; and 7,453; 5,458; 5,618; and 4,414.

*New Zealand.* — The Government appends to its report a copy of the Departmental Handbook on employment promotion which gives particulars of the activities of the State Placement Service. The report adds that free public employment agencies have existed for many years as a function of the Department of Labour, which has offices in all the major towns and agents in all centres of population. Committees were established during the period when unemployment reached high intensity during the recent depression years, but they have latterly largely ceased to function. The Department has set up 192 free public employment agencies. Persons registering for unemployment relief are also required to register with the State Placement Service and for the period 1 April 1937 to 31 May 1938 there were 55,927 enrolments as follows: no previous employment: 1,191; cessation of employment: 52,410; arrived from overseas: 692; from hospitals, institutions and for other reasons: 1634. The number of positions with private employers filled by the State Placement Service during the same period were as follows: permanent (over three months): 18,112; temporary (one week to three months): 12,858; casual (under 1 week): 20,849; making a total of 51,799. No private free employment agencies giving service to all applicants exist. The report states that as New Zealand is remote from other countries and the benefits under the Employment Promotion Act are available to all contributors to the Employment Promotion Fund who have been resident in New Zealand for at least six months, it is difficult to appreciate the necessity for co-ordination of the system with those in other countries. The New Zealand Government, however, has not formulated any definite views on the matter.

*Poland.* — During the period under review, the system of employment exchanges included, 17 regional exchanges attached to the Employment Fund, 22 subsidiary offices, 1 employment exchange for dockers and 1,037 registration office (in the communes). These exchanges found employment for 470,167 workers between 1 October 1937 and 31 August 1938. The number of unemployed persons seeking work who were registered

with the exchanges numbered 209,256 on 15 September 1938.

(b) The number of employment agencies carried on by social organisations during the year 1937/1938 was 190. These agencies received 72,880 applications for employment and 65,603 notices of vacancies, and effected 47,605 placings. During the period under review the number of fee-charging employment agencies amounted to 7. Four of these Agencies in Warsaw received 6,759 applications for employment and 4,978 notices of vacancies, and effected 4,151 placings. The employment exchange for dockers at Gdynia registered on an average 2,652 dockers and effected 26,013 placings per month; the number of placings effected during the period under review amounted to about 312,000.

*Rumania.* — The report states that during the period 1 January to 30 June 1938 the 33 free public employment exchanges registered 62,490 vacancies, 57,633 applications for employment and effected 47,948 placings.

*Sweden.* — (a) At the end of September 1938 the number of public employment exchanges was 29, controlling 29 employment offices and 138 branch offices, 4 of which were engaged in finding employment for seamen in the cities of Stockholm, Gothenburg, Malmö and Helsingborg. About 750 employment agents, 17 of whom are concerned with finding employment for seamen, are also established in various localities. During the period 1 October 1937-30 September 1938 the number of applications for employment was 894,287, the number of vacancies about 469,428 and the number of placings 355,630. The question of the placing of intellectual workers has received special attention, and in this connection special public employment offices have been set up in the four big University cities of the country. Moreover, the placing activities hitherto pursued in a private capacity by elementary school teachers have been placed under the control of the public employment exchanges, which have set up 12 special offices to deal with this work.

*Switzerland.* — The report states that, although the economic recovery which was felt at the end of 1936 and during 1937 has not continued its upward trend, and in certain industries there has been only a slight drop in employment, the Public Employment Service has extended its efforts to facilitate and speed up the reintegration of unemployed workers into economic activity. The number of persons who have taken advantage of special measures enabling them to improve their skill and their professional aptitudes during the period between 1932 and the end of 1937 can be estimated at about 27,000. The following figures illustrate the work of public employment exchanges during the period

1 September 1937 to 31 August 1938 : vacancies notified 161,734 ; applications for employment 333,947 ; vacancies filled, 131,929 : In addition, the work of the *joint* employment offices subsidised by the Confederation during the same period is shown in the following table :

	Vacancies notified	Applications for employment	Placings effected
Swiss Technical Employment Service .....	2,076	9,668	507
Swiss Employment Service for commercial employees	3,252	6,031	2,006
Swiss Employment Service for Musicians :			
(a) Orchestral .	524	406	352
(b) Individual..	726	974	2,103

*Union of South Africa.* — The number of free employment agencies conducted by the Department of Labour is 11. In addition to these every post office was constituted an employment agency until recently, when it was found more suitable to place these agencies under Magistrates. Under the new arrangement every Magistrate and full-time Justice of the Peace and/or Native Commissioner who is stationed in a District not directly served by the above-mentioned Departmental agencies, conducts a free employment agency on behalf of the Department of Labour. The number of these agencies is 282. In addition to the foregoing, a central clearing house which functions more particularly in respect of clerks, typists and semi-professional applicants for work and co-ordinates through its travelling inspection staff the work of the District exchanges, has been established in the head office of the Department of Labour. The number of free agencies dealing specifically with juveniles has been increased during the year under review from 12 to 23. The report states that it has not been possible, due principally to the large areas served by the employment agencies and the sparsity of the population, to set up advisory committees as contemplated in the Convention, except in the case of agencies which function specifically in respect of juveniles. Between October 1937 and September 1938 the number of adult applicants for work varied from 4,663 in December 1937 to 8,598 in March 1938 and of juvenile applicants from 721 in October 1937 to 2,504 in January 1938. The number of vacancies notified for adults varied from 1,389 in August 1938 to 2,406 in March 1938 and for juveniles from 436 in April 1938 to 866 in January 1938. During the period in question 27,186 adults and 7,293 juveniles were placed in employment. Free private employment agencies are now conducted by learny all associations of workers.

These agencies are principally confined to the large industrial centres and function in close collaboration with the public employment exchanges conducted by the State. In regard to private free employment agencies for Natives, the Government refers to its report for last year, in which it stated that in the Union there was no real problem of Native unemployment. The shortage of Native labour is still acute notwithstanding the fact that, apart from the labourers introduced into the Union by the Transvaal Chamber of Mines for employment on mines, large numbers of Natives from neighbouring territories enter the Union on their own in search of work. This does not affect the ability of Union Natives to obtain employment readily when required. Discussion recently took place between Officers of the South African Department of Native Affairs and of the Southern Rhodesia and Nyasaland Administrations to devise ways and means for controlling the influx of Native labourers from those territories into the Union, as employers there are experiencing difficulty in meeting their labour requirements. No final agreement was reached and the matter will be considered shortly by a Committee which was appointed to investigate the question of the labour shortage.

*Yugoslavia.* — During the period from 1 October 1937-30 September 1938 these offices received on an average 71,090 applications for employment, per month ; the number of vacancies notified was 3,394 and the number of placings effected was 28,988.

\* \* \*

*Burma.* — The provisions of the Famine Code deal adequately with the case of agricultural unemployment or unemployment among the rural population. Although the agencies employed under this Code are not permanent, but open and close as circumstances demand, the system is permanent. The rural unemployment relief schemes under the Famine Code provide work for applicants and not merely information for employment. The report adds that conditions in Burma, and its system of unemployment relief, differ so radically from those of other countries which have ratified the Convention that no co-ordination embracing the whole of Burma is feasible.

### ARTICLE 3.

The Members of the International Labour Organisation which ratify this Convention and which have established systems of insurance against unemployment shall, upon terms being agreed between the Members concerned, make arrangements whereby workers belonging to one Member and working in the territory of another shall be admitted to the same rates of benefit of such insurance as those which obtain for the workers belonging to the latter.

*If a system of insurance against unemployment is in existence in your country, please describe the arrangements made with other Members under this Article, forwarding the texts of such arrangements, if they have not already been communicated.*

*Please supply information on any negotiations undertaken with other Members which have ratified the Convention with a view to making arrangements upon agreed terms as provided in this Article, and on the progress of these negotiations.*

*Please state whether, in the absence of such arrangements, the legislation in force in your country provides for the equality of treatment of national and foreign workers as regards unemployment insurance.*

*Please indicate the countries, if any, the nationals of which enjoy the equality of rights laid down by this Article.*

*Belgium.* — No new arrangement is referred to in the report.

*France.* — The report calls attention to the fact that an unemployment insurance scheme has not yet been set up in France. At the same time, bilateral treaties of reciprocity for reciprocal aid for French unemployed workers living in France have been ratified and concluded by France with the following countries: Italy, Poland, Belgium, Spain and Switzerland. Similar arrangements were concluded with Rumania (28 January 1930), Yugoslavia (29 July 1932), Czecho-Slovakia (17 April 1934) and Luxemburg (11 June 1934). In addition, the Convention relating to the International Statute for Refugees, signed at Geneva on 28 October 1933, was brought into operation in France by a Decree of 5 December 1936. Under this Convention, Russian, Armenian and assimilated refugees, and unemployed workers, receive most favoured treatment with regard to unemployment benefits accorded to nationals of a foreign country, that is, equality of treatment with French subjects, as is the case for nationals of countries which have concluded a duly ratified reciprocity treaty with France.

*Great Britain.* — The report states that the negotiations with the French Government for embodying in a formal instrument the principle of non-discrimination against one another's nationals are still in progress.

*Greece.* — The report states that, while no system of unemployment insurance has been established, a considerable number of workers are insured with special funds against unemployment. In those professions for which special unemployment funds exist there are no restrictions whatever to the right of foreigners to benefits. On the other hand, all the legislation upon which unemployment allowances are based refers in general terms to workers without any mention of nationality. The Government adds that, while no arrangement has been made with other Members whereby workers belonging to one Member and working in the territory of another

shall be admitted to the same unemployment insurance benefits as those which obtain for the workers belonging to the latter, it would be prepared to conclude an arrangement of this nature should the opportunity arise.

*New Zealand.* — Insurance against unemployment does not exist in New Zealand. Any relief afforded is derived from special taxation. As from 1 April 1939, however, the Employment Promotion Act, 1936, will be repealed and the Social Security Act, 1938, will come into operation. Unemployment benefits are provided for by §§51 to 54 of this Act.

*Poland.* — (a) The report refers to a statement appended to the Protocol of the Polish-German Conference of 9 August 1938 in which it is pointed out that the two Governments concerned have no intention of amending the legal provisions which govern the method of calculating working periods spent on the territory of one of the Members in question and entitling workers to unemployment insurance benefits in the territory of another Member. (b) The report also refers to the statement made by the representative of the Belgian Government at the Conference Committee on the application of Conventions (Twenty-third Session of the Conference, *Record of Proceedings*, p. 575). Contrary to what was stated on this occasion, compulsory unemployment insurance has not yet been introduced in Belgium. A Bill relating to unemployment insurance was submitted to Parliament but has not yet been adopted. (c) The report adds that from an examination of the Bill it would seem that the Government had not put into effect the undertaking given by its representative in 1937, namely, that as soon as the Bill was adopted, "the differences in the points of view between the Polish and German Governments would lose their practical importance, since, whatever the system adopted, relief would no longer be included in it". The Polish Government is of the opinion that, in view of the appreciable restrictions concerning the rights of foreigners under §2 of the above Bill, and of the somewhat undefined connection between the provisions of the Bill on the one hand, and the obligations imposed by Article 3 of the Convention, on the other, the adoption of the Bill in its present form would not remove the differences of opinion between the Polish and Belgian Governments on this question. In any case, the situation is at present unchanged and, contrary to obligations under this Article of the Convention, Polish subjects continue to be excluded from unemployment insurance funds. In conclusion, the report states that, in spite of the steps taken by the Polish Government by means of bilateral negotiations and at the Conference, the Belgian Government has made no attempt

to adapt its legislation, so far as Polish workers are concerned, to meet the obligations laid down in Article 2 of the Convention.

*Sweden.* — The Government refers to the information supplied in its report for last year regarding the conclusion of four arrangements with Denmark, Poland, Czechoslovakia and Switzerland. With regard to the Arrangement concluded with Denmark, the report states that the following measures have been taken in connection with the reciprocal treatment provided for by this arrangement. In virtue of an amendment in 1937 to Swedish legislation relating to unemployment insurance, it will be possible in future for any Swedish unemployment insurance fund to come to an agreement with a similar institution having its headquarters in another country whereby members leaving one fund and joining another are enabled to retain acquired rights to benefits. In order to facilitate such agreements the Swedish Labour Department, in collaboration with the Danish Directorate of Labour, has drawn up a model agreement for use in negotiations between Swedish and Danish unemployment funds. About ten agreements of this kind are at present in force. As regards other measures of assistance to unemployed persons, the report states that Sweden has concluded agreements with Denmark, Norway, Germany, Switzerland, Poland and Czechoslovakia whereby nationals of these countries shall be admitted to the same rates of benefit, subject to certain restrictions, when on the territory of the other party to the agreement as those which obtain for national workers.

*Switzerland.* — As in previous years the economic situation has obliged the Federal authorities to take measures with regard to unemployed persons who have exhausted their right to unemployment insurance benefit. With this end in view the cantons have been authorised, as an exceptional measure, to extend from 1 October to 31 December 1937 the emergency assistance allowances to unemployed persons in branches of industry suffering from the depression, with the exception of the watch and clock-making industry, metallurgy, the woodworking and building industries. The majority of the cantons which grant emergency assistance allowances to unemployed persons have made use of this authorisation.

*Union of South Africa.* — The Unemployment Benefit Act 1937 was brought into operation as from 1 January 1938. It allows of the establishment of unemployment benefit funds for specified industries. One such fund has been established to date in respect of the motor engineering industry in certain Magisterial Districts of the Transvaal. The Act permits of no

differentiation on the basis of the nationality of the worker; he becomes a contributor if employed in the industry in the area, whether or not he is a national of the Union of South Africa and irrespective of whether his country of origin is a Member of the International Labour Organisation and has ratified this Convention. In addition to the Unemployment Benefit Act, employers and employees in certain industries having established industrial councils in accordance with the provisions of the Industrial Conciliation Act 1924 (now replaced by the Industrial Conciliation Act 1937), have, in the negotiation of industrial agreements, included provisions which regulate the establishment and conduct of unemployment funds. The industries in question are the printing and the furniture industry. Insofar as the printing industry is concerned, the payment of benefit is expressly limited to members of the South African Typographical Union, but nationality is not a bar to membership of that Union. The position in the furniture industry is somewhat similar, except that membership of the trade union is not an express condition for benefit. The position as regards non-Union nationals working in these industries in the Union of South Africa in relation to Article III of the Convention is therefore similar to that under the Unemployment Benefit Act.

\* \* \*

*Burma.* — The report states that there is no system of unemployment insurance in Burma.

### III.

*Article 5 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates, and possessions which are not fully self-governing:

(a) Except where, owing to the local conditions, its provisions are inapplicable; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates, and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

**Belgium.** — The present system of voluntary insurance is not applicable to workers in the Belgian Congo. The Belgian Government, however, in the legislation concerning compulsory unemployment insurance has provided for the application of the legislation to all wage earners employed in the *Belgian Congo* or the *Mandated Territory of Ruanda Urundi*, with the exception of Native workers.

**France.** — In *Algeria* subsidies continued to be granted under the Order of 2 July 1935 to local authorities undertaking relief works. The maximum rate of subsidy was 60 per cent. of the wages paid. Grants in kind were also issued through relief offices and municipalities. Credits of 9,500,000 francs were reserved for these purposes in 1938.

In *Morocco* employment exchanges in 1937 effected 10,470 placings (3934 for Europeans and 6536 for Moroccans). During the first nine months of 1938 the principal employment exchanges effected 8503 placings (2815 for Europeans and 5688 for Moroccans). In 1937 a total of 1,630,000 francs was spent by the Sherifian State on the relief of unemployment and a credit of 2,000,000 francs was allotted for this purpose for 1938. According to the latest weekly figures supplied by the employment exchanges in the French zone there are 2,297 European unemployed of whom 126 are women. Of this total 242 persons, of whom 211 are heads of family, receive assistance which is granted without distinction of nationality.

In *Tunis* the free employment exchange, with branches at Bizerte and Sfax, continues to function, while the limitations of foreign immigration in virtue of the Bey's Decree of 20 February 1930 were also retained.

In the *Levant States under French mandate*, there is no unemployment in the Western sense except that on the completion of their studies a certain number of young persons without special qualifications of experience are for a time without employment. The mandatory power is endeavouring to limit indebtedness by the administrative and judicial control of loans and to develop co-operation.

The provisions of the Convention have not been extended to the colonies. In

*Madagascar*, however, credits have been allotted for unemployment relief totalling 250,000 francs in 1938 and 200,000 francs in 1939. In *St. Pierre et Miquelon* the credit for the unemployed and necessitous totals 1,870,000 francs out of a total budget of 10,371,900 francs. Among the measures taken for the relief of unemployment are the provision of petrol for small fishing boats, credit facilities for the ocean fishing shipping and subsidiary industries, the encouragement of local industries and the opening of government relief works. In *French India* two factories were obliged to close for a few weeks owing to lack of orders, while hand-weaving is experiencing more prolonged difficulties owing to the closure of foreign markets. The local administration is endeavouring to obtain the reopening of these markets by repeated representations to the Governments of Malaya and the Netherlands Indies.

**Netherlands.** — In the *Netherlands Indies* there are at present 6 large public employment exchanges, 12 small exchanges and 15 employment agents. Most of the large exchanges are under the supervision of the municipal councils concerned.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

**Greece.** — The report states that the application of the existing legislation is entrusted to the Unemployment, Placing and Migration Service attached to the Directorate of the Ministry of Labour, and to advisory employment committees and the public employment exchanges.

**New Zealand.** — The Employment Promotion Act, 1936, is administered by the Department of Labour. For further information the report refers to the Departmental Handbook on the promotion of employment.

\* \* \*

**Burma.** — The machinery set up for providing employment under the Famine Code is supervised by the Government through the revenue staff.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The report states that legal decisions have been and are given constantly with regard to the enforcement of the legislation in question.

*New Zealand.* — The report states that there are no decisions to report under this heading.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, giving, for example, extracts from official reports and any other information bearing on the practical application of the Convention. In particular, please supply any information that you may consider desirable concerning the finding of employment for workers in theatrical undertakings. (This request for information has been inserted in the report form in pursuance of decisions taken by the Governing Body on 1 June and 10 October 1930, in response to a wish expressed by the Advisory Committee on Professional Workers.)*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not refer to this point.

*Belgium.* — The report states that a plan has been drawn up for the creation of a special employment office for musicians, the atrical artistes and persons working in theatrical undertakings in general but that owing to financial reasons it has not been possible to put this plan into force. The Government adds that no observations have been made by organisations of employers or workers concerning the practical application of the Convention.

*Bulgaria.* — The number of theatrical undertakings is 180, the number of workers

employed in them is 2,750, and the number of unemployed is 150. No observations have been received from employers' and workers' organisations with regard to the application of the provisions of the Convention or of the national legislation which implements it.

*Chile.* — The reports of the labour inspection officials in charge of the employment exchanges show that the exchanges are working normally and without any difficulty throughout the whole country. Neither the employers' nor the workers' organisations concerned have made any observations concerning the practical application of the provisions of the Convention or of the legislation to give effect to it.

*Colombia.* — See introductory note.

*Denmark.* — No observations have been made by employers' or workers' organisations concerned regarding the application either of the Convention or of the national legislation which gives effect to it.

*Estonia.* — The Government has not received any observations from employers' or workers' organisations with regard to the practical application of the national legislation which gives effect to the provisions of the Convention.

*Finland.* — No observations have been received from employers' and workers' organisations with regard to the application of the Convention.

*France.* — The report states that no compulsory unemployment insurance scheme has yet been set up in France, but that there are trade union and mutual unemployment benefit society funds which are financed partly by members' contributions and which constitute voluntary unemployment insurance bodies. The report adds that attention is called to the fact that there was a considerable increase in the membership of unemployment funds during the year 1937. There was also a general increase in the numbers of different unemployment institutions. Thus, on 30 September 1938 there were in France: 1,677 public societies (departmental and municipal) for total unemployment, together covering 4,950 communes with a population of 21,178,289 inhabitants; 445 short-time funds, covering 1,052 communes with a total population of 6,786,926 inhabitants; 513 voluntary trade union and mutual unemployment benefit society funds to provide assistance for totally unemployed salaried employees; 41 short-time trade union and mutual benefit society funds. In addition there are a certain number of societies and funds for various categories of workers (merchant seamen, dock hands, artistes without

fixed wages, independent workers, craftsmen).

*Great Britain.* — During the year no observations were received from organisations of employers or workers regarding the practical fulfilment in the United Kingdom of the conditions prescribed by the Convention or the application of the National law implementing the Convention.

*Greece.* — See under articles 1 and 2.

*Hungary.* — The report does not refer to this point. See, however, under ARTICLE 2.

*India.* — The report states that the question of evolving a scheme for the registration of dock workers is still under consideration. During the period under review the Government has not received from organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Ireland.* — No observations have been received from organisations of employers or workers.

*Luxemburg.* — The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the provisions of the Convention.

*Netherlands.* — No observations from employers' or workers' organisations regarding the practical application of the Convention have been brought to the notice of the Ministry of Social Affairs.

*New Zealand.* — No observations have been received from organisations of employers and workers.

*Norway.* — The report states that this Convention is strictly applied in Norway and the relevant legislation is in full harmony with the provisions of the Convention. No observations have been received by the Government from employers' or workers' organisations, with regard to the practical application of the provisions of the Convention or of the national legislation which implements it.

*Poland.* — The report does not refer to this point.

*Sweden.* — No special measures are taken as regards the finding of employment for workers in theatrical undertakings. They are assisted in this matter by the public employment service, but

only to an insignificant extent as stage artistes as well as musicians usually prefer to apply to private employment agencies. Permission has been granted to several employment agencies which represent the professional interests of particular branches, authorising them to undertake the work of employment-finding and to receive payment in return for their services, but in view of the fact that this payment is so small the activities of these agencies cannot be considered as being carried on with a view to gain. The finding of employment for this class of workers is often effected by means of newspaper advertisements or through personal recommendation.

*Switzerland.* — The report states that during the period under review, the Federal authorities have not received any suggestions, complaints or observations from employers' or workers' organisations with regard to the application of the Convention and the legislative provisions implementing it.

*Union of South Africa.* — No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

*Uruguay.* — See introductory note.

*Yugoslavia.* — See under ARTICLE 2.

\* \* \*

*Burma.* — The report states that the Government of Burma have not received from the organisations of employers and workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

### 3. Convention concerning the employment of women before and after childbirth.

This Convention came into force on 13 June 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period :

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	30.11.1933	31. 1.1939
Brazil. . . . .	26. 4.1934	28. 2.1939
Bulgaria . . . . .	14. 2.1922	2.12.1938
Chile . . . . .	15. 9.1925	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Greece . . . . .	19.11.1920	21. 3.1939
Hungary . . . . .	19. 4.1928	1.11.1938
Latvia . . . . .	3. 6.1926	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Rumania . . . . .	13. 6.1921	20. 2.1939
Spain . . . . .	4. 7.1923	
Uruguay . . . . .	6. 6.1933	9. 3.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938

In a letter dated 23 February 1939 the Government of *Brazil* states that . . . in order to give effect to the Draft Conventions and Recommendations adopted at successive sessions of the International Labour Conference, the Brazilian Government are engaged in examining the measures for their application in Brazil, and for this purpose the Minister of Labour has appointed a committee for examining the various Bills concerning social legislation which were submitted to a former Chamber of Deputies. The communication adds that, in accordance with the spirit of Article 22 of the Constitution, a considerable number of the Draft Conventions and Recommendations have been incorporated in the national legislation, and others are being examined by the technical committee set up at the Ministry.

The *Greek* Government states in its report that with a view to applying Act No. 6298 of 24 September 1934 concerning social insurance, the Ministerial Decree of 28 May 1938 to approve the Sickness Regulations of the Social Insurance Institution has fixed the details regarding the protection of women before and after childbirth. This Decree repeals the Legislative Decree of 29 June 1935 (see "Summary of Annual Reports", 1937, *Convention No. 3*, Introductory Note). The Government adds that maternity benefits are administered by the Social Insurance Institution through the three insurances offices mentioned in the report of last year in Athens, Piraeus and Salonika and 30 health centres (clinics for treatment and consultation, dispensaries, sanitary stations); the establishment of dispensaries in other towns is under consideration. Three more insurance offices will

be opened on 1 April 1939 at Katras, Kalamata and Kolos.

The Government of *Rumania* refers in its report to the Act of 22 December 1938 concerning social insurance and forwards the text of this Act, which contains provisions relating to maternity benefits. This Act was not in force during the period under review and its provisions have not therefore been summarised in the present volume.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* states in its report that there is no change as regards the application of the Convention in Uruguay and refers to its report for last year in which it stated that in 1937 Bills had been submitted to Congress with a view to bringing national legislation into complete harmony with the provisions of the Convention. The report further stated that the National Institute of Labour would shortly submit to the Ministry of Industry and Labour a Bill providing, among other amendments to Chapter XVII of the Children's Code, for the extension of the scope of § 37 of this Code, so that the provisions of the Convention which are at present only partially applied by the above section might be fully implemented.

#### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Argentine Republic.*

Act No. 11,317 of 30 September 1924 to regulate the employment of women and young persons (L. S. 1924, Arg. 1).

Act No. 11,932 of 15 October 1934 to amend § 15 of the preceding Act (L. S. 1934, Arg. 1 B).

Act No. 11,933 of 15 October 1934 respecting the employment of women before and after childbirth (L. S. 1934, Arg. 1 A).

Decree No. 80,229 of 15 April 1936 to issue regulations under the preceding Act and establishing a maternity fund for women workers and employees (L. S. 1936, Arg. 1 A).



Decree No. 93,186 of 28 October 1936 to add to Decree No. 80,229 a provision regarding working mothers (S. L. 1936, Arg. 1. B).

Act No. 12,339 of 29 December 1936 to amend §§ 4 and 6 of Act No. 11,933 (L. S. 1936, Arg. 1 C).

Decree No. 109,667 of 14 July 1937 substituting a new text for § 12 of Decree No. 80,229 of 15 April 1936 (L. S. 1937, Arg. 1 B).

#### *Brazil.*

Decree No. 21,417 of 17 May 1932, to regulate the conditions of employment of women in industrial and commercial undertakings (L. S. 1932, Braz. 5). See also introductory note.

#### *Bulgaria.*

Social Insurance Act of 6 March 1924 (L. S. 1924, Bulg. 1).

Regulations of 25 June 1924 in application of the Social Insurance Act.

Legislative Decree No. 200 of 5 September 1936, respecting contracts of employment (L. S. 1936, Bulg. 4).

#### *Chile.*

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting insurance against sickness and invalidity (L. S. 1926, Chil. 1).

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chil. 1).

Decree No. 969 of 18 December 1933 to apply Chapter IV of Book I of the Labour Code (§§ 49-51, maternity leave for women salaried employees in private undertakings).

Decree No. 349 of 19 April 1934, to approve the Regulations for the administration of Part III of Book II of the Labour Code (maternity leave for women wage-earning employees) (L. S. 1934, Chil. 2), as amended by Decree No. 576 of 30 April 1935.

#### *Colombia.*

Maternity Protection Act No. 53 of 22 April 1938 (L. S. 1938, Col. 1), amended by Act No. 197 of 30 November 1938.

Decree No. 1632 of 10 September 1938 issuing Regulations for the administration of the above Act (L. S. 1938, Col. 1), amended by Decree No. 2350 of 24 December 1938.

#### *Cuba.*

Legislative Decree No. 781 of 28 December 1934 [concerning the employment of women before and after childbirth] (L. S. 1934, Cuba 5), amended by Legislative Decrees No. 114 of 23 April 1935 and No. 147 of 14 August 1935 (L. S. 1935, Cuba 9).

Decree No. 787 of 5 April 1935 (L. S. 1935, Cuba 1) [to repeal Decree No. 2761 of 19 October 1934 and to issue in lieu thereof regulations for the administration of Legislative Decree No. 781 of 28 December 1934 concerning the employment of women before and after childbirth].

Legislative Decree No. 472 of 23 December 1935 extending the rights granted under Legislative Decree No. 781 to women employed by State, provincial, or municipal authorities.

Various administrative Decrees and Orders of dates from 18 February 1935 to 25 June 1937.

Act of 15 December 1937 respecting sickness and maternity insurance (L. S. 1937, Cuba 1).

#### *Greece.*

Act No. 2274 of 1 July 1920 ratifying the Convention (O. B. Vol. II, No. 1, p. 20).

Act No. 4029 of 24 January/6 February 1912 concerning the work of women and minors (B. B. Vol. VII, 1912, p. 285).

Royal Decree of 14/27 August 1913, issued in application of Act No. 4029 (B. B. Vol. IX, 1914, p. 219).

Act No. 6298 of 24 September 1934 concerning Social Insurance (L. S. 1934, Gr. 7).

Decree No. 31,181 of 26 June 1937 applying the legislation concerning the protection of women before and after childbirth.

Ministerial Decree of 28 May 1938 to approve the Sickness Regulations of the Social Insurance Institution.

See also introductory note.

#### *Hungary.*

Act No. XXVII of 1928 approving the ratification of the Convention.

Act No. XXI of 1927 respecting compulsory sickness and accident insurance (L. S. 1927, Hung. 1).

Act No. V of 1928, respecting the protection of children, young persons and women employed in industry and in certain other undertakings (L. S. 1928, Hung. 1).

Decree No. 150443 of 30 December 1930 concerning the protection of children, young persons and women in industry and in certain other undertakings (Decree for the application of Act No. V of 1928).

Orders No. 9090 of 29 December 1931 (L. S. 1931 Hung. 4), No. 9600 of 15 December 1932 (L. S. 1932, Hung. 4 E) and No. 6000 of 1933 (L. S. 1933, Hung. 4), amending and supplementing certain provisions of Act No. XXI of 1927.

#### *Latvia.*

Sickness Insurance Code, 1922 (L. S. 1922, Lat. 2), amended and supplemented by the Order of 17 May 1926 (L. S. 1926, Lat. 1).

Act of 24 March 1922 respecting hours of work (L. S. 1922, Lat. 1).

Order of 13 September 1923 respecting the hours of work of railway employees (L. S. 1923, Lat. 2).

Order of 4 October 1923 respecting the hours of work of postal, telegraph and telephone employees.

#### *Luxemburg.*

Act of 31 October 1919 (§ 8) respecting the legal regulation of the contract of service of private employees (L. S. 1920, Lux. 2).

Orders of 14 May 1921 and 26 May 1930 (L. S. 1930, Lux. 1) (staff rules of the Luxemburg railways).

Act of 17 December 1925 (§§ 12 and 13) respecting the Social Insurance Code (L. S. 1925, Lux. 2).

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Order of 30 March 1932 respecting the application of certain Conventions adopted by the International Labour Conference during its first ten Sessions (L.S. 1932, Lux. 1).

Order of 6 January 1933 to amend the Order of 30 March 1932 (L. S. 1933, Lux. 1).

Act of 6 September 1933 to amend the Act of 17 December 1925 respecting the Social Insurance Code (L. S. 1933, Lux. 3).

Order of 30 July 1938 to fix the normal maximum salary under sickness insurance.

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1).

Decree No. 247 of 30 January 1929 to approve the Regulations for the administration of the Act respecting the employment of women and young persons (L. S. 1929, Rum. 1).

Act of 7 April 1933 concerning the unification of the social insurance system (L. S. 1933, Rum. 3) and Decree No. 2524 containing regulations applying the Act of 7 April 1933.

*Uruguay.*

Act of 6 April 1934 to approve with amendments a draft Children's Code (L. S. 1934, Ur. 4). See also introductory note.

*Yugoslavia.*

Workers' Protection Act of 28 February 1922 (L. S. 1922, S.C.S. 1).

Act of 14 May 1922 respecting workers' insurance (L. S. 1922, S.C.S. 2), amended by the Act of 5 December 1931 (L. S. 1931, Yug. 5).

Act of 20 December 1921 concerning labour inspection (L. S. 1921, Part II, S.C.S. 2).

Circular issued by the Minister of Social Affairs and Public Health concerning the Childbirth Convention.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly:

(a) Mines, quarries, and other works for the extraction of minerals from the earth.

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding and the generation, transformation, and transmission of electricity or motive power of any kind.

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundation of any such work or structure.

(d) Transport of passengers or goods by road, rail, sea, or inland waterway, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

For the purpose of this Convention, the term "commercial undertaking" includes any place where articles are sold or where commerce is carried on.

The competent authority in each country shall define the line of division which separates industry and commerce from agriculture.

*In addition please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Colombia.* — § 1 of Act No. 53 of 1938 provides that every woman working in an office or in a public or private undertaking shall be entitled to maternity leave. § 1 of Decree No. 1632 lays down that the protection provided for in Act No. 53 shall be extended to all women workers or employees in public or private undertakings who lend their services to or work for an employer for remuneration. "Employer" is defined as an individual or body corporate who utilises the services of a worker depending on him for remuneration.

*Cuba.* — As regards the line of division between employments covered and those not covered, §XXX of the Act of 15 December 1937 excludes agricultural work as therein defined from the application of the Act.

*Greece.* — The report states that the Sickness Regulations of the Social Insurance Institution, which were approved by the Ministerial Decree of 28 May 1938, were drawn up in conformity with the provisions of the Convention. They apply to all women employed in commercial or industrial undertakings whether public or private, with the exception of undertakings in which only members of the same family are employed.

## ARTICLE 2.

For the purpose of this Convention, the term "woman" signifies any female person, irrespective of age or nationality, whether married or unmarried, and the term "child" signifies any child whether legitimate or illegitimate.

*Colombia.* — The legislation does not contain definitions of the terms "woman" and "child".

*Greece.* — The report states that the Sickness Regulations of the Social Insurance Institution which were approved by the Ministerial Decree of 28 May 1938 are in conformity with the provisions of this Article of the Convention. They apply to all women, married or unmarried, irrespective of age or nationality and to all children legitimate or illegitimate.

## ARTICLE 3.

In any public or private industrial or commercial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed, a woman

(a) Shall not be permitted to work during the six weeks following her confinement.

(b) Shall have the right to leave her work if she produces a medical certificate stating that her confinement will probably take place within six weeks.

(c) Shall, while she is absent from her work in pursuance of paragraphs (a) and (b), be paid

benefits sufficient for the full and healthy maintenance of herself and her child, provided either out of public funds or by means of a system of insurance, the exact amount of which shall be determined by the competent authority in each country, and as an additional benefit shall be entitled to free attendance by a doctor or certified midwife. No mistake of the medical adviser in estimating the date of confinement shall preclude a woman from receiving these benefits from the date of the medical certificate up to the date on which the confinement actually takes place.

(d) Shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for this purpose.

*Bulgaria.* — The report refers to the letter of 25 May 1938 in which, in response to a request of the Committee of Experts on the application of Conventions, the Government furnished information supplementing its previous report. In this letter §54 of the Legislative Decree respecting contracts of employment was cited as follows:

"Pregnant women are entitled to a period of six weeks leave—one to three weeks before and after confinement. This leave is determined by the doctor attached to the social insurance funds. If the woman worker is not entitled to benefit from the funds in question, the leave is determined by another doctor, and the employer is bound to grant it and to pay her half her daily wages, but for a period not exceeding six weeks.

"The employer may not dismiss a woman worker on account of pregnancy. In the case of an illness lasting for more than six weeks, the woman worker is entitled to leave without pay which in no case may exceed three months."

This citation was followed by the remark:

"This section of the Legislative Decree is in no way in contradiction with Article 3 of the Convention."

*Colombia.* — § 1 of Act No. 53 grants to persons covered by the Act (see under Article 1) the right, during the period of pregnancy, to paid leave of eight weeks from the date indicated by the doctor. § 4 (c) of Decree No. 1632 lays down that the maternity leave shall begin at least two weeks before confinement. § 5 of Act No. 53 lays down that women workers working on piece rates or on a contract basis shall enjoy the rights prescribed by the Act on the basis of their monthly average remuneration. § 4 of Act No. 53 provides that every woman worker nursing her child shall be entitled to a rest period of 15 to 20 minutes every three hours, or more often on production of a medical certificate. § 7 of Decree No. 1632 provides that a woman worker shall have the right to nurse her child every three hours during the first six weeks after confinement. For this purpose the employer shall allow her two rest periods of 20 minutes each,

or more frequent rest periods on presentation of a medical certificate.

*Cuba.* — Maternity leave and benefit are provided for in the Act of 15 December 1937 as in the earlier legislation. §XII of the Act provides that when the insurance fund has made arrangements for hospital accommodation medical benefit is replaced by hospital treatment unless the person concerned lives too far away from the hospital. The obligations of employers and workers as regards insurance contributions remain unchanged. In addition, the Act provides that fines imposed for violation of the present and future laws of the Republic shall be paid into the insurance fund. On the other hand, participation by the State in the financing of the insurance system is no longer provided for by the new Act. The Government observes in its report that although the insurance system at present deals only with maternity it has been called maternity and sickness insurance with a view to the probable combination of sickness insurance with maternity insurance at a later stage.

*Greece.* — The Sickness Regulations issued by the Social Insurance Institution and approved by the Ministerial Decree of 28 May 1938 prescribe under § 35 that for a period of six weeks before confinement the woman worker shall be considered to be unfit for work. During this period she shall be entitled to pecuniary pregnancy benefit. For a period of six weeks after confinement she shall be entitled to pecuniary maternity benefit. Following the cessation of the maternity benefit she shall be entitled to pecuniary nursing benefit for a period of 60 days. In order to claim the pregnancy and maternity benefits, the insured person shall produce a certificate issued by a doctor or a nurse indicating the approximate date of confinement and a certificate stating that she has not worked during the period for which she claims the said benefits (§ 35). Explaining § 31 of Act No. 6298 concerning social insurance, according to which the total amount of the three benefits referred to above shall be equal to one-third of the average daily wage, § 9 (1a) of the Sickness Regulations lays down that the total amount of maternity benefit shall be not less than 500 drachmae or more than 750 drachmae. During the last months of pregnancy women workers shall have the right to free medical advice at the dispensaries of the Social Insurance Institution. If confinement takes place in a hospital at the cost of the Institution, the benefit shall be reduced by half. In case of illness arising out of pregnancy or confinement, the woman worker shall be entitled to special allowances. The Regulations also provide for pharmaceutical assistance (§ 9, 1 b). By the repeal of the Legislative Decree of 29 June 1935,

the insured person is no longer required to pay a quarter of the cost of medical assistance (see introductory note).

*Luxemburg.* — The report states that the Order of 30 July 1938 increases the normal maximum wages under sickness and maternity insurance, which is fixed at 45 francs. As a result, benefits during confinement are also increased.

#### ARTICLE 4.

Where a woman is absent from her work in accordance with paragraphs (a) or (b) of Article 3 of this Convention, or remains absent from her work for a longer period as a result of illness medically certified to arise out of pregnancy or confinement and rendering her unfit for work, it shall not be lawful, until her absence shall have exceeded a maximum period to be fixed by the competent authority in each country, for her employer to give her notice of dismissal during such absence, nor to give her notice of dismissal at such a time that the notice would expire during such absence.

*Bulgaria.* — In its letter of 25 May 1938, referred to under Art. 3, the Government cited the last paragraph of §54 of the Legislative Decree respecting contracts of employment as follows: "The employer is bound to allow the woman worker, during a period of six months after her confinement, an interval of half an hour before and after noon for nursing her child. He shall allow her to leave her work two hours before the time at which work normally ends on Saturday without any reduction being made in her wages."

*Colombia.* — § 2 of Act No. 53 prohibits the discharge of a women worker on account of pregnancy or nursing and lays down that the post shall be kept for her if she is absent from work owing to illness arising from her condition. § 3 of the Act, amended by Act No. 197, provides that if a woman is dismissed during her pregnancy or during the three months following confinement, she has the right, on presentation of a medical certificate attesting her pregnancy or maternity, to a compensation of 90 days' wages without prejudice to the indemnities provided for in her contract of work and to the legal provisions governing the matter. Decree No. 1632 as amended by Decree No. 2350, lays down the reasons justifying dismissal during pregnancy or during the three months following confinement, and provides that a pregnant woman may not be dismissed for any of these reasons without the consent of the Labour Inspector.

*Cuba.* — The provisions of the Act of 15 December 1937 relating to the dismissal of a women worker are similar to those which were already in force.

### III.

*Article 6 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing:

(a) Except where owing to the local conditions its provisions are inapplicable; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports supplied do not contain any fresh information in this connection.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Argentine Republic.* — The Government appends to its report a copy of a letter addressed by the National Pensions Fund to Provincial Governors requesting them to instruct the provincial Departments of Labour to inform the Maternity Fund without delay of the industrial, rural and commercial undertakings in the province employing women aged between 15 and 45 years, the number of such women and whether they are members of the Maternity Fund in conformity with Act No. 11,933. This information has been requested for the purpose of checking the application of Act No. 11,933 in order that the benefits of the Act may be enjoyed not only by

women wage-earners and salaried employees in the Federal Capital but also by those even in the most remote parts of the country. It is stated that the Administrative Committee of the Pensions Fund has in general been able to carry out effective propaganda to make known in the interior of the country the advantages conferred by Act No. 11,933 by sending out officials to collaborate with the Provincial Governments in devising measures to secure the affiliation of employers and working women to the Maternity Fund. Further, reference is made to § 42 (c) of the Decree of 1936 issuing regulations under Act No. 11,933, which provides that inspection and supervision of the application of §§1-4 of the Act shall be carried out by, among others, authorities to be appointed by the Provincial Governments, and to §§46 (c) and (d) of the same Decree, which provide that in order to ensure to members the payment of insurance benefits the Fund is entitled to call upon the assistance of provincial Departments of Labour or similar services and on official social welfare institutions existing in the provinces.

*Colombia.* — § 8 of Act No. 53 and § 14 of Decree No. 1632 provide that for infringements of the provisions concerning maternity leave a fine equal to twice the amount normally due to the woman worker shall be imposed by the General Labour Office through the intermediary of the Labour Inspectors. This fine shall be paid to the worker concerned.

*Cuba.* — The application of the Act of 15 December 1937 is entrusted to the Inspection Service of the Ministry of Labour, to the Central Committee and the provincial committees of the sickness and maternity insurance scheme (the composition of which is prescribed by §§XVII and XXI of the Act), and to the magistrates or municipal judges acting as magistrates.

*Greece.* — See under Convention No. 1 (*Hours of Work, industry*), Point V.

*Rumania.* — See under Convention No. 1 (*Hours of Work, industry*), Point V.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Argentine Republic.* — The Government appends to its report the text of a judgment

given on 15 August 1938 by the "Juge de paix" of the city of Buenos Ayres in an action brought by a woman salaried employee for the repayment of sums deducted from her salary by her employer in virtue of Act No. 11,933 for payment into the Maternity Fund as contributions. The plaintiff contended, *inter alia*, that the Act was in conflict with the National Constitution. The judge rejected the application, holding that the Act was constitutional.

*Chile.* — The Government appends to its report the texts of two judgments given in two actions brought by women workers against their employers, the one for the non-payment of maternity benefit and the other, in addition to the non-payment of maternity benefit, for dismissal during the period of pregnancy preceding the maternity leave.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number and nature of the contraventions reported, etc., the cost of granting the benefits laid down in Article 3 (c) of the Convention, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report states that according to statistics compiled by the Maternity Fund the number of members on 1 August 1938 was 8,338 employers and 185,449 workers, and the number of cases in which benefits and supplements for medical treatment were paid by the Fund amounted to 3,553, representing a sum of 941,100 pesos. From tables appended to the report it appears that during the period from 1 October 1937 to 30 September 1938 the total amount of the employers' and workers' contributions paid into the Fund was 2,974,380 pesos, and

that during the same period the Fund had paid benefit in 2,607 cases to a total of 697,037.50 pesos.

*Brazil.* — See introductory note.

*Bulgaria.* — The Government refers to its previous report, which stated that no observations have been received from employers' or workers' organisations with regard to the practical application of the provisions of the Convention or of the national laws which implement the Convention.

*Chile.* — The factory inspectors, among whom are a certain number of women inspectors especially responsible for supervising the enforcement of the legislation regarding maternity and the employment of children, pay daily visits to ensure strict compliance with this legislation. The reports of the inspectors show that, generally speaking, women salaried employees in industry and commerce are granted the period of leave and the corresponding maternity benefit is paid in a satisfactory form. The women inspectors have not met with any difficulties in carrying out their work in this connection. No information is available regarding the numbers of infringements, which is very small, for in the great majority of these cases it proved sufficient for the administrative services to intervene and the offenders then carried out their obligations. The total amount paid to workers in maternity benefits by the compulsory insurance fund during 1937 was \$771,922.44. No other statistical information is available with regard to the other allowances prescribed by the Convention. No observations have been received from the employers' or workers' organisations concerned regarding the practical application of the Convention or of the national legislation which implements its provisions.

*Colombia.* — The report does not refer to this point.

*Cuba.* — From a statistical table compiled by the National Office for Women's Work, which is appended to the report, it appears that during the period from 1 October 1937 to 30 June 1938 the number of breaches of the maternity insurance legislation (§III of the Act: maternity benefits) brought before the courts was 290; the number of sentences passed was 32 and the fines inflicted by the courts amounted to 226.19 pesos. The number of breaches penalised by administrative action was 97 and the fines imposed by administrative authorities amounted to 496.39 pesos. According to another table showing

the sentences pronounced by various courts for violations of the law on the employment of women before and after childbirth the total number of such sentences was 12, divided among the various provinces as follows: Pinar del Rio (Jan.-March 1938), 1; Habana (July-Sept. 1938), 3; Matanzas: Manguito (Apr.-June 1938), 2; Los Arabos (Oct. 1937-Sept. 1938), 1; Cardenas (Sept. 1938), 1; Oriente (Oct. 1937-Sept. 1938), 4. The fines inflicted in these cases amounted to 162 pesos. According to a statement, appended to the report, of the Central Committee of the sickness and maternity insurance scheme, maternity benefit paid to women workers during the period from October 1937 to June 1938 amounted to 165,901.45 pesos and the cost of fees, hospital treatment and medical services in general to 32,752.72 pesos.

*Greece.* — The report shows that although the Social Insurance Institution commenced operations only from 1 December 1937, 401 women workers have received pregnancy, maternity and nursing benefits of 500 drachmane each. See also under *Convention No. 1 (Hours of Work, industry)*, Point VII.

*Hungary.* — The reports of the labour inspectors do not mention any contravention by employers of the provisions of Hungarian legislation which implement the Convention. It may be concluded, therefore, that the above-mentioned provisions have in general been observed by employers, and that contraventions are rare. In 1937, the average number of women subject to compulsory sickness insurance was 375,806. The employers' and workers' organisations have not made any observations with regard to the practical application of the Convention or of the legislation which implements it.

*Latvia.* — The report states that no difficulty has been encountered in the application of the Convention. The statistics prepared by the Sickness Insurance Fund Section of the Ministry of Social Welfare show that during the year 1937 pecuniary benefits amounting to Lats 619,524.66 (as against 534,962.07 in 1936) were granted to 2,320 members belonging to the sickness insurance funds in Riga (as against 2,081 members in 1936) and to 768 members of the sickness insurance funds in the province (as against 610 members in 1936), that is, 3,090 members in all (as against 2,691 in 1936) for a total of 241,225 days of incapacity to work. Each member received a benefit amounting, on an average, to 78 days' full salary. During the same year each member received as nursing benefit, on an average, Lats 72.14 (as against Lats 78.93 in 1936).

*Luxemburg.* — During the period covered by the report no contraventions of the provisions of the Convention were reported. The report of the Central Committee of Sickness Insurance Funds for 1937 states that during the period in question the development of maternity relief has continued. The amount spent on maternity relief in 1936 was 176,524.23 francs, the number of insured women being 7,164. In 1937 the amount spent was 184,702.75 francs and the number of insured women was 7,709. The average cost of relief for each case of confinement was 1,161.34 francs in 1936 and 1,319.30 francs in 1937. The number of women who received such relief was 152 in 1936 and 140 in 1937.

*Rumania.* — The report states that the provisions of the Act are observed throughout the country. For information regarding the number of infringements see under *Convention No. 1 (Hours of Work, industry)*, Point VII. The report gives the following information on the working of the thirty-two Social Insurance Funds during the period 1 April 1937-31 March 1938: number of insured women confined who received maternity benefit as legally prescribed, 3,959; amount of maternity benefit (in cash), 12,465.154 lei; amount of nursing benefit (in cash), 4,459,020 lei.

*Uruguay.* — See introductory note.

*Yugoslavia.* — During 1937, the benefits granted under § 45 of the Workers' Insurance Act amounted to 10,392,961 dinars for pecuniary benefit and 2,762,787 dinars for attendance by midwives, i.e., 19.35 dinars per insured person. The cost of medical attendance, pharmaceutical benefit and hospital treatment are included in the cost of sickness benefit, which amounted to 8,434,254 dinars for insured persons, i.e., 47.02 dinars per insured woman, and 4,721,493 dinars for members of the families of insured persons, i.e. 6.94 dinars per insured person.

#### 4. Convention concerning employment of women during the night.

This Convention came into force on 18 June 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Albania . . . . .	17. 3.1932	6. 4.1939
Argentine Republic.	30.11.1933	31. 1.1939
<sup>1</sup> Belgium . . . . .	12. 7.1924	21.10.1938
<sup>1</sup> Brazil . . . . .	26. 4.1934	28. 2.1939
Bulgaria . . . . .	14. 2.1922	2.12.1938
Chile . . . . .	8.10.1921	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Czecho-Slovakia . .	24. 8.1921	16. 2.1939
<sup>1</sup> Estonia . . . . .	20.12.1922	
France . . . . .	14. 5.1925	24. 1.1939
<sup>1</sup> Great Britain . . .	14. 7.1921	28.12.1938
<sup>1</sup> Greece . . . . .	19.11.1920	
<sup>1</sup> Hungary . . . . .	19. 4.1928	1.11.1938
<sup>2</sup> India . . . . .	14. 7.1921	16.12.1938
<sup>1</sup> Ireland . . . . .	4. 9.1925	8.12.1938
Italy . . . . .	10. 4.1923	
Lithuania . . . . .	19. 6.1931	7.11.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
<sup>1</sup> Netherlands . . . .	4. 9.1922	1.10.1938
Portugal . . . . .	10. 5.1932	8.11.1938
Rumania . . . . .	13. 6.1921	20. 2.1939
Spain . . . . .	29. 9.1932	
<sup>1</sup> Switzerland . . . .	9.10.1922	
<sup>1</sup> Union of South Africa . . . . .	1.11.1921	
Uruguay . . . . .	6. 6.1933	9. 3.1939
Venezuela . . . . .	7. 3.1933	6.12.1938
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
<sup>3</sup> Burma . . . . .	14. 7.1921	30. 1.1939

The Government of *Albania* states in its report that, with a view to improving the conditions of employment of workers and the supervision of the application of the legislative provisions relating to workers, the Ministry of Economic Affairs has started to draw up a Bill concerning the establishment of a Labour Directorate.

As the Government of *Brazil* has denounced this Convention, the latter was

<sup>1</sup> Has ratified Convention No. 41 and has denounced this Convention.

<sup>2</sup> Has ratified Convention No. 41 but has not denounced this Convention.

<sup>3</sup> See the introduction to the present volume, p. 4.

only in force until 12 May 1938, while *Convention No. 41 (revised)* which was ratified on 8 June 1936 was applicable in Brazil throughout the whole of the period under review.

For the general information supplied by the Government of *Brazil* in its letter of 23 February 1939, see under *Convention No. 3 (Childbirth)*, introductory note.

The *British* Government ratified the revised Convention (No. 41) on 25 January 1937 and on the same date denounced the present Convention which was applicable in the United Kingdom only until 25 January 1938, when the revised Convention came into force. The general information relating to the period 1 October 1937 to 30 September 1938 is therefore given under *Convention No. 41*. See also under Point VI of the present Convention.

The Government of *Colombia* refers to its reports for previous years, in which it stated that the country was only at the beginning of a period of industrial development and that consequently it was not possible to take the official action necessary for putting into force legislation with a view to the application of this Convention. The reports added that the Government had decided to ratify the Convention in order to promote international solidarity in this matter and to have available, when circumstances permitted, an instrument laying down a principle which could be adapted to the actual needs of the national situation. The reports further added that the Convention was tacitly applied by industrial undertakings and that the employment of women during the night did not exceed the limits laid down in Article 2 of the Convention.

In *Ireland* Convention No. 4 was in force up to 14 March 1938; the report on Convention No. 41 relates to the period from 15 March 1938, the date when the Convention came into force for Ireland, up to 30 September 1938.

As the *Netherlands* Government has denounced this Convention, the latter was only in force in the Netherlands until 12 June 1938, while Convention No. 41, which was ratified on 9 December 1935, was in force throughout the whole of the period under review. The information relating to the first part of the period 1 October 1937 to 30 September 1938 which is identical for both Conventions is given therefore under *Convention No. 41*.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* states in its report that the Chamber of Deputies

has approved and forwarded to the Senate, a Bill to apply the Convention.

The Government of *Venezuela* states in its report that since 1936 it has devoted particular attention to the preparation of Regulations applying the Labour Act and to the drawing up of a Labour Code which will be an improvement on present labour legislation. The Government attaches to its report an extract from the provisions of the Labour Code relating to the employment of women at night. It adds that the length of time required for the preparation of the Code was due to the fact that the Government was anxious that the text, while taking into account the special conditions of the country, should not only be as complete as possible but should be as far as possible in harmony with the principles of labour legislation adopted by all civilised countries, this object of the International Labour Organisation being endorsed by the authorities of the country. The National Labour Office and a special Departmental Committee have prepared in turn three Drafts of Regulations on similar lines. In May 1938 the Minister of Labour and Communications submitted to the National Congress a Draft Labour Code drawn up by a technical departmental Committee with the assistance of an Official from the International Labour Office. The Regulations applying the Labour Act will be promulgated, in all probability, before the end of 1939.

The Government of *Yugoslavia* refers, in connection with the ratification of Convention No. 41 (revised), to its letter No. 40,789 of 18 May 1938 in reply to the observations of the Committee of Experts. A decision regarding the ratification of Convention No. 41 (revised) has not yet been taken by the legislative authorities to whom the Convention was submitted on 31 December 1936.

#### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*



*Albania.*

Act of 19 May 1936 to issue regulations governing the hours of work of children and women in industry (L. S. 1936, Alb. 1).

*Argentine Republic.*

Act No. 11,317 of 30 September 1924 to regulate the employment of women and young persons (L. S. 1924, Arg. 1).

*Belgium.*

Act of 28 February 1919 relating to the employment of women and children (L.S. 1919, Bel. 2) as amended by the Eight-Hour Day Act of 14 June 1921 (L. S. 1921, Bel. 1).

Act of 7 April 1936 to supplement § 8 of the consolidated text of the Act of 28 February 1919 relating to the employment of women and children (L. S. 1936, Bel. 7 A).

*Brazil.*

See introductory note.

*Bulgaria.*

Health and Safety of Workers Act of 1917 (B. B. 1918, Vol. XIII, p. 26).

Royal Decree No. 24 of 24 June 1919 respecting the eight and six-hour day.

Order No. 2834 of 1919 respecting the application of the eight and six-hour day in public and private undertakings.

*Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

*Colombia.*

See introductory note.

*Cuba.*

Legislative Decree No. 598 of 16 October 1934 concerning the employment of women in industry (L. S. 1934, Cuba 10).

Decree No. 1024 of 27 March 1937 concerning the application of Legislative Decree No. 598.

*Czecho-Slovakia.*

Act of 19 December 1918 respecting the eight-hour working day (L. S. 1919, Cz. 1).

Order of 11 January 1919 in pursuance of the Act respecting the eight-hour day (L. S. 1919, Cz. 2).

Circular of 21 March 1919 of the Ministry of Social Welfare to all administrative authorities respecting the interpretation of the provisions relating to the eight-hour day (L. S. 1919, Cz. 3).

*Estonia.*

See under *Convention No. 41 (Night work, women, revised)*.

*France.*

Code of Labour and Social Welfare, Book II. Act of 24 January 1925 to amend §§ 20(a) to 28 and 96 of Book II of the Code of Labour and Social Welfare (L. S. 1925, Fr. 1).

Decree of 5 May 1928 defining the allowances and exceptions contained in §§ 17, 24, 25 and 26 of Book II of the Labour Code (L. S. 1928, Fr. 10).

Act of 23 April 1919 respecting the eight-hour day (L. S. 1919, Fr. 3).

*Great Britain.*

See introductory note and also under *Convention No. 41. (Night work, women, revised)*.

*Greece.*

See under *Convention No. 41 (Night work, women, revised)*.

*Hungary.*

Act No. XXVIII of 1928, approving the ratification of the Convention.

Act No. V of 1928 respecting the protection of children, young persons and women employed in industry and in certain other undertakings (L. S. 1928, Hung. 1).

Order No. 150,443 of 30 December 1930, issued by the Ministry of Commerce, applying §§ 1-3, 8, 12-16, 18-20, 22-24 and 30 of Act No. V of 1928.

Order No. 33,469 of 2 June 1933 of the Minister of Commerce to provide for a nightly rest period of eleven hours for young persons and women employed in brickmaking (L. S. 1933, Hung. 5).

See also under *Convention No. 41 (Night work, women, revised)*.

*India.*

Factories Act No. XXV, 1934 (L. S. 1934, Ind. 2), amended by Act XI of 1935 (L. S. 1935, Ind. 3 B).

*Ireland.*

Employment of Women, Young Persons and Children Act, 1920 (L.S. 1920, G.B. 9).

Conditions of Employment Act, 19 February 1936 (L. S. 1936, I.F.S. 1).

*Lithuania.*

Act of 11 November 1933 concerning the employment of industrial wage-earning employees (L. S. 1933, Lith. 4).

Act of 14 November 1924 on labour inspection (L. S. 1924, Lith. 3).

Order by the Chief Labour Inspector dated 25 October 1931.

Instruction No. 604 of 24 March 1938 concerning the application of the Act on labour inspection.

*Luxemburg.*

Act of 3 August 1907 relating to the International Convention respecting the prohibition of the night work of women in industrial occupations (B.B. Vol. II, p. 99).

Resolution of 10 December 1907 to ratify and publish the Berne Convention (B.B. Vol. II, p. 392).

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Order of 30 March 1932 respecting the application of certain Conventions adopted by the International Labour Conference at its first ten Sessions (L. S. 1932, Lux. 1).

Order of 6 January 1933 to amend Order of 30 March 1932 (L. S. 1933, Lux. 1).

*Netherlands.*

Labour Act of 1919, as amended by the Act of 20 May 1922 (L. S. 1922, Neth. 1) and by the Act of 14 June 1930 (L. S. 1930, Neth. 2).

Mining Regulations of 1906, amended by the Decisions of 9 February 1917 and of October 1922 (L. S. 1922, Neth. 4).

*Portugal.*

Legislative Decree No. 24,402 of 24 August 1934 to regulate hours of work in commercial and industrial undertakings (L. S. 1934, Por. 5).

Legislative Decree No. 24,403 of 24 August 1934 concerning the supervision of hours of work.

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1) amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).

Decree No. 247 of 30 January 1929 to approve the Regulations for the administration of the Act respecting the employment of women and young persons (L. S. 1929, Rum. 1) amended by Decree No. 3540 of 19 December 1932 (L. S. 1932, Rum. 6 B).

*South Africa.*

See under *Convention No. 41 (Night work, women, revised)*.

*Switzerland.*

See under *Convention No. 41 (Night work, women, revised)*.

*Uruguay.*

See introductory note.

*Venezuela.*

Labour Act of 16 July 1936 (L. S. 1936, Ven. 2).

*Yugoslavia.*

Workers' Protection Act of 28 February 1922 (L. S. 1922, S.C.S. 1).

\* \* \*

*Burma.*

The Factories Act of 1934 (L. S. 1934, Ind. 2), amended subsequently by Act No. XI of 1935 (L. S. 1936, Ind. 2 B) and Act No. VIII of 1936 (L. S. 1936, Ind. 3 A).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly:

(a) Mines, quarries, and other works for the extraction of minerals from the earth;

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind;

(c) Construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water-work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

*In addition, please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Cuba.* — The report states that Legislative Decree No. 598 applies to industry as well as to commerce. The Government refers to Decree No. 798 of 1938 for a definition of the term agriculture. See also under *Convention No. 3 (Childbirth)*, Point II.

*Great Britain.* — See introductory note.

## ARTICLE 2.

For the purpose of the Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

*In addition, please state whether, in the circumstances provided for in the second paragraph of this Article, the term "night" has been provisionally declared to signify a period of only ten hours.*

*Argentine Republic.* — The Government points out that the only divergence between the Convention and Act No. 11,317 lies in the fact that the latter provides for a night rest period of ten hours only in summer. The report adds that the period of night rest actually enjoyed by women between each day's work is equal to or even longer than that prescribed by the Convention. Although the Government has not considered it necessary so far to amend the legislation in this connection, it will do so when it undertakes a general revision of the above Act. This may be anticipated at an early date.

*Great Britain.* — See introductory note.

*Hungary.* — The report states that the Government has so far not made any use of the circumstances provided for in the second paragraph of this Article.

*Luxembourg.* — The report states that no use has been made of the exception provided by Article 2 of the Convention.

*Venezuela.* — See introductory note.

## ARTICLE 3.

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

*In particular, please indicate whether the term "women" for the purposes of the application of this Article is interpreted in your country as covering all women employed in industrial undertakings without distinction as to the nature of their duties.*

*Great Britain.* — See introductory note.

*Portugal.* — The report states that several Orders have been issued to enforce the prohibition of night work in certain specific occupations.

#### ARTICLE 4.

Article 3 shall not apply :

(a) In cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character.

(b) In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

*As regards paragraph (a) please state whether your legislation, etc., imposes any conditions subject to which employers are allowed to take advantage of this exception.*

*As regards paragraph (b) please give particulars of the processes carried on in your country (stating whether only in certain areas and at certain periods) to which this exception is applicable, as well as the conditions, if any, subject to which your legislation, etc., allows employers to take advantage of it.*

*Belgium.* — The report states that, apart from a few cases of *force majeure*, no exception has been allowed regarding compliance with the provisions of the national legislation corresponding to this Article of the Convention.

*Bulgaria.* — The report states that the Government has not been informed of any cases in which use has been made of the exceptions provided under this Article.

*France.* — According to the statistics of the labour inspection service for 1936, the latest information available, no use was made of the exception provided under paragraph (a) of this article of the Convention during 1936. Exceptions under paragraph (b) were granted during 1936 to 64 undertakings for a total number of 47,466 nights. 12 of these undertakings were preserved fruit and vegetable factories (7,815 nights) and 52 preserved fish factories (39,651 nights).

*Great Britain.* — See introductory note.

*Ireland.* — The report states that during the period under review the only processes in which the exception provided under Article 4 b) of the Convention was taken advantage of were the killing, plucking and packing of fowl during a short period preceding the Christmas festival in which there was an abnormal increase in the work when it was necessary to permit for a short period night work to prevent certain loss. Permits were given in the case of 38 undertakings throughout the country, the majority of which were for periods of

two weeks only and in no case exceeding four weeks.

*Lithuania.* — The report states that no use has been made of the exceptions provided under paragraphs (a) and (b) of this article.

*Luxemburg.* — The report states that no use has been made of the exceptions provided by Article 4 of the Convention.

*Venezuela.* — The report states that the Federal Government intends to insert provisions similar to those of the Convention in the Regulations, which are now in course of preparation, implementing the Labour Act. (See introductory note.)

#### ARTICLE 5 (*India and Siam only*).

In India and Siam, the application of Article 8 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

*India.* — No fresh information.

#### ARTICLE 6.

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

*In addition, please give particulars of the processes carried on in your country (stating whether only in certain areas and at certain periods) to which the exception provided for in this Article is applicable, as well as the conditions, if any, subject to which your legislation, etc., allows employers to take advantage of it.*

*Belgium.* — The report states that, apart from a few cases of *force majeure*, no exception has been allowed regarding compliance with the provisions of the national legislation corresponding to this Article of the Convention.

*Bulgaria.* — The report states that up to the present the Government has not been advised of any cases in which use has been made of the exceptions provided under this Article.

*Great Britain.* — See introductory note.

*Ireland.* — The report states that no advantage was taken of this exception during the period under review.

*Lithuania.* — The report states that no use has been made of the exception provided under this Article.

*Luxemburg.* — The report states that no use has been made of the exception provided under Article 6 of the Convention.

*Venezuela.* — The report states that the Federal Government, taking into account the climatic and seasonal conditions of the country, is at present considering the advisability of inserting a similar provision in the Regulations for the application of the Labour Act which are in course of preparation. See introductory note.

#### ARTICLE 7.

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above Articles, provided that compensatory rest is accorded during the day.

*If a shorter night period is permitted under this Article, please state for what industries, areas and seasons, and what arrangements, if any, have been made to secure compensatory rest during the day.*

*Cuba.* — The report states that the text of the articles in the national legislation which enforce this provision enables the employer to make use automatically of the exception provided under this Article.

*Great Britain.* — See introductory note.

*Lithuania.* — The report states that no use has been made of the exception provided under this Article.

*Venezuela.* — The report states that although Venezuela is situated in the torrid zone and the climatic conditions in general do not render work by day particularly trying to the health, it does not seem necessary to include in the national legislation the exception provided under this Article of the Convention.

### III.

*Article 9 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing:

(a) Except where owing to the local conditions its provisions are inapplicable; or

(b) Subject to such modification as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Belgium.* — See under Convention No. 41 (revised).

*France.* — The following are the measures taken to promulgate and apply the Decrees of 1 July 1933 and 28 December 1937, providing for the application of the Convention to French Colonies and the Mandated Territories of the Cameroons and Togoland.

*Martinique:* Two Orders of 5 August 1933, the prohibition of night work being assured by a Decree of 12 February 1913; *Guadeloupe:* Order of 21 August 1933, the prohibition of night work being assured by a Decree of 7 September 1913; *Reunion:* Order of 12 September 1933, the prohibition of night work being assured by a Decree of 22 May 1916; *French West Africa:* Two Orders of 24 January 1938, the prohibition of night work being assured by a Decree of 18 September 1936; *Madagascar:* Order of 4 February 1938 and Decree of 7 April 1938; *Cameroons under French Mandate:* Order of 4 February 1938, the prohibition of night work being assured by a Decree of 17 November 1937; *Indo-China:* Order of 22 February 1938, the prohibition of night work being assured by Decrees of 30 December 1936 and 24 February 1937; In *French Somaliland* night work is prohibited by a Decree of 22 May 1936; in *French India* by a Decree of 7 April 1937; and in *French Guiana* and *New Caledonia* by Decrees of 7 February 1924 and 5 October 1927.

In the Colonies where Book II of the Metropolitan Labour Code is applied (Martinique, Guadeloupe, Reunion, French Guiana and New Caledonia) the prohibition applies only to industrial employment, no exceptions being permitted. In Madagascar and French Somaliland the prohibition applies to all workers irrespective of the nature of the employment. In French West Africa it covers public and private undertakings as well as employment with private individuals. In the Cameroons under French Mandate night work is prohibited in commercial and agricultural undertakings as well as in industry. In French India and Indo-China, however, agricultural undertakings are excluded. In French West Africa and

Indo-China exceptions are permitted in special cases.

The application of the Convention is in most cases supervised by the labour inspectorate, which is organised on similar lines to the metropolitan labour inspectorate. In smaller colonies where no such service has been set up, an officer of the Government is specially detailed to assure the exact observance of the provisions of the law.

*Great Britain.* — See under *Convention No. 41* (revised).

*Netherlands.* — See under *Convention No. 41* (revised).

*Union of South Africa.* — See under *Convention No. 41* (revised).

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Albania.* — The report states that the supervision of the observance of the Act of 19 May 1936 and its administration are entrusted to the authorities of the Ministry of the Interior, the Ministry of Economic Affairs and the Directorate of Health.

*Cuba.* — The report states that the inspectors pay daily visits to industrial and commercial undertakings and inform the correctional courts of the infringements which they have noted. Moreover, every citizen has the right to notify the competent (correctional) courts of all infringements of which he may have knowledge.

*Great Britain.* — See introductory note.

*Lithuania.* — With a view to the organisation of the Labour Inspection Service, the Minister of the Interior issued, on 24 March 1938, an "Instruction concerning the application of the Act on labour inspection", the text of which is appended to the report.

*Venezuela.* — The report states that the Federal Government has put into operation the provision of §154 of the Labour Act, which deals with the participation of women in supervising the observance of the provisions respecting women and young persons, and points out in this connection that on 4 October 1938 a woman was appointed as special commissioner to the

Federal labour inspection service. The special duty of this official is to supervise the observance of the above-mentioned provisions; instructions have been issued to her with regard to the strict application of §72 of the Labour Act. As stated in last year's report the Federal Authority intends to set up additional labour courts of first instance. The report points out that in 1937 the National Congress opened discussions of a basic Bill relating to labour courts and procedure. In 1938 the Government recommended that Congress should approve this Bill as modified and amended in the light of experience obtained in the working of the special and permanent labour courts already in existence. With regard to §214 of the Labour Act, which deals with the warning to be issued to the employer in the event of a contravention and to fines, the report adds that this Article will be embodied in the general Regulations for the application of the Act which are in course of preparation. The Government attaches to its report tables relating to the staff of the inspection services in each of the Federal States. (See also introductory note.)

\* \* \*

*Burma.* — The report states that the application of the Act is entrusted to the Factories and Mines Inspectorates.

#### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Great Britain.* — See introductory note.

*Lithuania.* — The Government appends to its report the text of a decision given by the Courts in 1938, imposing a fine of 150 litas or 10 days' imprisonment.

The remaining reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, the application of the exceptions allowed under Articles 4 and 6 of the Convention, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Albania.* — The report states that up to the present there have been no contraventions of the provisions of the legislation. No remarks or criticisms have been made by the employers' or workers' organisations regarding the application of the legislative provisions.

*Argentine Republic.* — The report states that during the year 1 October 1937 to 30 September 1938 the total number of breaches of the provisions of Act No. 11.317 concerning the employment of women and young persons noted by the National Department of Labour was 947, and the fines inflicted amounted to 89,020 paper pesos. The report adds that it is not possible to give separate information regarding the number of infringements and the amount represented by fines for breaches of the provision regarding the night work of women, as the statistics which are compiled cover breaches of the Act as a whole.

*Belgium.* — The report states that, as in the past, the inspection services have taken care to ensure that the prohibition of night work for women under the conditions laid down by the national legislation is in accordance with the Convention. The regulation of night work for women according to the provisions of the Convention has not given rise any observations by employers' or workers' organisations.

*Bulgaria.* — The report states that the number of women workers protected by the relevant legislation is 65,618, and that the number of cases of infringement recorded during the period under review was 5.

*Chile.* — The report states that the factory inspectors make regular visits to ensure the strict observance of the night work prohibition. The number of women workers protected by this legislation is 45,168. Infringements of the legislation prohibiting the employment of women during the night were reported in connection with 50 workers. The reports of the inspection service show that there is no difficulty in ensuring compliance with the relevant legislation. The employers' and workers' organisations have not made any observations with regard to the practical application of the provisions of the Con-

vention or of the national legislation which implements it.

*Colombia.* — See introductory note.

*Cuba.* — The Government attaches to its report statistics compiled by the National Office dealing with the work of women and children, which show that during the period October 1937 to September 1938, 36 infringements of the legislative provisions (Legislative Decree No. 598) relating to the night work of women were submitted to the courts. Eight sentences were pronounced, the fines inflicted amounting to \$270. The Government adds that a census of employers and workers is at present being made which, when complete, will facilitate the compilation of statistics regarding the number of workers covered by the legislation, as well as the number of women and children employed in industry, commerce and agriculture.

*France.* — As regards breaches of the law respecting the prohibition of night work, the report states that in 1936 the labour inspection service instituted 2 proceedings covering 16 infringements. The French Government has not received any observations from employers' or workers' organisations in regard to either the practical application of the provisions of the Convention or the application of the national legislation which implements those provisions.

*Great Britain.* — The number of firms prosecuted in Great Britain and Northern Ireland for breaches of this Convention during 1937 was 15 (one of whom was prosecuted twice). No complete figures are available for the number of women concerned, but in Great Britain the number of women employed in factories in 1935 was 1,415,526 and in 1937, 1,747 women were employed above ground at mines and quarries. In Northern Ireland in 1937, 51,847 women were employed in factories and 6 in quarries. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

With regard to the method of calculating the number of infractions, the Government indicates in its reports the number of firms prosecuted together with information as to how many (if any) of the firms were prosecuted on more than one occasion during the year.

*Hungary.* — The report states that in 1937, the number of women employed in undertakings subject to factory inspection was 95,928. The Government has no statistical information available yet for 1938. According to the reports of the

factory inspectors for the year 1937, employers as a whole comply with the prohibition of night work for women. Breaches have been comparatively rare, but, when reported, have been followed immediately by legal proceedings on the part of the authorities. The labour inspectors notified only 21 cases of infringement. The employers' and workers' organisations have not made any observations concerning the practical application of the Convention and of the national legislation which implements it.

*India.* — The Government refers to its report for 1935 to which were appended statistics of factories and a Note on the working of the Factories Act. The Government of India has not received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Ireland.* — The report states that during the period under review one employer employed 6 women between the hours of 10 p.m. and 11 p.m. Legal proceedings were taken against the employer and a conviction was obtained. In 1937, out of 11,683 registered undertakings, 11,211 were visited by the inspectors. No complaints have been received from organisations of employers or workers.

*Lithuania.* — During the period covered by the report the number of women workers protected by the legislation was 9,825. According to the reports of the inspectors, 11 cases of infringement of the provisions of the Convention were noted. They related exclusively, to undertakings working by shifts throughout the day, where women were employed, either individually or in groups, during the prohibited hours. In 6 cases the abuse in question was put an end to by the intervention of the inspectors themselves; 3 cases were brought before the judicial authorities. No observations have been received from workers' or employers' organisations.

*Luxemburg.* — The report states that no cases of contravention were reported during the period under review. The Government has not received any observations from the employers' or workers' organisations concerned with regard to the practical application of the provisions of the Convention or of the national legislation which implements those provisions.

*Netherlands.* — Neither employers' nor workers' organisations have formulated any observations concerning the practical application of the Convention or of the national legislation which implements it. See also under *Convention No. 41*, Point VI.

*Portugal.* — The report states that no difficulties are encountered in applying the Convention, as the principle of the prohibition of night work meets with unanimous approval in Portugal and has become customary in country.

*Rumania.* — The report states that the provisions of the Act applying the Convention are strictly observed. For information regarding the number of infringements and exemptions authorised, see under *Convention No. 1, Hours of Work (Industry)*, point VII. The report adds that during the year 1937 labour inspectors issued 344 recommendations concerning night work in general, of which 185 were put into force by the employers in the course of the year.

*Uruguay.* — See introductory note.

*Venezuela.* — The report states that §72 of the Labour Act is applied effectively, at any rate in the industrial centres, and adds that the Regulations for the application of the Act, which are in course of preparation, will also deal with exceptions to the prohibition of night work for women and children. The labour inspectors will pay close attention to the strict application of these Regulations when they are enacted. The reports and information supplied by the labour inspectors and their special commissioners concerning the number and nature of infringements, the organisation and working of the inspection service, etc., as well as data compiled by the Labour Statistics Department on the number of workers covered by the legislation will serve as a basis for the information which will be forwarded to the Office regarding the practical application of the Convention. With regard to the method adopted for calculating the number of infringements, the Government points out that in conformity with the general principles of criminal law in Venezuela (Penal Code, §83) every person who is guilty of an infringement is liable to the corresponding penalty, but if the infringement is in respect of only one provision of the legislation, it is treated as a single offence even if it covers several persons. No observations have been received from the employers' or workers' organisation regarding the practical application of the Convention or the proposed Regulations applying the Labour Act.

*Yugoslavia.* — According to the report of the Central Labour Inspection Service, the number of undertakings visited during 1937 was 3,770, the number of men employed in these undertakings was 112,722 and the number of women was 39,988. The labour inspectors inflicted 77 fines for breaches of the provisions concerning the prohibition of night work for women and young persons.

\* \* \*

*Burma.* — The Government states that information as regards the working of the Act is given in an annual report published about the middle of each year in respect of the previous year. According to the report for 1937 the daily number of women employed in factories covered by the Factories Act was on an average 11,577. The Government has not received from organisations of employers or workers concerned any observations regarding the practical fulfilment of the provisions of the Convention or of the national law implementing it.

### 5. Convention fixing the minimum age for admission of children to industrial employment.

This Convention came into force on 13 June 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Albania . . . . .	17. 3.1932	6. 4.1939
Argentine Republic.	30.11.1933	31. 1.1939
Belgium . . . . .	12. 7.1924	21.10.1938
Brazil. . . . .	26. 4.1934	28. 2.1939
Bulgaria . . . . .	14. 2.1922	2.12.1938
Chile . . . . .	15. 9.1925	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Czecho-Slovakia . .	24. 8.1921	16. 2.1939
Denmark . . . . .	4. 1.1923	21.11.1938
Dominican Republic	4. 2.1933	4. 1.1939
Estonia . . . . .	20.12.1922	11.10.1939
Great Britain . . .	14. 7.1921	28.12.1938
Greece . . . . .	19.11.1920	21. 3.1939
Ireland . . . . .	4. 9.1925	7.11.1938
Japan . . . . .	7. 8.1926	
Latvia . . . . .	3. 6.1926	25. 1.1939
Luxemburg . . . .	16. 4.1928	20. 1.1939
Netherlands . . . .	21. 7.1928	1.10.1938
Norway . . . . .	7. 7.1937	22.11.1938

COUNTRIES	Date of registration of ratification	Reports received
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	13. 6.1921	20. 2.1939
Spain . . . . .	29. 9.1932	
Switzerland . . . .	9.10.1922	1.11.1938
Uruguay . . . . .	6. 6.1933	9. 3.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938

For the general information supplied by the Government of *Brazil* in its letter of 23 February 1939, see under *Convention No. 3 (Childbirth)*, introductory note.

The report of the Government of *Japan* has not been received.

The report of the Government of *Spain* has not been received.

The *Swiss* Government states in its report that the Federal Bill concerning the minimum age of workers, which the report of last year stated had been submitted to Parliament, was adopted by the Federal Chambers on 24 June 1938 without any important changes. A referendum of the Bill was not called for. The Federal Council has not yet fixed the date on which the Act will come into force. In addition, by a Message dated 8 July 1938, a copy of which is attached to the report, the Federal Council communicated to the Federal Chambers a Bill concerning the protection of home workers. This Bill, which would apply to industrial work and to handicrafts performed at home, states that children not having completed their fifteenth year of age may not be allowed to work on their own account. In addition the Federal Council would have the power, with a view to the protection of young workers, to lay down special provisions with regard to the conditions under which work may be delivered and the period within which it may be terminated. The report further states that, with regard to small undertakings in the watch and clock-making industry, that is, in workshops not subject to the Act relating to factories, it should also be noted that, on 29 December 1937, the Federal Council extended until 31 December 1939 the Decree of 9 October 1936 regulating work in the watch and clock-making industry performed outside the factory. Because of its character as special law (*lex specialis*) the Decree of 9 October 1936 overrides the provisions of the Federal Act concerning the employment of young persons and women in industry, and where this is possible, supersedes the provisions relating to small watch and clock-making workshops.

The Government of *Uruguay* states in its report that no changes have been



introduced regarding the application of the Convention, and refers to its previous report. See also under *Convention No. 3 (Childbirth)*, introductory note.

The Yugoslav Government states in its report that the information in the possession of the Ministry of Commerce and Industry shows that no fresh particulars are available regarding the progress made in the revision of the Factories Act in connection with the employment of young persons. At the same time, the report points out that the Ministry of Commerce and Industry will take advantage of the next amendment of the Factories Act of 1931 to bring § 453, paragraph 2, of the Act into harmony with the provisions of Article 2 of the Convention.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### Albania.

Act of 19 May 1936 to issue regulations governing the hours of work of children and women in industry (L. S. 1936, Alb. 1).

See also under *Convention No. 4 (Night Work, women)*, introductory note.

#### Argentine Republic.

Act No. 11317 of 30 September 1924 to regulate the employment of women and young persons (L. S. 1924, Arg. 1).

#### Belgium.

Royal Order of 28 February 1919 concerning the employment of women and children (L.S. 1919, Bel. 2) as amended by the Eight-Hour Day Act of 14 June 1921 (L.S., 1921, Bel. 1).

#### Brazil.

Decree No. 22042 of 3 November 1932, to lay down the conditions of employment of children and young persons in industry (L. S. 1932, Braz. 8).

#### Bulgaria.

Health and Safety of Workers Act of 1917 (B.B. Vol. XIII, 1918, p. 28).

Act of 22 November 1921 amending § 13 of the preceding Act (O.B. Vol. V, p. 172).

Social Insurance Act of 6 March 1924 (L. S., 1924, Bulg. 1).

Elementary Education Act.

#### Chile.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

Decree of 7 May 1932 to approve the Regulations concerning registers for young persons of under 16 years of age.

#### Colombia.

Act No. 48 of 29 November 1924 respecting child welfare (L. S. 1924, Col. 1).

Act No. 56 of 10 November 1927 to lay down certain provisions respecting education (L. S. 1927, Col. 2).

Act No. 9 of 8 October 1930 respecting poor relief and industrial schools (L. S. 1930, Col. 2 (extract)).

#### Cuba.

Legislative Decree No. 647 of 31 October 1934 respecting the night work of young persons employed in industry and the minimum age for admission of children to industrial employment (L. S. 1934, Cuba 11).

#### Czecho-Slovakia.

Act of 19 December 1918 respecting the eight-hour working day (L. S. 1919, Cz. 1-3).

Act of 17 July 1919 respecting child labour (L. S. 1920, Cz. 2).

#### Denmark.

Act No. 145 of 18 April 1925 respecting the employment of children and young persons (L. S. 1925, Den. 1).

#### Dominican Republic.

Act. No. 929, of 21 June 1935, respecting the hours of work in commercial and industrial establishments (L. S., 1935, Dom. 1).

#### Estonia.

Act of 20 May 1924 relating to the employment of children, young persons and women in industrial undertakings (L. S., 1924, Est. 1).

#### Great Britain.

Factory and Workshop Act, 1901<sup>1</sup>.

Coal Mines Acts.

Employment of Women, Young Persons and Children Act, 1920 (L.S. 1920, G.B. 9).

#### Greece.

Act No. 2271 of 1 July 1920 to ratify the Convention (O. B. Vol. II, No. 1, p. 20).

Act No. 4029 of 24 January/6 February 1912 concerning the work of women and minors (B. B. Vol. VII, 1912, p. 285).

Royal Decree of 14/27 August 1913, issued in application of Act No. 4029 (B. B. Vol. IX, 1914, p. 219).

Act No. 199 of 29 September 1936 amending certain Labour Acts (L. S. 1936, Gr. 9).

Act No. 547 of 15 March 1937 amending and supplementing certain Labour Acts (L. S. 1937, Gr. 2).

#### Ireland.

Factory and Workshop Act, 1901.

Employment of Women, Young Persons and Children Act, 1920 (L.S. 1920, G.B. 9).

Conditions of Employment Act of 14 February 1936 (L. S. 1936, I.F.S. 1).

<sup>1</sup> Superseded by the Factories Act, 1937 (L. S. 1937, G. B. 2), which came into operation on 1 July 1938.

*Latvia.*

Act of 24 March 1922 respecting hours of work (L.S. 1922, Lat. 1), as amended by Act of 26 April 1924 (L. S. 1924, Lat. 1).

Instructions of 9 January 1931 of the Ministry of Social Welfare concerning the provisions regulating the employment of young persons in industrial establishments and workshops (L.S. 1931, Lat. 5).

*Luxembourg.*

Act of 6 December 1876 concerning the work of children and women.

Order of 30 May 1883 amending the Regulation concerning the employment of children in industrial undertakings.

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Order of 30 March 1932 respecting the application of certain Conventions adopted by the International Labour Conference during its first ten Sessions (L. S., 1932, Lux. 1).

Order of 6 January 1933 amending the Order of 30 March 1932 (L. S. 1933, Lux. 1).

*Netherlands.*

Labour Act, 1919, as amended by Act of 14 June 1930 (the text of which was promulgated by the Decree of 14 September 1930) (L. S. 1930, Neth. 2).

Stonemasons Act, 1921 (L. S. 1921 (Part II), Neth. 3).

Stevedores Act, 1914, as amended by Act of 27 July 1931 (the text of which was promulgated by the Decree of 9 October 1931) (L. S. 1931, Neth. 3).

Mining Regulations, 1906 (B. B. Vol. I, 1906, p. 505) as amended by Royal Order of 7 October 1922 (L. S. 1922, Neth. 4).

*Norway.*

Workers' Protection Act, 1936 (L. S. 1936, Nor. 1).

*Poland.*

Act of 2 July 1924 relating to the employment of women and young persons (L.S. 1924, Pol. 2), amended and completed by Act of 7 November 1931 (L.S. 1931, Pol. 2 A).

Order of the Minister of Labour and Social Welfare of 24 December 1931 respecting registers and lists of young persons (L.S. 1931, Pol. 2 C), superseding Decree of 14 December 1924.

Order of the President of the Republic of 7 June 1927 relating to industrial law (L.S. 1927, Pol. 4), amended by Act of 10 March 1934 (L. S. 1934, Pol. 1).

Order of the President of the Republic of 14 July 1927 relating to factory inspection (L.S. 1927, Pol. 8).

Order of the President of the Republic of 22 March 1928 relating to courts of law for labour cases (L. S. 1928, Pol. 5).

Act of 7 November 1931 restricting the employment of young persons in Upper Silesia (L. S. 1931, Pol. 5 B).

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1), amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).

Royal Decree of 30 January 1929 to approve the Regulations issued under the above Act (L. S. 1929, Rum. 1) and amended on 19 December 1932 (L. S. 1932, Rum. 6 B).

Act No. 990 of 29 April 1936 concerning vocational training and engagement in handicrafts (L. S. 1936, Rum. 1).

*Switzerland.*

Federal Act of 18 June 1914/27 June 1919, relating to working hours in factories (B.B. Vol. IX, 1914, p. 269 and L.S. 1919, Switz. 3).

Federal Act of 31 March 1922 relating to the employment of young persons and women in industry (L.S. 1922, Switz. 2).

Administrative Order of 3 October 1919/7 September 1923/30 June 1927/11 June 1928/9 July 1932 under the Factory Act (L.S. 1919, Switz. 4, and 1923, Switz. 3).

Administrative Orders of 15 June 1923/11 June 1928 respecting the application of the Federal Factory Act relating to the employment of young persons and women in industry (L.S. 1923, Switz. 1).

Order of 5 July 1923 relating to the employment of young persons in transport undertakings (L.S. 1923, Switz. 1).

Federal Act of 26 June 1930 concerning vocational training (L. S. 1930, Switz. 5).

Order of 9 October 1936 regulating work in the watch and clock-making industry not performed in factories, extended by the Order of 29 December 1937 (L. S. 1936, Switz. 1).

See also introductory note.

*Uruguay.*

Act of 6 April 1934 to approve with amendments a draft Children's Code (§§ 223 *et seq.*) (L. S. 1934, Ur. 4).

See also introductory note.

*Yugoslavia.*

Workers' Protection Act of 28 February 1922 (L. S. 1922, S.C.S. 1).

Industrial Act of 5 November 1931 (L. S. 1931, Yug. 4).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly:

(a) Mines, quarries, and other works for the extraction of minerals from the earth.

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity and motive power of any kind.

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water-work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

(d) Transport of passengers or goods by road or rail or inland waterway, including the handling

of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

*In addition please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Cuba.* — The report states that the Minister of Labour has not made use of the provisions of § VIII of Legislative Decree No. 647 which authorises him to define the line of division which separates industry from commerce and agriculture.

*Norway.* — The report states that the provisions of the Act of 19 June 1936 which deal with the age for the admission of children to employment apply to all "industrial undertakings" enumerated in this Article. The scope of these provisions is explained as follows: Under § 1 (1) of the above Act, this Act shall apply to every establishment in which employees perform work, except as otherwise expressly provided for in the case of certain purely non-industrial occupations. These exceptions are: (a) navigation, whaling, sealing, etc., and fishing, including the treatment of the catch on board vessels; (b) air navigation; (c) horticulture; stock raising and agriculture (including forestry connected therewith), and establishments connected therewith which are carried on mainly to meet the requirements of the farm; (d) public administrative departments. Moreover, with regard to the provisions concerning the age for the admission of children to employment, the Minister may decide whether and under what conditions children may be employed (§ 27 (1)) in forestry, timber-measuring and lumber floating, exclusive of work at permanent sorting booms where the work is performed wholly or partly by machinery; salvage work and diving operations; theatres and other entertainments and performances, the hotel and restaurant industry; educational institutions (§ 12). Finally, § 27 (2) authorises the employment of children over twelve years of age in two categories of occupations which may be considered as subsidiary to agriculture and fishing, namely, peat and fish-drying in the open air, and the delivery of articles and the running of errands.

*Switzerland.* — The provisions of the Order of 9 October 1936 regulating work in the watch and clock-making industry not performed in factories apply to home work of all kinds in this industry, to work in undertakings not subject to the legislation relating to work in factories, as well as to family undertakings.

## ARTICLE 2.

Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

*Norway.* — § 27 (1) of the Act of 16 June 1936 prohibits the employment of children, that is, of all persons under fifteen years of age or who are liable to school attendance under the elementary education laws, in those establishments which come under the scope of the Act as enumerated in § 1.

*Switzerland.* — Under the provisions of the Order of 9 October 1936 regulating work in the watch and clock-making industry not performed in factories, children who have not completed their fourteenth year of age and children over 14 years of age who are still obliged to attend school daily may not be employed on home work (§ 9), in small undertakings or even in family undertakings (§ 37).

## ARTICLE 3.

The provisions of Article 2 shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

*Norway.* — The Minister may decide whether and in what conditions children may be employed in educational establishments (§§ 12 (7) and 27 (1)).

## ARTICLE 4.

In order to facilitate the enforcement of the provisions of this Convention, every employer in an industrial undertaking shall be required to keep a register of all persons under the age of sixteen years employed by him, and of the dates of their births.

*In addition, please give details of the method of registration in use and forward a specimen copy of the register, if any, prescribed in virtue of this Article.*

*Norway.* — The report states that under § 35 of the former Workers' Protection Act of 18 September 1915, industrial and handicraft undertakings were obliged to keep a register of children and young persons under the age of 18 years employed by them. Under the Workers' Protection Act of 19 June 1936 (§ 31), the Minister of Social Affairs may issue a similar instruction to all undertakings covered by the wider scope of the new Act (see under ARTICLE 1). The compilation of fresh registers was put in hand, but has been suspended as the inspection authorities wish to see whether experience will justify the prescription of register for all

undertakings coming within the scope of the new Act. The system adopted under the Act of 1915 is still in force. The Government attaches to its report a copy of one of the register in use.

*Switzerland.* — The reports of the Federal factory inspectors on their work for the year 1937 indicate that there are always cases where the age certificate is missing or has not been properly made. In its report the Government states that a change has been made in Genevese legislation, which obliges employees to supply the Department of Industry and Commerce with a special form containing particulars of all minors who have been taken on or dismissed by them. (Act of 16 July 1881-23 May 1936 setting up a General Census Office, § 3, paragraph 3). The Order of 9 October 1936 regulating work in the watch and clock-making industry, not performed in factories lays down, on the one hand, that any person who gives out work to be performed at home shall be required to keep a register of the persons employed by him and, on the other hand, that small undertakings and family undertakings shall be required to keep a register of the persons employed by them in which the date of birth must appear.

### III.

*Article 8 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates, and possessions which are not fully self-governing :

(a) Except where owing to the local conditions its provisions are inapplicable ; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates, and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications,*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — In the *Colony of Aden*, formerly under the administration of the Government of India, Ordinance No. 20 of 1938 (The Employment of Women, Young Persons and Children Ordinance) gives effect to the provisions of the Convention. The provisions of the Convention have also been applied with certain modifications (notably a child being defined as a person under 12 years) to the following dependencies in addition to those already reported : *Barbados* (Act No. 42 of 1938), *Basutoland* (Proclamation No. 71 of 1937), *Bechuanaland Protectorate* (Proclamation No. 72 of 1937), *Somaliland Protectorate* (Ordinance No. 6 of 1938), *Swaziland* (Proclamation No. 73 of 1937). Legislation which will give effect to the provisions of the Convention has been prepared and is now under consideration in the *Leeward Islands* and *Nyasaland*. In the *Federated Malay States* further provisions for the protection of children in employment are contained in Enactment No. 2 of 1938. Under the principal Enactment the Governor in Council has power to prohibit the employment of children in any industry in which unsatisfactory conditions may arise. Under the amending Enactment a child is defined in the case of a person employed or engaged for or in connection with any public entertainment as a person under the age of 16 years, and in any other case as a person under the age of 14 years, and increased provisions are made for Government supervision. With regard to certain legislation previously reported as having been adopted but not brought into effect, in *British Guiana*, Ordinance No. 14 of 1933, as amended by Ordinance No. 6 of 1934, was brought into force on 1 April 1938 ; in *Grenada*, Ordinance No. 8 of 1934 was brought into force on 1 July 1938 ; in *St. Lucia*, Ordinance No. 22 of 1934 was brought into force on 1 January 1938 ; and in *St. Vincent* Ordinance No. 20 of 1935 was brought into force on 1 July 1938.

*Netherlands.* — In the *Netherlands Indies* the number of contraventions recorded of the prohibition of the employment of children was 96 in 1937 and 29 in the first half of 1938. In East Java 65 undertakings have adhered to the voluntary regulations under which the employment of young persons between 12 and 15 years of age is limited to 8 hours in the day during the harvest months to 7 hours during the rest of the year. The total number of tobacco undertakings is now 18 which have adhered to the regulations for the Native States limiting the employment of other than adult workers. In *Curaçao* a Service for Social Affairs was set up on 15 March 1938 and is re-examining the Convention.

## IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Albania.* — The report states that the supervision of the observance of the Act of 19 May 1936 and its administration are entrusted to the authorities of the Ministry of the Interior, the Ministry of Economic Affairs and the Directorate of Health.

*Dominican Republic.* — The report states that the application of Act No. 939 of 21 June 1935 is entrusted to the Labour Department which falls within the jurisdiction of the Ministry of Agriculture, Industry and Labour. The service of inspectors entrusted with the application of the legislation report to the competent Department which institutes proceedings before the Courts.

*Ireland.* — The report refers to the Annual Report for the year 1936 under the Factory and Workshop Acts 1901-1920 a copy of which has been forwarded to the Office.

*Norway.* — In conformity with §§ 41 and 42 of the Act of 19 June 1936, the application of the legislation is entrusted to the State labour inspectorate which, with the help of the local labour committees, is responsible for the enforcement of the provisions of the Act. Regulations concerning the organisation and working of the inspection service are laid down in the Royal Decree of 31 March 1938.

*Rumania.* — See under *Convention No. 1 (Hours of work, industry)*, Point V. The report states that, in virtue of the Act of 29 April 1936 concerning vocational training and engagement in handicrafts, the age for the admission of apprentices to employment in commerce and industry (14 years) is supervised by the chambers of labour who are obliged to keep a register of apprentices compiled from the cards drawn up for each apprentice (§ 23). In addition, each apprentice must obtain a medical certificate from the social insurance medical officer certifying that he is physically fit for the occupation in question (§ 19 c).

*Switzerland.* — The report states that the cantons are responsible for ensuring the application of the Order regulating work in the watch and clock-making industry not performed in factories; they

nominate the authorities who are to be entrusted with the work and supply the Federal Department of Public Economy with particulars concerning the organisation of this service. The Federal Department of Public Economy, through the medium of the Federal Office of Industry, Arts, Crafts and Labour is the authority responsible for supervising application of the legislation, and can call upon the Federal factory inspection service for assistance in the work of supervision and give issue binding instructions to the cantonal authorities.

## V.

*Please state whether decisions have been given by courts of law, or other courts, with regard to the application of the Convention. If so, please supply the text of such decisions.*

*Switzerland.* — During the period covered by the report two cases where sentence had been pronounced with regard to the employment of children in violation of § 70 of the Factory Act were reported to the Federal authorities; in each case the penalty inflicted was a fine. In addition, mention should be made of a number of warnings which mostly related to the observance of the provisions requiring a certificate of age. In one case a sentence was given for want of the certificate of age. Both sentences were pronounced by the administrative authorities; the heaviest fine was 50 francs. With regard to the Federal Act concerning the employment of young persons and women in industry, one case of infringement was reported to the Federal authorities; the fine inflicted amounted to 10 francs. With regard to the method of calculating infractions, the report states that an infraction covering several persons is considered as a single offence. The report adds that the Federal Court has not had to give any decisions on appeals against the application of the Federal Factories Act to certain undertakings.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and information concerning the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Albania.* — The report states that up to the present there have been no contraventions of the legislative provisions. No objections or criticisms have been made by the employers' or workers' organisations regarding the application of these provisions.

*Argentine Republic.* — See under Convention No. 4 (*Night work, women*), Point VI.

*Belgium.* — The report states that the inspection services have insured the strict observance of the provisions concerning the age of admission to employment, as laid down in the national legislation in conformity with the Convention. In this special work the inspection services received the assistance of the communal authorities who were responsible for delivering work books. No observations have been made by the employers' and workers' organisations concerning the practical application of the Convention or of the national legislation which implements it.

*Brazil.* — See introductory note.

*Bulgaria.* — The report states that the number of infringements was 72.

*Chile.* — The labour inspectors, during their visits of inspection supervise the strict observance of the prohibition of night work. The reports of the inspection services show that the provision regarding the prohibition of the employment of children under 14 years of age is satisfactory observed. No irregularities have been noted concerning the registers of young persons under the age of sixteen years. 95 infringements were noted of the prohibition of the employment of children. The employers' and workers' organisations concerned have not made any observations with regard to the practical application of the Convention or of the legislation which implements it.

*Colombia.* — The Government refers to its report for last year in which it stated that owing to the reorganisation of the inspection service it was not possible to give any general information with regard to the application of the Convention.

*Cuba.* — The Government attaches to its report tables compiled by the National Office dealing with the work of women and children which show that between October 1937 and June 1938, 2,302 certificates of fitness were issued, of which 1,584 were for boys and 618 for girls. The above tables also show that during the period October 1937 to September 1938 14 infringements of the legislation giving effect to the Convention were noted. In three of these cases fines were inflicted amounting to \$90, while in the remaining cases no action was taken.

*Denmark.* — The report states that during 1937 three infringements were recorded in the undertakings under the control of factory inspection, one of which concerned bakeries. No observations have been received from the employers' and workers' organisations concerned.

*Dominican Republic.* — The report does not refer to this point.

*Estonia.* — The number of children covered by the Act in 1937 was 1,239. The reports of the labour inspectors for the year 1937 record no complaints of non-observance of the provisions of the Act concerning the age for admission of children to industrial employment. Three cases of infringement were recorded. In 1 of these cases a simple warning was given and in 2 judicial proceedings were instituted. No observations were made by employers' or workers' organisations on the practical application of the national legislation which gives effect to the provisions of the Convention.

*Great Britain.* — In 1937 there were no cases in which it was necessary to prosecute an employer for an offence involving a breach of this Convention. With regard to the method of calculating the number of infractions, see under Convention No. 4 (*Night work, women*), Point VI. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

*Greece.* — The report states that the Convention is applied in all respects. No observations were made by the employers' and workers' organisations.

*Ireland.* — The Factory Inspection Services attached to the Industries Branch of the Department of Industry and Commerce reported, during the period under review, two cases of the employment of children under 14 years of age in industrial undertakings. In each case the employer was suitably warned and the child was dismissed. No observations have

been received from the employers' and workers' organisations.

*Latvia.* — The report states that no complaints were received regarding the non-observance of the provisions of the Convention.

*Luxemburg.* — The report states that no cases of infringement have been reported during the period under review. The Government has not received any observations from the employers' or workers' organisations concerned with regard to the practical application of the provisions of the Convention or of the national legislation which implements its provisions.

*Netherlands.* — The report states that in 1937, 528 actions were brought for the illegal employment of children under 14 years of age or still subject to compulsory school attendance. In each case the action was in regard to one child only. 57 warnings were issued to the parents and guardians of children who had been employed before reaching the age laid down by the regulations. The actions may be classified as follows: 119 cases of employment in a factory or workshop; 50 cases of employment in distributing bread, 68 in distributing milk, and 40 in distributing newspapers; 156 cases of employment on distributive work of other kinds; 95 cases of employment in other occupations. The report states that of the 528 actions brought, 15 were referred to the Courts; in one case no grounds were found for prosecution and in another an acquittal was granted. Where the persons in question were found guilty the average fine inflicted amounted to 2.91 florins. The heaviest fine amounted to 50 florins and the lightest to 0.50 florins; in 3 cases no fine whatever was inflicted.

*Norway.* — The Government states that, according to the report of the Female Factory Inspector for 1937, children below the age prescribed were employed in fisheries in Finnmark. Infringements of a similar kind occurred in a paper mill, and in a workshop where a boy under the age of 15 years was employed as an apprentice. No observations have been received from the organisations of employers or workers concerned.

*Poland.* — The report states that information with regard to the method of enforcing the prohibition of employment of children under 15 years of age may be found in the report of the Labour Inspection Service for 1937, which will be sent to the Office in the near future.

*Rumania.* — The report states that the legislation is strictly applied. During the year 1937, 340 recommendations were made by the labour inspectors regarding the employment of women and children

(including apprentices); 244 of these recommendations were complied with in the course of the year. For information regarding the number of contraventions, see under *Convention No. 1 (Hours of work, industry)*, Point VII.

*Switzerland.* — The report states that the Convention continues to be fully applied in Switzerland. A census was made on 16 September 1937 for the purpose of drawing up Federal factory statistics. The main figures, quoted in the reports of the Federal inspectors, are as follows: in 1937, the number of workers employed in undertakings subject to the Factory Act was 360,003 (47,305 more than in 1936), 34,476 (11,809 more than in 1936) of whom were between 14 and 18 years of age. This latter figure which represents 9.58 per cent. of the total number of workers, included 16,931 men and 17,745 women (13.79 per cent. of the total number of women workers). The possibilities for the employment of young persons in industry increased in 1937; as compared with 1936. In 1936 the number of young persons employed in industry represented 7.25 per cent. of the total number of workers (2.33 per cent. less than in 1937). The present figure is lower than that for 1929, the last year for which factory statistics are available. The reports of the Federal inspectors for the year 1937 state that there are still rare instances where children under 14 years are employed. With regard to the application of the Act relating to the employment of young persons and women on arts and crafts, the cantonal governments, in the reports for 1936 and 1937 which they were required to submit this year, state, *inter alia*, that the cantonal legislation relating to school attendance (which in certain cantons extends the school-leaving age beyond 14 years) prohibits the employment in industry of children who have not reached the age prescribed by the Convention. The cantonal governments again point out that the persistence of unemployment tends to a certain extent to prevent the employment of children, which is also restricted because professional groups endeavour to limit the number of apprentices employed in each undertaking. Those cantons in which the school-leaving age is over 14 years state that supervision is chiefly called for in undertakings situated in communes on the borders of the cantons in which the school-leaving age is under 14 years. With regard to the method of calculating the number of infractions, the Government states that an infraction covering several persons is considered as a single offence. The Federal authorities have not received from employers' or workers' organisations any proposals, complaints or observations as regards the practical application of the provisions of the Convention or of the

national legislation which implements it. It can be stated that generally speaking, the idea of practical cooperation among professional groups for the protection of workers has made progress. See also introductory note.

*Uruguay.* — See introductory note.

*Yugoslavia.* — The Government states that, according to the report of the central labour inspection service, the number of workers employed in the 3,770 undertakings inspected in 1937 was 152,710. The number of infringements of the provisions of § 20 of the Labour Protection Act was 2. See also introductory note.

### 6. Convention concerning the night work of young persons employed in industry.

This Convention came into force on 13 June 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period :

COUNTRIES	Date of registration of ratification	Reports received
Albania . . . . .	17. 3.1932	6. 4.1939
Argentine Republic.	30.11.1933	31. 1.1939
Belgium . . . . .	12. 7.1924	21.10.1938
Brazil . . . . .	26. 4.1934	28. 2.1939
Bulgaria . . . . .	14. 2.1922	2.12.1938
Chile . . . . .	15. 9.1925	2. 2.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Denmark . . . . .	4. 1.1923	21.11.1938
Estonia . . . . .	20.12.1922	11.10.1938
France . . . . .	25. 8.1925	12. 1.1939
Great Britain . . .	14. 7.1921	28.12.1938
Greece . . . . .	19.11.1920	21. 3.1939
Hungary . . . . .	19. 4.1928	1.11.1938
India . . . . .	14. 7.1921	16.12.1938
Ireland . . . . .	4. 9.1925	8.12.1938
Italy . . . . .	10. 4.1923	
Latvia . . . . .	3. 6.1926	25. 1.1939
Lithuania . . . . .	19. 6.1931	7.11.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	20. 5.1937	28.11.1938
Netherlands . . . .	17. 3.1924	1.10.1938

COUNTRIES	Date of registration of ratification	Reports received
Poland . . . . .	21. 6.1924	8.12.1938
Portugal . . . . .	10. 5.1932	8.11.1938
Rumania . . . . .	13. 6.1921	2. 2.1939
Spain . . . . .	29. 9.1932	
Switzerland . . . .	9.10.1922	1.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Venezuela . . . . .	7. 3.1933	6.12.1938
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	14. 7.1921	30. 1.1939

For the general information supplied by the Government of *Brazil* in its letter of 23 February 1939, see under *Convention No. 3 (Childbirth)*, introductory note.

The report of the Government of *Italy* has not been received.

The *Mexican* Government states in its report that, in accordance with § 133 of the Political Constitution the promulgation of a Convention which has been ratified in due form with the approval of the Senate of the Republic has the effect of transforming that Convention into a Federal Act. But owing to the fact that there are divergencies between the provisions of § 123, paragraph II of the Constitution and those of the Convention, it cannot be expected that in the present case the Convention will be applied before the necessary amendments have been made to the national legislation in accordance with the conditions and procedure laid down in the Constitution. A Bill has been prepared for the relevant amendments and will be submitted to Congress at a suitable moment.

The report of the Government of *Spain* has not been received.

The *Swiss* Government states in its report that by a Message dated 8 July 1938, the Federal Council laid before the Federal Chambers a Bill relating to the protection of home workers and prohibiting the giving and receipt of home work before 6 a.m. and after 8 p.m. Under this Bill the employer must so fix the period within which work is to be terminated that the worker is not called upon to work between 10 p.m. and 6 a.m. If this is not possible, he must pay the worker 25 per cent. of his wages for work performed during these hours. See also under *Convention No. 5 (Minimum age, industry)*, introductory note.

<sup>1</sup> See the introduction to the present volume, p. 4.



The Government of *Uruguay* refers to its previous report in which it stated that the National Institute of Labour would submit shortly to the Ministry of Industry and Labour a bill purporting to bring the provisions of the Children's Code into harmony with those of the Convention.

For information supplied by the Government of *Venezuela*, see under *Convention No. 4 (Night work, women)*, introductory note.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### *Albania.*

Act of 19 May 1936 to issue regulations governing the hours of work of children and women in industry (L. S. 1936, Alb. 1).

See also under *Convention No. 4 (Night work, women)*, introductory note.

### *Argentine Republic.*

Act No. 11317 of 30 September 1924 to regulate the employment of women and young persons (L. S. 1924, Arg. 1).

### *Belgium.*

Act of 28 February 1919 concerning the employment of women and children (L.S. 1919, Bel. 2), amended by the Act of 14 June 1921 concerning the eight-hour day (L. S., 1921, Bel. 1).

Royal Order of 22 January 1924 in pursuance of § 10 of the Act concerning the employment of women and children, authorising heads of enamelling and paper works to employ boys over 16 years of age after 10 p.m. and before 5 a.m. on work which, by reason of the nature of the process, cannot be interrupted (L.S. 1925, Bel. 7 A).

Royal Order of 2 December 1924 authorising the employment of young persons between 16 and 18 years of age after 10 p.m. and before 5 a.m. on work which, by reason of the nature of the process, cannot be interrupted, in the iron and steel industries, in zinc, lead and silver smelting works, in zinc rolling mills and in works in which iron or steel tubes are manufactured (L.S. 1924, Bel. 7 B).

Royal Order of 18 February 1926 in pursuance of § 10 of the Act concerning the employment of women and children, authorising heads of glass and plate-glass works to employ boys over 16 years of age after 10 p.m. and before 5 a.m. on work which, by reason of the process, cannot be interrupted (L.S. 1926, Bel. 6 A).

Royal Order of 23 April 1926 to authorise the employment of young male persons during the night in copper works (L.S. 1926, Bel. 6 B).

### *Brazil.*

Decree No. 22042 of 3 November 1932 laying down the conditions of employment of children and young persons in industry (L. S. 1932, Braz. 8).

Decree No. 21364 of 4 May 1932 regulating the hours of work in industry (L. S. 1932, Braz. 3).

See also under *Convention No. 3 (Childbirth)*, introductory note.

### *Bulgaria.*

Health and Safety of Workers Act of 1917 (B. B. Vol. XIII, 1918, p. 26).

### *Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L.S. 1931, Chile 1).

Decree No. 217 of 30 April 1926 to approve the appended Regulations respecting industrial hygiene and safety (L. S. 1926, Chile 2).

### *Cuba.*

Legislative Decree No. 647 of 31 October 1934 [concerning the night work of young persons employed in industry and the minimum age for admission of children to industrial employment] (L. S. 1934, Cuba 11).

### *Denmark.*

Act of 18 April 1925 respecting the employment of children and young persons (L.S. 1925, Den. 1).

### *Estonia.*

Act of 20 May 1924 relating to the employment of children, young persons and women in industrial undertakings (L.S. 1924, Est. 1).

Act of 19 November 1929 to amend § 20 of the above Act (L.S. 1929, Est. 5).

### *France.*

Code of Labour and Social Welfare, Book II.

Act of 24 January 1925 to amend §§ 20 (a) to 28 and 96 of Book II of the Code of Labour and Social Welfare (L.S. 1925, Fr. 1).

Act of 30 June 1928 to amend certain sections of Book II of the Code of Labour (L.S. 1928, Fr. 13).

Decree of 5 May 1928 defining the allowances and exceptions contemplated in §§ 17, 24, 25 and 26 of Book II of the Code of Labour and Social Welfare (L.S. 1928, Fr. 10).

Decree of 3 May 1893 concerning the employment of young persons in mines.

Act of 23 April 1919 respecting the eight-hour day (L.S. 1919, Fr. 3).

### *Great Britain.*

Factory and Workshop Act, 1901<sup>1</sup>.

Coal Mines Acts.

Employment of Women, Young Persons and Children Act, 1920 (L.S. 1920, G.B. 9).

Night Employment of Young Persons (Reverberatory or Regenerative Furnaces) Order, 17 January 1924 (L. S. 1924, G. B. 1).

<sup>1</sup> Superseded by the Factories Act, 1937 (L. S. 1937, G.B. 2), which came into operation on 1 July 1938.

*Greece.*

- Act No. 2272 of 1 July 1920 (O. B. Vol. II, No. 1, p. 20).
- Act No. 4029 of 24 January/6 February 1912 concerning the work of women and minors (B. B. Vol. VII, 1912, p. 285).
- Royal Decree of 14/27 August 1913, issued in application of Act No. 4029 (B. B. Vol. IX, 1914, p. 219).
- Circulars No. 31 of 17 September 1913 and No. 23 of 16 July 1920, of the Ministry of National Economy.

*Hungary.*

- Act No. XXVI of 1928, approving the ratification of the Convention.
- Act No. V of 1928 respecting the protection of children, young persons and women employed in industry and in certain other undertakings (L. S. 1928, Hung. 1).
- Decree No. 150443 of 30 December 1930, issued by the Ministry of Commerce, applying §§ 1-3, 8, 12-16, 18-20, 22-24 and 30 of Act No. V of 1928 (L. S. 1930, Hung. 5).
- Act No. XV of 24 March 1923 on work in bakeries (L. S. 1923, Hung. 1) amended by Act No. V of 1929 (L. S. 1929, Hung. 1A).
- Order No. 33469 of 2 June 1933 of the Minister of Commerce to provide for a nightly rest period of eleven hours for young persons and women employed in brickmaking (L. S. 1933, Hung. 5).

*India.*

- Factories Act, 1934 (L. S. 1934, Ind. 2), amended subsequently (L. S. 1936, Ind. 3).

*Ireland.*

- Employment of Women, Young Persons and Children Act, 1920 (L. S. 1920, G.B. 9).
- Conditions of Employment Act, 1936 (L. S. 1936, I.F.S. 1).
- Conditions of Employment (Sugar Beet Factories) (Employment of Young Persons at Night) Order, 1936, made under section 47 (2) of the Conditions of Employment Act, 1936.
- Conditions of Employment (Glass-Bottle Works) (Employment of Young Persons at Night) Order of 1936, made under section 47 (2) of the Conditions of Employment Act, 1936.
- Conditions of Employment (Manufacture of Paper) (Employment of Young Persons at Night) Regulations, 1938, made under section 47 (2) of the Conditions of Employment Act, 1936.
- Conditions of Employment (Manufacture of Paper) (Proportion of Young Persons to other workers) Regulations, 1938, made under subsection (1) of section 15 of the Conditions of Employment Act, 1936.

*Latvia.*

- Act of 24 March 1922 respecting hours of work (L. S. 1922, Lat. 1), with amendments and additions of 26 April 1924 (L. S. 1924, Lat. 1).

*Lithuania.*

- Act of 11 November 1933 concerning the employment of industrial wage-earning employees (L. S. 1933, Lith. 4).
- Act of 31 October 1931 concerning night work in bakeries (L. S. 1931, Lith. 3).
- Order of the Chief Inspector of Labour of 20 October 1931.
- Instruction No. 604 of 24 March 1938 for the application of the Act concerning labour inspection.

*Luxemburg.*

- Act of 6 December 1876 concerning the work of children and of women.
- Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).
- Order of 30 March 1932 respecting the application of certain Conventions adopted by the International Labour Conference during its first ten Sessions (L. S. 1932, Lux. 1).
- Order of 6 January 1933 to amend the Order of 30 March 1932 (L. S. 1933, Lux. 1).

*Mexico.*

- Political Constitution of the United States of Mexico of 1917.
- Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).
- Regulations of 31 July 1934 respecting the employment of women and children in dangerous and unhealthy occupations (L. S. 1934, Mex. 3).
- See also introductory note.

*Netherlands.*

- Labour Act, 1919, amended by the Act of 14 June 1930 (text promulgated by the Decree of 17 September 1930) (L. S. 1930, Neth. 2).
- Mining Regulation No. 248, 1906 (B. B. Vol. I, 1906, p. 505) as amended by Decree of 7 October 1922 (L. S. 1922, Neth. 4).
- Decree of 15 May 1933 to issue general service regulations for railways (L. S. 1933, Neth. 3A).
- Tramway Regulations of 24 February 1920, as amended by Royal Decrees of 4 November 1922 (L. S. 1922, Neth. 5 H) and 23 November 1931 (L. S. 1931, Neth. 5 B).

*Poland.*

- Act of 18 December 1919 relating to hours of work in industry and commerce, consolidated text as promulgated by Notification of the Minister of Social Welfare of 25 October 1933 (L. S. 1933, Pol. 1 C).
- Act of 2 July 1924 respecting the employment of women and young persons (L. S. 1924, Pol. 2) amended and supplemented by Act of 7 November 1931 (L. S. 1931, Pol. 2A).
- Order of the President of the Republic of 7 June 1927 concerning industrial law (L. S. 1927, Pol. 4) amended by the Act of 10 March 1934 (L. S. 1934, Pol. 1).
- Order of the President of the Republic of 14 July 1927 concerning the labour inspectorate (L. S. 1927, Pol. 8).
- Order of the President of the Republic of 16 March 1928 concerning the contract of employment of wage-earning employees (L. S. 1928, Pol. 3).
- Order of the President of the Republic of 16 March 1928 concerning the contract of employment of intellectual workers (L. S. 1928, Pol. 2).
- Order of the President of the Republic of 22 March 1928 concerning labour courts (L. S. 1928, Pol. 5).

*Portugal.*

- Legislative Decree No. 24402 of 24 August 1934 to regulate hours of work in commercial and industrial undertakings (L. S. 1934, Port. 5).
- Legislative Decree No. 24403 of 24 August 1934 concerning the supervision of hours of work.
- Legislative Decree No. 26917 of 24 August 1936 to amend and supplement Legislative Decree No. 24402 (L. S. 1936, Port. 3).

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1) amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).

Regulations for the administration of the Act respecting the employment of women and young persons, approved by Royal Decree of 30 January 1929 (L. S. 1929, Rum. 1), amended by Decree No. 3540 of 19 December 1932 (L. S. 1932, Rum. 6 B).

*Switzerland.*

Federal Act of 18 June 1914/27 June 1919 relating to work in factories (B.B. Vol. IX, 1914, p. 269, and L.S. 1919, Switz. 3).

Federal Act of 31 March 1922 relating to the employment of young persons and women in industry (L.S. 1922, Switz. 2).

Administrative Order of 3 October 1919/7 September 1923/30 June 1927/11 June 1928/9 July 1932 under the Factory Act (L. S. 1919, Switz. 4, and 1923, Switz. 3).

Administrative Order of 15 June 1923/11 June 1928 respecting the application of the Federal Act relating to the employment of young persons and women in industry (L.S. 1923, Switz. 1).

Order of 5 July 1923 relating to the employment of young persons in transport undertakings (L. S. 1923, Switz. 1B).

Order of 9 October 1936 regulating work in the watch and clock-making industry not performed in factories, extended by the Order of 26 December 1937 (L. S. 1936, Switz. 1).

*Uruguay.*

Act of 6 April 1934 to approve with amendments a draft Children's Code (L. S. 1934, Ur. 4).

See also introductory note.

*Venezuela.*

Labour Act of 16 July 1936 (L. S. 1936, Ven. 2).

See also under *Convention No. 4 (Night work, women)*, introductory note.

*Yugoslavia.*

Workers' Protection Act of 28 February 1922 (L.S. 1922, S.C.S. 1).

\* \* \*

*Burma.*

Indian Factories Act, 1934 (L. S. 1934, Ind. 2), as subsequently amended by Act No. XII of 1935 (L. S. 1936, Ind. 3 B) and Act No. VIII of 1936 (L. S. 1936, Ind. 3 A).

Burma Factories Act, 1935.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly:

(a) Mines, quarries, and other works for the extraction of minerals from the earth.

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up, or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind.

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water-work, or other work of construction as well as the preparation for or laying the foundations of any such work or structure.

(d) Transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

*In addition, please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Cuba.* — See under *Convention No. 5 (Minimum age, industry)*, Point II, ARTICLE 1.

*Mexico.* — The report states that no defined line of division exists between industry on the one hand and commerce and agriculture on the other, but that the difference between the scope of these three groups is shown clearly in the general provisions of the Federal Labour Act. The Government adds that the line of division referred to above will be dealt with when the Labour Act is amended.

*Switzerland.* — See under *Convention No. 5 (Minimum age, industry)*, Point II, ARTICLE 1.

## ARTICLE 2.

Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed, except as hereinafter provided for.

Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which by reason of the nature of the process is required to be carried on continuously day and night:

(a) Manufacture of iron and steel; processes in which reverberatory or regenerative furnaces are used, and galvanizing of sheet metal or wire (except the pickling process);

(b) Glass works;

(c) Manufacture of paper;

(d) Manufacture of raw sugar;

(e) Gold mining reduction work.

*In addition, please give particulars of the processes carried on in your country to which the exception provided for in the second paragraph of this Article is applicable, as well as the conditions, if any, subject to which your legislation, etc., allows employers to take advantage of it.*

*Belgium.* — See under Point VI.

*Cuba.* — The report states that, owing to the fact that the provisions of § II of Legislative Decree No. 647 prohibit the employment of young persons under 18 years of age in unhealthy or dangerous trades, young persons are seldom employed in the industrial undertakings enumerated in § II of the Decree, and the exceptions provided therein are not applied.

*France.* — The report states that, according to the statistics for 1936, the latest which are available, the exceptions provided for in establishments with continuous processes, under the conditions laid down in the Decree of 5 May 1928, were made use of by 622 undertakings employing 1,106 boys between 16 and 18 years of age at night and during the day. These exceptions were for the following industries: paper works (278) raw-sugar factories (97 boys), iron and steel works (543 boys), and glass-works (188 boys).

*Great Britain.* — The processes carried on in this country to which the exception provided for in the second paragraph of the Article is applicable fall under headings (a) (b) and (c) and are as follows: The smelting of iron ore; the manufacture of wrought iron steel or tin plate; certain processes in which reverberatory or regenerative furnaces are used, galvanizing of sheet metal or wire (except the pickling processes); the manufacture of paper and the manufacture of glass. In all cases where the exception applies the conditions laid down under § 81 of the Factories Act 1937 must be observed. The main requirements are that the total hours worked must not exceed 56 in any week or 144 in any continuous period of three weeks; the number of turns worked must not exceed six in any week; the intervals between successive turns must not be less than 14 hours and no young person may be employed between 12 midnight and 6 a.m. in two consecutive weeks. These conditions may be modified in some respects where there is a four-shift system or in the case of glass works. In Northern Ireland where the Factory and Workshop Act 1901 is still in force the position is as indicated in earlier reports.

*Ireland.* — The report states that during the period under review the exceptions permitted by this Article were availed of in respect of the manufacture of paper. According to the relevant Regulations, the processes of manufacture on which "such young persons may engage during the night are, however, confined to the process of beating and the process of machining, that is to say,

attending paper-making machines. The proportion which the number of such young persons employed by any employer to do either of the forms of industrial work specified may bear to the number of other workers employed by such employer to do that form of industrial work is limited to the proportion which two bears to seven."

*Lithuania.* — The report states that no use has been made of the exception provided under this Article.

*Mexico.* — The report states that § 20 of the Regulations of 31 July 1934 respecting the employment of women and children in unhealthy occupations prohibits the employment of children under the age of 16 years during the night. The Government points out that the legislation makes it impossible to employ children on work which by its nature is continuous throughout the day and night.

*Switzerland.* — The permits which were given several years ago to three glass works for the employment on night work of young persons between 16 and 18 years of age are still in force. The number of young persons employed in each shift in these three establishments has remained at 21. See also under *Convention No. 5 (Minimum age, industry)*, Point II, ARTICLE 2.

*Venezuela.* — The report states that the Regulations in application of the Act are still under preparation and that the Federal authority has not taken any decision specifying the exception provided under § 72 of the Act of 16 July 1936. See also under *Convention No. 4 (Night work, women)*, introductory note.

### ARTICLE 3.

For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

In coal and lignite mines work may be carried on in the interval between ten o'clock in the evening and five o'clock in the morning, if an interval of ordinarily fifteen hours, and in no case of less than thirteen hours, separates two periods of work.

Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may be substituted in the baking industry for the interval between ten o'clock in the evening and five o'clock in the morning.

In those tropical countries in which work is suspended during the middle of the day, the night period may be shorter than eleven hours if compensatory rest is accorded during the day.

*In addition please state :*

- (a) *whether in coal and lignite mines work is permitted in the interval between ten o'clock in the evening and five o'clock in the morning and, if so, under what conditions ;*
- (b) *where night work in the baking industry is prohibited for all workers, whether it is permitted to adopt the alternative night interval provided for in the third paragraph of Article 3 ;*
- (c) *if a shorter night period than eleven hours is permitted under the last paragraph of Article 3, please state for what industries, seasons and areas, and what arrangements have been made to secure compensatory rest during the day.*

*Argentine Republic.* — The Government states in its report that, in actual practice, the period of night rest for young people, even in summer, is in conformity with the provisions of the Convention. According to Act No. 11,317, young persons under the age of 18 years may not be employed for more than six hours in the day. In factories working on a single-shift system, the working day is divided into two equal parts of three hours each, or into two parts of two and four hours, with a break for rest at mid-day. There are no cases in which young persons finish work at 8 p.m. and begin again at 6 a.m. on the following day, in spite of the fact that the legislative provisions make this possible. In factories working on a two-shift system, each shift works without a break, and the only cases in which the period of night rest for young persons may be reduced to ten hours are in the event of a change of time-table for the morning and afternoon shifts, or an individual transfer from one shift to another. Cases of this kind, involving a reduction of the period of night rest to less than eleven hours, seldom occur. In any case, the Government is prepared to remove as soon as possible any divergencies between the Convention and the national legislation.

*Belgium.* — See under Point VI.

*Cuba.* — The report states the exception provided under § 14 of Legislative Decree No. 647 for work in coal and lignite mines has not been made use of.

*France.* — During 1936, the last year for which statistics are available, none of the exceptions allowed by the legislation has been granted with regard to work in mines.

*Mexico.* — The report states that § 20 of the Regulations of 31 July 1934 respecting the employment of women and children in dangerous and unhealthy occupations lays down that during the period between 8 p.m. on one day and 6 a.m. on the next day an employer shall not employ a young person on work of any kind. This provision of the legislation is intended to prevent the employment of young persons

during a "mixed working day"<sup>1</sup>, which was allowed under the interpretation given to the Labour Act in certain respects. This question will be settled definitely when the proposed amendments to the Constitution and the Federal Labour Act are adopted. (See also introductory note.)

#### ARTICLE 4.

The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in case of emergencies which could not have been controlled or foreseen, which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

*Please state whether your legislation, etc., imposes any conditions subject to which employers are allowed to take advantage of this exception.*

*Belgium.* — See under Point VI.

*Cuba.* — The report states that no request has been made to the Ministry of Labour by any employer for permission to make use of the exception provided under § V of Legislative Decree No. 647.

*France.* — The report states that during 1936, the last year for which information is available, no use has been made of the exception provided for in this Article.

*Lithuania.* — The report states that no use has been made of the exception provided under this Article.

*Venezuela.* — The Regulations applying the Labour Act of 16 July 1936 are in course of preparation. See also under *Convention No. 4 (Night work, women)*, introductory note.

#### ARTICLE 7.

The prohibition of night work may be suspended by the Government, for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

*In addition, please state whether the prohibition of night work has been suspended by the Government in pursuance of this Article during the year to which this report relates, and, if so, for what industries, periods and areas.*

*Cuba.* — The report states that no use was made of this provision.

<sup>1</sup> The Federal Labour Act gives the following definition: "A working day which includes periods of day work and night work shall be deemed to be a mixed working day, provided that the period of night work is less than three and a half hours; if it includes three and a half hours or more of night work, it shall be deemed to be night work. A mixed working day shall not exceed seven and a half hours."

*Ireland.* — The report states that the prohibition of night work was not suspended.

*Lithuania.* — The report states that during the period under review, the prohibition of night work was not suspended.

*Luxemburg.* — The report states that it was not necessary to apply the provisions of this Article.

*Mexico.* — The report states that up to the present the Government has not suspended the prohibition of night work for young persons.

*Switzerland.* — The report states that the prohibition of night work was not suspended during the period under review.

*Venezuela.* — The report states that the Federal authority intends to embody similar provisions in the Regulations in application of the Labour Act which are under preparation. See also under *Convention No. 4 (Night work, women)*, introductory note.

### III.

*Article 9 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing:

(a) Except where owing to the local conditions its provisions are inapplicable; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — See under *Convention No. 4 (Night work, women)*, Point III.

*Great Britain.* — The provisions of the Convention have now been applied to the following dependencies, in addition to those already reported: *Barbados* (Act No. 42 of 1938), *Basutoland* (Proclamation No. 71 of 1937), *Bechuanaland Protectorate* (Proclamation No. 72 of 1937), *Somaliland Protectorate* (Ordinance No. 6 of 1938), *Swaziland* (Proclamation No. 73 of 1937). Legislation which will give effect to the provisions of the Convention has been prepared and is now under consideration in the *Leeward Islands* and *Nyasaland*. In *Malta* Ordinance No. XVII of 1936 empowering the Governor to make regulations for the limitation of hours of employment has been replaced by Ordinance No. V of 1938, which is to the same general effect. The *Uganda* legislation previously reported (*International Labour Conference, Seventeenth Session, 1938, Summary of Annual Reports under Article 408*, p. 125) should have been described as the *Employment of Children Ordinance*, No. 13 of 1930.

In the *Colony* of Aden, formerly under the administration of the Government of India, Ordinance No. 20 of 1938 (The *Employment of Women, Young Persons and Children Ordinance*) gives effect to the provisions of the Convention, replacing Indian legislation to the same effect.

For *British Guiana, Grenada, St. Lucia* and *St. Vincent*, see under *Convention No. 4, (Night work, women)*, Point III.

*Netherlands.* — In *Curaçao* a Service for Social Affairs was set up on 15 March 1938 and is re-examining the Convention.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Albania.* — The report states that the supervision of the Act of 19 May 1936 and its administration are entrusted to the Ministry of the Interior, the Ministry of Economic Affairs and the Directorate of Health. See also under *Convention No. 4 (Night work, women)*, introductory note.

*Ireland.* — The Annual Report for the year 1935 under the *Factory and workshop Acts 1901-1920* has been forwarded to the Office.

*Lithuania.* — With a view to the organisation of the Labour Inspection Service, the Minister of the Interior issued on 24 March 1938 an "Instruction concerning the application of the Act on labour inspection" the text of which is appended to the report.

*Rumania.* — For fresh information regarding the organisation of the inspection service, see under *Convention No. 1 (Hours of work, industry)*.

*Venezuela.* — See under *Convention No. 4 (Night work, women)*, Point IV.

\* \* \*

*Burma.* — The report states that the application of the legislation is entrusted to the Factories Inspectorate. The working of the Factories Act in Burma is the subject of a published annual report.

#### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The report states that several legal decisions were given relating to the application of the Convention. A copy of a legal decision, under which an employer was fined for employing workers, including one young person at night in a bakery, is appended to the report.

*Switzerland.* — During the period covered by the report, the following sentences have been reported to the Federal authorities: 11 sentences pronounced in cases of infringement of the prohibition of night work under the Factory Act, with reference to young persons; 45 sentences pronounced in cases of infringement of the same prohibition under the Act concerning the employment of young persons and women in industry. In every case without exception the penalty inflicted was a fine. Several of the sentences concerned not only violation of the prohibition of night work, but also infringement of other legislative provisions. Among the cases relating to the Factory Act there were instances where the infringement was committed, not during the hours prohibited by the Convention but during the interval between 8 p.m. (on Saturdays and the days preceding public holidays, 5 p.m.) and 10 p.m. which is included in the period considered as night under the national legislation. Of

the 56 sentences referred to above, 30 were pronounced by the judicial, and 26 by the administrative authorities. The heaviest fine for infringement of the Factory Act amounted to 200 francs (2 cases), while that for infringements of the Act concerning the employment of young persons and women in industry amounted to 100 francs (1 case). The report adds that the Federal Court has not had to give any decisions on appeals against the application of the Federal Factories Act to certain undertakings.

The remaining reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, the application of the exceptions allowed under Articles 2, 3 and 4 of the Convention, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Albania.* — The report states that up to the present there have been no contraventions of the legislative provisions. No objections or criticisms have been received from the employers' and workers' organisations regarding the application of these provisions.

*Argentine Republic.* — See under *Convention No. 4 (Night work, women)*, Point VI.

*Belgium.* — The report states that the inspection services have enforced the prohibition of night work of young persons under the conditions laid down by the legislation in accordance with the Convention. As regards the exceptions provided for in Articles 2, 3 and 4 of the Convention, the report states that, generally speaking, only a limited use was made of them and that the exceptions granted

were within the limits prescribed by the national legislation and supervised by the inspection services. No observations were made by the employers' and workers' organisations as regards the practical application of the Convention or of the national legislation which implements it.

*Brazil.* — See under *Convention No. 3 (Childbirth)*, introductory note.

*Bulgaria.* — The report states that 28 cases of infringement were reported during the period under review.

*Chile.* — The report states that the factory inspectors are constantly engaged in ensuring compliance with the legislation. The reports of the factory inspectors show that, generally speaking, the relevant legislation is applied satisfactorily. The number of young persons protected by the relevant legislation is 34,837. There were of infringements of the prohibition of the night work of young persons (see also under V). Neither the employers' nor the workers' organisations have made any observations concerning the practical application of the provisions of the Convention or of the legislation to give effect to it.

*Cuba.* — See under *Convention No. 5 (Minimum age, industry)*, Point VI.

*Denmark.* — During 1937, 33 cases of infringement of the prohibition of night work were recorded, 7 of which were in bakeries. No observations were received from the employers' and workers' organisations concerned.

*Estonia.* — In 1937 the number of children protected by the Act was 1,239. The reports of the labour inspection services for 1937 do not record any complaints of non-observance of the Act; 24 cases of infringement were recorded in 19 of these cases a simple warning was given and in 5 legal proceedings were instituted. The Government has not received any observations from employers' or workers' organisations regarding the practical application of the national legislation which implements the provisions of the Convention.

*France.* — With regard to statistics concerning infringements of the prohibition of the night work of children in industry, the report states that during 1936, the last year for which data are available, the Labour Inspection Service instituted proceeding in two cases, covering five infringements. The Government has not received any observations from employers' or workers' organisations with regard to the practical

application of the provisions of the Convention or of the national legislation which implements those provisions.

*Great Britain.* — The number of firms prosecuted in Great Britain and Northern Ireland for breaches of this Convention during 1937 was 31. No complete figures are available for the number of young persons concerned, but in Great Britain the number of young persons employed in factories in 1935 was 893,452, and in 1937 the number of young persons employed above ground at mines and quarries was 77,462. In Northern Ireland in 1937, 26,300 young persons were employed in factories and 80 in quarries. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI.

*Greece.* — The Government states that the Convention is applied in all respects. No observations have been received from the employers' or workers' organisations.

*Hungary.* — The report states that in 1937 the number of children employed in undertakings subject to labour inspection was 28,020. Statistics for 1938 are not yet available. According to the reports of the labour inspectors for 1937, the provisions concerning night work of children are in general satisfactorily observed. The inspectors recorded 112 cases of infringement during 1937. No information in regard to infringements in 1938 is yet available. The employers' and workers' organisations have not made any observations with regard to the practical application of the Convention and of the national legislation which implements it.

*India.* — The Government refers to its report for 1935 in which it stated that information of a general character is contained in the Statistics of Factories and in the Note published by the Government on the working of the Factories Act. The Government has not received from organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law which implements it.

*Ireland.* — The report states that during the period under review, court proceedings were taken against two employers (covering a total of 6 young persons) in respect of the employment of young persons at "night" and in each case a conviction was obtained. No observations have been received from organisations of employers or workers.



*Lithuania.* — During the period under review the number of children covered by the legislation was 722. The Labour Inspection Department noted 3 cases of infringement, all of which were in undertakings working by shifts throughout the day. Two cases were settled by the inspectors themselves and one case was brought before the courts. No observations were received from workers' or employers' organisations.

*Luxemburg.* — No infringements have been reported. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the application of the national legislation which implements the provisions of the Convention.

*Mexico.* — See introductory note.

*Netherlands.* — No cases of infringement of the provisions concerning nightly rest were reported. As regards the prohibited period, 23 of the infringements noted were in connection with the employment of young persons under 18 years of age; in 19 of these cases judicial proceedings were instituted. The young persons concerned were employed in the following undertakings: printing establishments (1); bakeries (12); dairies (4); butchers' establishments (5). The heaviest fine inflicted was one of 10 florins and the lightest, one florin.

*Poland.* — The report states that the strict and permanent supervision carried out, in particular by surprise visits of inspectors during the night, has shown that cases of night work of children are very rare and altogether exceptional.

*Portugal.* — The report states that no difficulties are encountered in applying the Convention. The Government appends to its report various legislative texts promulgated in Portugal before the ratification of the Convention, and enumerates ten Orders adopted between 1934 and 1938 which entirely prohibit the employment of young persons under 18 years of age in specific industries.

*Rumania.* — The report states that the strict and constant supervision exercised by the labour inspectors shows that the legislation is applied generally and that there are very few contraventions of the legislative provisions concerning the night work of children. For information regarding the number of infringements noted and exceptions allowed, see under *Convention No. 1 (Hours of Work, industry)*, point VII. See also under *Convention No. 4 (Night work, women)* point VI, for information

regarding the recommendations made by the inspection service.

*Switzerland.* — The report states that the Convention continues to be completely observed throughout Switzerland. The census made on 16 September 1937 for the purpose of drawing up Federal factory statistics will be published shortly as a special volume. The main figures quoted in the reports of the Federal inspectors are as follows: number of workers employed in undertakings subject to federal factory legislation was 360,003 (47,305 more than in 1936), 34,476 of whom were between 14 and 18 years of age (11,809 more than in 1936). This latter figure, which represents 9.58 per cent. of the total number of workers, included 16,931 men and 17,545 women (13.79 per cent. of the total number of women workers). The possibilities for the employment of young persons in industry increased in 1937 as compared with 1936. In 1936 the number of young persons employed in industry represented 7.25 per cent. of the total member of workers (2.33 per cent. less than in 1937). The present figure is lower than that for 1929 (46,873), the year in which the last factory statistics were drawn up. The reports from the cantons on the application of the Federal Act relating to the employment of young persons and women in industry state, *inter alia*, that where young persons of less than 18 years of age are employed these are usually apprentices and are therefore under the supervision of the official and unofficial bodies entrusted with apprenticeship. For this reason breaches of the regulations are almost impossible. The reports from the cantons again point out the difficulties raised by the provision prohibiting the employment of apprentices in bakeries before 5 a.m., which is not observed by employers in some places. During the past year no action has been taken with regard to the request for permission to allow bakeries to start work before the hour prescribed by the Convention. With regard to the method of calculating the number of infringements, the report states that an infringement covering several persons is considered as a single offence. See also under *Convention No. 5 (Minimum age, industry)*, Point VI, for information regarding the co-operation of professional groups for the protection of workers.

*Uruguay.* — See introductory note.

*Venezuela.* — The report states that the employers' and workers' organisations have not made any observations with regard to the practical application of the legislation implementing the Convention. See also under *Convention No. 4 (Night work, women)*, Point VI.

*Yugoslavia.* — According to the report of the Central Labour Inspection Service, the number of undertakings visited in 1937 was 3,770, the number of workers employed in these undertakings was 152,710, and the number of fines inflicted for breaches of the provisions concerning night work of women and young persons was 77.

\* \* \*

*Burma.* — The report states that statistics are found in the annual report referred to under IV, which show that in 1937, 85 children, including 77 boys and 8 girls, were employed in factories. The Government of Burma have not received from organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing it.

## SECOND SESSION (GENOA, 1920).

## 7. Convention fixing the minimum age for admission of children to employment at sea.

This Convention came into force on 27 September 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	30.11.1933	31. 1.1939
Australia . . . . .	28. 6.1935	21.11.1938
Belgium . . . . .	2. 2.1925	21.10.1938
Brazil . . . . .	8. 6.1936	28. 2.1939
Bulgaria . . . . .	16. 3.1923	2.12.1938
Canada . . . . .	31. 3.1926	15.10.1938
Chile . . . . .	18.10.1935	2. 2.1939
China . . . . .	2.12.1936	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Denmark . . . . .	12. 5.1924	21.11.1938
Dominican Republic	4. 2.1933	4. 1.1939
Estonia . . . . .	3. 3.1923	11.10.1938
Finland . . . . .	10.10.1925	5.11.1938
Great Britain . . .	14. 7.1921	5.11.1938
Greece . . . . .	16.12.1925	21. 3.1939
Hungary . . . . .	1. 3.1928	1.11.1938
Ireland . . . . .	4. 9.1925	7.11.1938
Italy . . . . .	14. 7.1932	
Japan . . . . .	7. 6.1924	
Latvia . . . . .	3. 6.1926	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Netherlands . . . .	26. 3.1925	1.10.1938
Norway . . . . .	7.10.1927	22.11.1938

COUNTRIES	Date of registration of ratification	Reports received
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	8. 5.1922	20. 2.1939
Spain . . . . .	20. 6.1924	
Sweden . . . . .	27. 9.1921	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938

For the general information supplied by the Government of *Brazil* in its letter of 28 February 1939, see under *Convention No. 3 (Childbirth)*, introductory note.

The report of the Government of *Finland* mentions certain new legislation which came into force on 1 January 1938 and which bears on methods of applying the Convention. This legislation consists of two Acts of 4 June 1938 providing for the discontinuance of the seamen's offices, which previously exercised certain functions of supervision of the signing on and off of seamen in Finland, and for concentrating all such functions in the hands of State Registration Officers appointed by the Shipping Board. The Summary of the annual report given below is confined to the changes introduced by these Acts, as well as by a Decree of application dated 19 November 1937.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The Government of *Luxemburg* states that the Convention is not applicable in the Grand Duchy.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its previous report in which it stated that a Bill for amending the Child Labour Code was being prepared which would bring the provisions of the Code into complete concordance with those of the Convention. See also under *Convention No. 3 (Childbirth)*, introductory note.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Argentine Republic.*

Act No. 11,317 of 30 September 1924 to regulate the employment of women and young persons (L. S. 1924, Arg. 1).

Decree No. 2,699 of 28 May 1925 issuing regulations under Act No. 11,317 to regulate the employment of women and young persons (L. S. 1925, Arg. 2).

Regulations concerning the registration of crews in the mercantile marine approved by Decree of 12 September 1927.

Act No. 11,570 of 25 September 1929 concerning the supervision of the observance of labour laws and their administration (L. S. 1929, Arg. 2).

Commercial Code.

Decree No. 112,924 of 25 August 1937 concerning apprentices.

*Australia.*

The Navigation (Maritime Conventions) Act, 1934 (L. S. 1934, Austral. 10).

*Belgium.*

Act of 5 June 1928 concerning seamen's articles of agreement (L. S. 1928, Belg. 5 A).

*Brazil.*

Decree No. 220 of 3 July 1935 to approve the new regulations for harbour authorities and direct that they be put into operation (L. S. 1935, Braz. 5).

See also under *Convention No. 3 (Childbirth)* introductory note.

*Bulgaria.*

Act of 1917 respecting the health and safety of workers (B. B. Vol. XIII, 1918, p. 27).

Regulations of 8 August 1923 of the Bulgarian Navigation Company.

*Canada.*

Canada Shipping Act, 1934 (L. S. 1934, Can. 7).

*Chile.*

Legislative Decree No. 678 of 27 November 1925 concerning recruitment for the military and naval forces.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5,405 of 8 February 1934 (L. S. 1934, Chile 1 A).

Commercial Code (Book iii, § 823).

*China.*

The Mercantile Marine Code of 1 January 1931 ;  
Regulations of 1 July 1933 concerning the Organisation of the Chinese Seamen's Union ;  
Regulations of 28 October 1933 concerning Shipping Inspection ;  
Regulations of 26 January 1937 concerning the Employment of Chinese Seamen.

*Colombia.*

Act No. 48 of 29 November 1924 respecting child welfare (L. S. 1924, Col. 1).

Act No. 56 of 10 November 1927 to lay down certain provisions respecting education (L. S. 1927, Col. 2).

*Cuba.*

Legislative Decree No. 592 of 16 October 1934 concerning, *inter alia*, the minimum age for admission of children to employment at sea. (L. S. 1934, Cuba 9).

*Denmark.*

Seamen's Act No. 181 of 1 May 1923 (L. S. 1923, Den. 2).

Act No. 29 of 26 February 1872 relating to the registration of seamen and the supervision of their engagement and discharge.

*Dominican Republic.*

Act No. 929 of 21 June 1935 respecting the hours of work in commercial and industrial establishments (L. S. 1935, Dom. 1).

*Estonia.*

Seamen's Act of 22 March 1928 (L. S. 1928, Est. 1 B).

Employment of Children, Young Persons and Women Act of 20 May 1924 (L. S. 1924, Est. 1).

*Finland.*

Seamen's Act of 8 March 1924 (L. S. 1924, Fin. 1) as amended by Act of 26 May 1925 (L. S. 1925, Fin. 2) and Act of 11 May 1928 (L. S. 1928, Fin. 2).

Order of 19 September 1925 respecting the coming into force of the international Convention concerning the minimum age for admission of children to employment at sea.

Order of 29 October 1925 concerning the Shipping Board.

Act of 4 June 1937 concerning the registration of seamen and the supervision of their engagement and discharge.

Order of 19 November 1937 applying the above Act.

See also *Introductory Note*.

*Great Britain.*

Employment of Women, Young Persons and Children Act, 1920 (L. S. 1920, G.B. 9).

*Greece.*

Legislative Decree of 7 October 1925 relating to the ratification of the Convention.

Act. No. 4211 of 1929 confirming the above Legislative Decree.

Decree of 6 July 1931 establishing standard articles of agreement to be used by vessels of the Greek mercantile marine.

*Hungary.*

Act No. XVI of 1928 ratifying the Convention.

Order No. 32043 of 1933 issued by the Minister of Commerce concerning, *inter alia*, the application of the above Act.

*Ireland.*

Employment of Women, Young Persons and Children Act, 1920 (L. S. 1920, G.B. 9).

*Latvia.*

Seamen's Order of 30 October 1928 (L. S. 1928, Lat. 4).

*Luxembourg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Netherlands.*

Labour Act, 1919, as subsequently amended (L. S. 1922, Neth. 1).

Decree of 25 September 1933 (L. S. 1933, Neth. 4) to promulgate the text of the Labour Decree, 1920, as last amended by the Royal Decree of 12 July 1933, issued under the Labour Act, 1919 (L. S. 1922, Neth. 1) as amended by an Act of 14 June 1930 (L. S. 1930, Neth. 2-A).

*Norway.*

Seamen's Act of 16 February 1923 (L. S. 1923, Nor. 1).

Act of 29 June 1888 concerning the registration and supervision of the engagement of seamen, and supplementary Acts No. 2 of 28 May 1892 and No. 2 of 16 June 1927.

*Poland.*

Seamen's Code (German) of 2 June 1902 (International Labour Office, Studies and Reports, Series P, No. 1, p. 90).

Act of 28 May 1920 concerning Polish merchant vessels.

Act of 2 July 1924 relating to the employment of women and young persons (L. S. 1924, Pol. 2).

Order of the President of the Republic of 24 November 1930 relating to the safety of ships.

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1), amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).

Regulations of 30 January 1929 issued in application of the above Act (L. S. 1929, Rum. 1) and amended on 19 December 1932 (L. S., 1932, Rum. 6 B).

*Sweden.*

Seamen's Act of 15 June 1922 (L. S. 1922, Swe. 1).

Royal Decree of 30 June 1922 respecting the keeping of registers of minors employed on board ship.

Royal Decree of 22 December 1922 to amend certain provisions of the Order of 13 July 1911 respecting seamen's employment offices in the Kingdom and the signing on and off of seamen, etc.

*Uruguay.*

See introductory note.

*Yugoslavia.*

Workers' Protection Act of 28 February 1922 (L. S. 1922, S.C.S. 1).

Order of 29 March 1935 to regulate conditions of work on board Yugoslav vessels engaged in maritime navigation (L. S. 1935, Yug. 2).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "vessel" includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

*China.* — The report states that the term "vessel" is defined in § 1 of the Mercantile Marine Code of 1 January 1931 as including all ships navigating at sea or in waters connected with the sea and navigable to seagoing ships.

## ARTICLE 2.

Children under the age of fourteen years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed.

*Argentine Republic.* — With regard to apprentices, the report refers to Decree No. 112,924 of 25 August 1937 in virtue of which the permission to serve as apprentice in coasting trade vessels (or provided the person in question has already completed one year's sea service, also in home trade vessels) is dependent on the candidate's being not less than sixteen and not more than eighteen years of age.

*China.* — The report states that the Regulations of 28 January 1937 provide that the term "seaman" means any person who fulfils the requirements set forth in § 3 of the Regulations of 1 July 1933; as one of these requirements is that a seaman is "any person over 16 years of age", it follows that the minimum age for the admission of young persons to employment at sea is 16, two years higher than the standard fixed by the Convention.

## ARTICLE 3.

The provisions of Article 2 shall not apply to work done by children on school-ships or training-ships, provided that such work is approved and supervised by public authority.

*China.* — The report states that the exceptions mentioned in this article are not provided for by Chinese legislation.

## ARTICLE 4.

In order to facilitate the enforcement of the provisions of this Convention, every shipmaster shall be required to keep a register of all persons under the age of sixteen years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.

*In addition, please give details of the method of registration in use and forward a specimen copy of the register, if any, prescribed in virtue of this Article.*

*China.* — The report states that the provisions of this Article are unnecessary in Chinese legislation (see under ARTICLE 2).

*Finland.* — . . . Under § 4 of the Act of June 1937 respecting the registration and the signing on and off crews of vessels and § 9 of the Decree of November 1937 applying this Act, the keeping on board of a list of the crew, giving particulars (including age) of the members of the crew, is obligatory for all Finnish vessels.

## III.

*Article 5 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates, and possessions which are not fully self-governing :

(a) Except where owing to the local conditions its provisions are inapplicable ; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — In the Colony of Aden, formerly in the administration of the Government of India, Ordinance No. 20 of 1938 (The Employment of Women, Young Persons and Children Ordinance)

gives effect to the provisions of the Convention. The provisions of the Convention have also been applied to the following dependencies, in addition to those already reported : *Barbados* (Act No. 42 of 1938), *Somaliland Protectorate* (Ordinance No. 6 of 1938), *Mandated Territory of Tanganyika* (Ordinance No. 28 of 1937). Legislation which will give effect to the provisions of the Convention has been prepared and is now under consideration in the *Leeward Islands*.

For *British Guiana, Grenada, St. Lucia and St. Vincent*, see under *Convention No. 4 (Night work, women)*, Point III.

*Netherlands.* — In *Curaçao* a Service for Social Affairs was set up on 15 March 1938 and is re-examining the Convention.

## IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*China.* — The application of the Regulations implementing the Convention is entrusted to the local shipping offices. The supervising authority is the Ministry of Communications. Methods of enforcement are laid down in § 22 of the Regulations of 28 October 1933, according to which the master is required to keep a list of the crew which is open to examination.

*Cuba.* — The Department of the Secretary for Labour, through the National Inspection Service and the provincial Offices, is responsible for the enforcement of Decree No. 592 of 1934. Locally, the application of the Decree is effected by the harbour masters, who also enforce penalties inflicted by the court at the ship's port of registration or the nearest court town.

*Finland.* — By the Act of 4 June 1937 concerning the registration and signing on and off of crews of vessels, and the Decree of 19 November 1937 applying the Act, the officers of the State registration offices in Finland, and the Finnish consuls abroad, are required to see that the legal provisions in force respecting the employment of young persons on board ship are observed when crews are signed on. In addition, the Order of 29 October 1925 concerning the Shipping Board entrusts to the shipping inspectors general powers of supervising the enforcement of all legal provisions concerning employment on board ship.

*Greece.* — The report states that the Harbour Authorities and the Maritime Labour Section of the Seamen's Employment Exchange of Piraeus are responsible for the application of the relevant legislation.

*Rumania.* — The application of the provisions of the relevant legislation is supervised by the labour inspectors of the Ministry of Labour as well as by the harbour masters and the branches of the General Inspectorate of Navigation and Ports attached to the Ministry of Air and Maritime Affairs. For information regarding the organisation of the labour inspection service, see under *Convention No. 1 (Hours of work, industry)*, Point V.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection and registration services, and, if such statistics are available, information concerning the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not contain any fresh information on this point.

*Australia.* — No observations on the Convention have been received from employers or employees.

*Belgium.* — No observations were received from the organisations of employers or workers concerned regarding

the practical application of the Convention.

*Brazil.* — The report does not refer to this point. See also under *Convention No. 3 (Childbirth)*, introductory note.

*Bulgaria.* — The report states that no observations have been received from the employers' and workers' organisations with regard to the practical application either of the Convention or of the national legislation which implements it.

*Canada.* — The report states that the provisions of the Convention, are observed by owners, masters and seamen of Canadian vessels to which they apply, and no difficulty, legal or otherwise, was reported during the period covered by the report. No observations have been received from organisations of employers or workers regarding the fulfilment of the conditions of the Convention or the application of the national law relating thereto.

*Chile.* — The report states that the maritime labour inspectors pay constant attention, on their visits to vessels, to the strict observance of the relevant provisions. The reports of the inspectors show that no persons under eighteen years of age are allowed to sail as members of the crew on board Chilean merchant vessels, except apprentices of over fourteen years of age, who sail to obtain professional experience. The coast authorities allow up to two apprentices in the deck division and two in the engine-room to be shipped on every vessel of over 500 tons. The total number of apprentices' posts authorised for the year 1938 was 50. No cases of infringement were recorded. No observations were made by either employers' or workers' organisations with regard to the practical application of the Convention or of the national legislation which implements it.

*China.* — The report states that no observations have been received from employers' or workers' organisations.

*Colombia.* — The report does not contain any fresh information on this point.

*Cuba.* — The report states that, from information received from the harbour masters it would appear that only one child was engaged for employment on a vessel during the period from 1 October 1937 to 30 September 1938 and that no offence had been noted during this period.

*Denmark.* — The report states that no observations have been received from the organisations of employers or workers concerned.

*Dominican Republic.* — The report does not refer to this point.

*Estonia.* — The report states that no infringements of the relevant legislation have been recorded during the period covered by the report, nor has the Government received any observations from employers' or workers' organisations with reference to the practical application of the national legislation which implements the Convention.

*Finland.* — The report states that there are no particular observations to be made with regard to the general application of the Convention. See also the introductory note.

*Great Britain.* — No reports of inspection or registration services are available, and no relevant statistics are compiled. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI. The report states that the Government is satisfied that the Convention is in effective operation. No observations have been received from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing it.

*Greece.* — The report states that the provisions of the Convention are strictly enforced and that no observations concerning the practical application of the Convention have been received from employers' or workers' organisations.

*Hungary.* — The report states that during the period 1 October 1937 to 30 September 1938 no minors under 18 years of age were employed on board Hungarian vessels, and consequently no breaches of the provisions in question were recorded.

*Ireland.* — The number of cases in which young persons are engaged on Saorstat ships is very small. No contraventions of the Act have been reported. No observations have been received from organisations of employers or workers.

*Latvia.* — The Ministry of Social and Public Affairs has not received any observations from the employers' or workers' organisations regarding the application of the provisions of the Convention.

*Luxemburg.* — See introductory note.

*Netherlands.* — The report states that no case of infringement of the prohibition to employ children has occurred on any trading or fishing vessel. The report adds that no observations from the organisations of employers or workers regarding the application of the Convention were brought to the notice of the Government.

*Norway.* — The report states that the Government has not received from the organisations of employers or workers any complaints or observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing it.

*Poland.* — The report states that a Navigation Inspector has been assigned to the Marine Office at Gdynia for the purpose of supervising the application of the maritime Conventions ratified by Poland.

*Rumania.* — The report states that the provisions of the Convention are strictly applied. Young persons under fourteen years of age are not engaged for work on board Rumanian vessels. No observations have been made by the employers' or workers' organisations concerned with regard to the application of the provisions of the Act of 9 April 1928.

*Sweden.* — The Government states that as a rule statistical information relating to the particulars requested under this heading does not exist. It is, however, possible to state as a general observation that the Conventions ratified by Sweden are satisfactorily applied. This observation is confirmed by the fact that, so far as the Government is aware, the occupational associations concerned have not submitted any complaints with regard to the application of the Conventions ratified by Sweden.

*Uruguay.* — See introductory note.

*Yugoslavia.* — The Government states in its report that, according to the information transmitted by the Minister of Transport concerning the application of the Conventions relating to employment at sea, the number of inspections during the period 1 October 1937-30 September 1938 was 54. The number of seamen employed was 6,146. The number of fines inflicted in virtue of the Decree of 29 March 1935 was 66, involving a total amount of 6,484 dinars.

## 8. Convention concerning unemployment indemnity in case of loss or foundering of the ship.

This Convention came into force on 16 March 1923. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:



COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	30.11.1933	31. 1.1939
Australia . . . . .	28. 6.1935	21.11.1938
Belgium . . . . .	2. 2.1925	21.10.1938
Bulgaria . . . . .	16. 3.1923	2.12.1938
Canada . . . . .	31. 3.1926	15.10.1938
Chile . . . . .	18.10.1935	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Denmark . . . . .	15. 2.1938	21.11.1938
Estonia . . . . .	3. 3.1923	11.10.1938
France . . . . .	21. 3.1929	12. 1.1939
Great Britain . . .	12. 3.1926	5.11.1938
Greece . . . . .	16.12.1925	21. 3.1939
Ireland . . . . .	5. 7.1930	7.11.1938
Italy . . . . .	8. 9.1924	
Latvia . . . . .	29. 8.1930	25. 1.1939
Luxemburg . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	20. 5.1937	26.11.1938
Netherlands . . . .	15.12.1937	1.10.1938
Norway . . . . .	21. 7.1936	22. 1.1939
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	10.11.1930	20. 2.1939
Spain . . . . .	20. 6.1924	
Sweden . . . . .	1. 1.1935	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . .	30. 9.1929	19.11.1938

The Government of the *Argentine Republic* stated in its Report for the year 1 October 1934-30 September 1935 that a Bill had been approved by the Senate on 16 August 1934, but had not been before the Chamber of Deputies. The Bill provides in particular for the amendment of § 1004 of the Commercial Code as follows: "In case of shipwreck, the articles of agreement are cancelled and the shipowner or person with whom the seaman has contracted for service on board the vessel must pay to each seaman employed on board an indemnity against unemployment resulting from loss of the vessel by shipwreck. This indemnity must be paid for the days during which the seaman remains in fact unemployed, taking into account the rate of wages fixed in the agreement, but the total indemnity payable to each member of the crew shall not exceed the amount of two months' wages. Seamen shall have the same remedies for recovering such indemnities

as they have for recovering arrears of wages earned during their service". In its report for this year the Government states that it has nothing to add to these observations.

In its report the Government of *Colombia* refers to previous reports in which it stated that the unemployment problem, and particularly unemployment due to shipwreck, may be said to be non-existent in Colombia; that there are, in fact, no maritime shipping undertakings properly speaking in Colombia; and that the foreign trade of that country is carried on by foreign flag vessels.

The report of the Government of *Italy* has not been received.

The Government of *Luxemburg* states that the Convention has no practical application in the Grand Duchy.

The Government of *Mexico* states in its report that Mexican legislation is not in exact conformity with the provisions of the Convention and that it will be necessary to bring the legislation into harmony with the latter, for which purpose amendment of the Labour Act of 18 August 1931 is contemplated; in any case, however, under § 133 of the Constitution the promulgation of the Convention by the President of the Republic has the effect of transforming it into a federal law.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its report for last year in which it stated that Congress still had under consideration the bills which had been submitted to it with a view to implementing this Convention by adding to the national legislation the provisions rendered necessary by ratification.

Chapter vi of Book iii of the Commercial Code and the Workers' Pensions Act of 16 August 1928 as supplemented by the Act 11 January 1934 contain various provisions relating to this Convention.

# I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced:*

#### *Argentine Republic.*

See introductory note.

#### *Australia.*

The Navigation (Maritime Conventions) Act, 1934 (L. S. 1934, Austral. 10).

#### *Belgium.*

Act of 5 June 1928 concerning seamen's articles of agreement (L. S. 1928, Bel. 5 A).

#### *Bulgaria.*

Act of 12 April 1925 respecting employment exchanges and unemployment insurance (L. S. 1925, Bulg. 2).

#### *Canada.*

Canada Shipping Act, 1934 (L. S. 1934, Can. 7).

#### *Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5405 of 8 February 1934 (L. S. 1934, Chile 1 A).

Commercial Code (§§ 823 and 933).

#### *Colombia.*

Maritime Trade Code, 1869.

See also introductory note.

#### *Cuba.*

Commercial Code of 1885 (§§ 586-651).

Legislative Decree No. 660 of 6 November 1934 (concerning, *inter alia*, unemployment indemnity to seamen in case of loss or foundering of the ship) (L. S. 1934, Cuba 12 B).

#### *Denmark.*

Seamen's Act of 1 May 1923 (L. S. 1923, Den. 2).  
Act No. 96 of 7 April 1936 (in force 1 October 1936) to supplement the Seamen's Act of 1 May 1923 (L. S. 1936, Den. 1).

Royal Decree of 15 February 1938 to put alien seamen on the same footing as Danish seamen in certain cases.

#### *Estonia.*

Seamen's Act of 22 March 1928 (L. S. 1928, Est. 1 B).

#### *France.*

Act of 13 December 1926 to issue a Seamen's Code (L. S. 1926, Fr. 13).

Act of 15 February 1929 providing for the payment of an unemployment indemnity to seamen in case of capture, wreck, or declaration of unseaworthiness of a vessel (L. S. 1929, Fr. 1).

#### *Great Britain.*

Merchant Shipping (International Labour Conventions) Act, 1925 (L. S. 1925, G. B. 5).

#### *Greece.*

Legislative Decree of 7 October 1925 relating to the ratification of the Convention.

Act No. 4004 of 1929 amending and confirming the above Legislative Decree.

Royal Decree of 24 July 1920 codifying the laws relating to the payment of wages of workers, employees and domestic servants.

#### *Ireland.*

Merchant Shipping (International Labour Conventions) Act, 1933 (L. S. 1933, Ire. 2).

#### *Latvia.*

Seamen's Order of 30 October 1928 (L. S. 1928, Lat. 4), as amended by the Acts of 27 June 1930 (L. S. 1930, Lat. 4) and 24 April 1933 (L. S. 1933, Lat. 2).

#### *Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

#### *Mexico.*

Political Constitution of the United States of Mexico of 1917 (§ 133).

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

Act of 10 September 1932 respecting public lines of Communication (L. S. 1932, Mex. 3).

Decree of 20 July 1937 promulgating the Convention in the Official Gazette (*Diario Oficial*), of 27 September 1937, Vol. CIV, No. 21.

See also introductory note.

#### *Netherlands.*

Act to issue new legislative provisions respecting agreements for masters and seamen, dated 14 June 1930 (in force 1 October 1937), and amending, *inter alia*, the Book II of the Commercial Code. (L. S. 1930, Neth. 1).

#### *Norway.*

Seamen's Act of 16 February 1923 (L. S. 1923, Nor. 1) as amended by Act of 7 June 1935 (L. S. 1935, Nor. 2).

Royal Decree of 11 December 1936 to place alien seamen on the same footing as Norwegian seamen in certain cases.

#### *Poland.*

Seamen's Code (German) of 2 June 1902 (International Labour Office, Studies and Reports, Series P, No. 1, p. 90).

Act of 17 March 1933 amending the Seamen's Code (which came into force on 1 June 1933) (L. S. 1933, Pol. 5).

#### *Rumania.*

Act of 24 April 1933 to impose a salvage tax on vessels wrecked in Rumanian waters and to grant an unemployment indemnity to seamen in case of the loss or foundering, breaking up or capture of the ship (§ 7) (L. S. 1933, Rum. 4).

Act of 17 May 1934 to consolidate the salvage taxes in seaports and Danubian seaports.

#### *Sweden.*

Seamen's Act of 15 June 1922 (L. S. 1922, Swe. 1), amended by the Act of 18 May 1934 (L. S. 1934, Swe. 1 A).

Royal Notification of 18 May 1934 to place alien seamen on the same footing as Swedish seamen in certain cases (L. S. 1934, Swe. 1 B).

*Uruguay.*

Chapter VI of the Commercial Code.

Act of 16 August 1928, concerning workers' pensions supplemented by the Act of 11 January 1934 (L. S. 1934, Ur. 1).

See also introductory note.

*Yugoslavia.*

Decree of 29 March 1935 to regulate conditions of work on board sea-going vessels in the Kingdom of Yugoslavia (L. S. 1935, Yug. 2).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "seamen" includes all persons employed on any vessel engaged in maritime navigation.

For the purpose of this Convention, the term "vessel" includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

*Denmark.* — Under § 4 of the Act of 1936, the term "seaman" is defined as "any person, other than the master, employed on board any vessel irrespective of whether or not he belongs to the crew proper, and of whether he has been engaged by the shipowner, the master or another person belonging to the vessel". (For masters see under ARTICLE 2). § 3 of the Act stipulates that its provisions do not apply to ships of war and vessels employed by the Government for the transport of troops.

*Estonia.* — The provisions concerning unemployment indemnity (shipwreck) do not apply to persons who are not engaged by the shipowner or the master (§ 71). Under § 42 of the Seamen's Act the Government may extend the benefit of the unemployment indemnity to foreign seamen on the basis of reciprocity.

*Netherlands.* — "Seamen" (*schepelingen*) as defined by § 396 taken jointly with § 406 of the amended Commercial Code are all persons who have entered into an agreement with the shipowner, and no person who has not entered into such an agreement can be employed on board as a seaman. Further, the term includes both officers and other members of the crew (§ 393) but not the master (§§ 450 and 390). The term "ship" is defined by § 309 as any vessel of whatever description and of whatever nature. With a view to the application of the unemployment (shipwreck) indemnity provisions (§ 450),

it is understood to cover seagoing ships only, i.e. ships used for maritime navigation (§ 310). As regards fishing vessels, vessels engaged in deep-sea fishing are covered with the qualification that the amount of indemnity is reduced (§ 452.o); on the other hand, crews on coastwise fishing vessels are excluded (§ 452). As regards publicly owned vessels as such, they are covered, being exempt from the provisions of the Amended Code only in respect of matters relating to registration (§ 319.b). In the case of the crews of such vessels, the general rules concerning contracts of employment do not apply to them unless the public authority concerned decides otherwise (§ 1637.z of the Civil Code as amended by the Act of 14 June 1930). Crews not engaged on articles of agreement are covered by the regulations for civil servants ("ambtenarenrecht"), in which case unemployment due to shipwreck does not arise.

*Norway.* — The Seamen's Act of 16 February 1923, as amended by the Act of 7 June 1935 employs the terms "seaman" and "vessel" without giving any special definition. In the case of 'seaman', however, it follows from §§ 70 and 71 that the unemployment indemnity (shipwreck) provisions apply to the master and members of the crew proper, and also to other persons, provided they are engaged by the shipowner or the master. They do not apply to persons not engaged by the shipowner or master.

*Sweden.* — The Seamen's Act of 15 June 1922 as amended by the Act of 18 May 1934 employ the terms "seaman" and "vessel" without giving any special definition. In the case of 'seaman', however, it follows from §§ 70 and 71 that the unemployment indemnity (shipwreck) provisions apply to the master and members of the crew proper, and also to other persons, provided they are engaged by the shipowner or the master. They do not apply to persons not engaged by the shipowner or master.

*Uruguay.* — See introductory note.

## ARTICLE 2.

In every case of loss or foundering of any vessel, the owner or person with whom the seaman has contracted for service on board the vessel shall pay to each seaman employed thereon an indemnity against unemployment resulting from such loss or foundering.

This indemnity shall be paid for the days during which the seaman remains in fact unemployed at the same rate as the wages payable under the contract, but the total indemnity payable under this Convention to any one seaman may be limited to two months' wages.

1. *Please indicate the manner in which the words "loss or foundering" are interpreted in your*

country for the purpose of this Article. Does it cover:

- (a) total loss,
- (b) damage so substantial that, although the ship is physically capable of being repaired, it would not, commercially speaking, be worth while repairing it, and
- (c) damage to a vessel, which can be and is subsequently repaired, but is so substantial that it frustrates the completion as a commercial venture of the particular voyage upon which the damage occurs?

2. Please indicate the manner in which the words "unemployment resulting from such loss or foundering" are interpreted in your country for the purpose of this Article, in the case of the loss or foundering of a vessel the crew of which would, had there been no loss or foundering, have had their contract of service terminated, owing to the completion of the voyage, within a period of less than two months from the loss or foundering which in fact resulted. In such a case is the indemnity for two months after the loss or foundering of the vessel due in full, irrespective of the time which has still to elapse between the date of the wreck and the date on which the contract would have terminated if the wreck had not taken place?

3. Please indicate the manner in which the term "wages" is interpreted in your country for the purpose of this Article, with particular reference to the possible inclusion of an allowance for food in addition to the money wage mentioned in the muster-roll.

4. Please state whether the indemnity payable under this Article has been limited to two months' wages.

*Denmark.* — § 1 of the Act of 1936 provides for the shipowner's obligation to pay an indemnity to Danish masters and seamen whose engagement is terminated in consequence of the loss or foundering of the vessel. The indemnity is payable in respect of each day on which the person concerned is in fact unemployed as a result of the loss or foundering, at the rate of the daily wages paid for the voyage, but is not in any case to exceed two months' wages. The report states that the term "wages" is deemed to refer only to the cash payment agreed upon and does not include compensation for food and lodging. If it is possible to procure an engagement for the person in question on board a vessel bound for Denmark or for a port from which he can conveniently be sent home, or, if he is in Denmark, on another vessel belonging to the same company in the same trade, the person entitled to the indemnity is bound to accept this engagement unless he is offered employment in a lower rating or at a lower rate of pay than before. In virtue of § 1 of the Royal Decree of 15 February 1938, the right to indemnity is extended to alien seamen who are nationals of States which have ratified the Convention. So long as a person is entitled to the indemnity, he has to comply with certain supervisory requirements (to be settled by Ministerial Order) for the purpose of establishing the fact of his unemployment. Rights to wages in virtue of §§ 6 and 41 of the Seamen's Act of 1923 are to lapse in respect of the period during which the unemployment indemnity is actually paid.

(Under these sections of the 1923 Act Danish seamen, including masters and other members of the crew, whose service is terminated abroad by the loss of the vessel are entitled to free passages home with maintenance, and with wages during the journey subject to maxima of three months for masters, two months for mates or engineers, and one month for other personnel. In the case of personnel other than the master, they may be required to accept equivalent employment on a vessel bound for Denmark in lieu of a free passage, and the claim to wages during the journey from the owner of the lost vessel does not arise during such employment). The report mentions that, on the analogy of the Seamen's Act, the words "loss or foundering" only cover the total loss of the vessel and damage so substantial that the vessel is declared incapable of being repaired. The report further states that the position of crews who, had there been no loss or foundering, would have had their contracts of service terminated owing to the completion of the voyage within less than two months from the loss or foundering is not defined by the legislation applying the Convention, and is a matter for judicial decision. The Government is not aware of any case having been brought before a court in this matter.

*Netherlands.* — § 450 of the amended Commercial Code provides that "if a vessel is lost by shipwreck, the shipowner shall be bound to pay the seaman compensation, equal to the portion of the wages fixed in money by the agreement, for so long as he is unemployed in consequence of such loss, but not for more than two months". If the whole amount or part of the wages is not fixed at a time rate, the sum due shall be equal to the wages customarily paid in respect of a voyage such as that on which the vessel was lost and disputes shall be settled by the competent cantonal judge. The same Section stipulates that the compensation thus provided for is to be reduced to the extent to which the seaman is entitled to wages under § 440. This Section provides: (a) that, if the employment is entered into by the voyage, and in consequence of any measure taken by the authorities or other circumstances of *force majeure* the voyage is . . . suspended after having been begun, the seaman is entitled to his money wages at a time rate until he can reach the Netherlands or until he has found employment whichever is the earlier; and (b) that, if the seaman has undertaken to serve exclusively on board a specified vessel and the said vessel is lost, the provisions under (a) are to apply even though the employment was not entered into by the voyage. With reference to the provisions of § 450, the report adds that the expression "loss or foundering" has been rendered in Dutch as "verlies door

shipbreuk", i.e., loss by shipwreck, and that no judicial interpretation of these words bearing on the points mentioned under 1 in the report form has been brought to the notice of the Government. Similarly, the Government has no knowledge of any decision of a Court of Law on the points referred to under 2 in the report form. For the points mentioned under 3 and 4 the report refers to the wording of § 450, para. 1 (quoted above).

*Uruguay.* — See introductory note.

### ARTICLE 3.

Seamen shall have the same remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

*In addition, please state what are the remedies available to seamen in your country for the purposes of Article 3.*

*Denmark.* — The report mentions § 2 of the Act of 1936, in virtue of which seamen have the same remedies for recovering unemployment indemnities as they have under § 267, para. 2, of the Shipping Act of 1892 for recovering arrears of wages, i.e. a lien on the vessel and cargo.

*Netherlands.* — § 450 of the amended Commercial Code provides that the claim to indemnity shall be a preferential claim on all the real and personal property of the shipowner, and that it shall rank in the same order as assigned to wages under § 1195 of the Civil Code. The report adds that the remedy available to seamen is the normal simplified procedure established for matters connected with contracts of employment under §§ 125.e *et seq* of the Civil Procedure Code.

*Uruguay.* — See introductory note.

### III.

*Article 4 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing:

(a) Except where owing to the local conditions its provisions are inapplicable; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Denmark.* — The report states that owing to local conditions in *Greenland* the ratification does not apply to this territory.

*France.* — A Decree of 30 August 1936 extended the application of the Maritime Labour Code to *Saint-Pierre and Miquelon*.

*Netherlands.* — In the *Netherlands Indies*, subject to certain restrictions connected with the special circumstances in which shipping is carried on, the Convention is given effect by § 452 g of the Commercial Code as formulated in the Order of 27 April 1934. This Article came into operation on 1 April 1938, in accordance with a Resolution of 6 January 1938. Supervision of the observance of its provisions is entrusted to the harbour masters. In *Curaçao*, a Service for Social Affairs was set up on 15 March 1938 and is re-examining the Convention.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Cuba.* — The application of Legislative Decree No. 60 is a matter for the magistrates, harbour masters or civil courts exercising summary jurisdiction, as the case may require. In view of the character of the Convention, it has not been considered necessary to organise a special permanent inspection service, the existing service being empowered to take action at the request of any persons concerned.

*Denmark.* — The Government states that the supervision of the application of the Convention is incumbent on the Ministry of Commerce, Industry and Navigation, but that no special regulations for supervision and no special inspection services have as yet been provided for.

*Netherlands.* — The report states that, as the legislative provisions relating to unemployment (shipwreck) indemnity come generally within the province of civil law, they can be enforced only by decisions of the Courts. At the same time, the report refers to § 450 of the amended Commercial Code, which provides that, if a shipowner considers a seaman to be seriously guilty in respect of the shipwreck, he may apply to the cantonal judge to suspend his liability as to payment of the indemnity, until the Shipping Council has given its award respecting the cause of the casualty; and in pursuance of that award, the cantonal judge may finally relieve him of his liability. (The Shipping Council is an official body vested with powers to deal with breaches of discipline and professional misconduct, and to investigate marine casualties).

*Rumania.* — For information regarding the organisation of the labour inspection service, see under *Convention No. 1 (Hours of work, industry)*, Point V.

*Uruguay.* — See introductory note.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Great Britain.* — The Government refers to a case (The "Terneuzen"), bearing on the application of the word "wreck" in the Act implementing the Convention, and consequently on the date from which unemployment indemnity becomes payable, which was decided in the Admiralty Division of the High Court in March 1938. The vessel was driven ashore and salvage efforts were made to get her off, but without success. Between 16 and 24 February most of the crew were paid off, but the plaintiff, who was first mate, and six others remained on board. The salvors discontinued their efforts on 24 April. On 5 May the owners abandoned the ship as a total loss, and the plaintiff and the remainder of the crew were paid off. The plaintiff, who had been unable to obtain other employment, claimed two months' wages under the relevant section of the Act. The defendants contended that the wreck occurred when the ship

stranded on 27 January, and that the plaintiff, who had been paid up to 5 May, was not entitled to anything further. The Judge held, following the definition of a wreck in the "Olympic" case (1913), that three circumstances were postulated: perils of the sea, a physical injury to the ship, and consequent frustration of the commercial venture; that the frustration of the venture was not to be determined *ex post facto* by the condition and position of the ship at the moment when the casualty occurred; that there was no wreck within the meaning of the Act until the ship was in fact abandoned on 5 May; and consequently that the plaintiff was entitled to the two months' wages claimed.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number of vessels wrecked or otherwise lost, the number of cases in which indemnities have been granted under Article 2 of the Convention, etc.*

*Please state whether you have received from the organisations of employers or workers any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — See introductory note.

*Australia.* — The Government states that no observations on the working of the legislation have been received from employers or employees.

*Belgium.* — During 1937 there were no cases for application of the provisions of the Convention. The Belgian fleet employed 16,068 officers and seamen. No suggestions were made by the organisations of employers or workers in regard to improving the application of the national legislation.

*Bulgaria.* — The report states that no observations have been received from the employers' and workers' organisations

regarding the practical application of the Convention or of the national legislation which implements it.

*Canada.* — The report states that the provisions of the Convention are observed by owners, masters and seamen of Canadian vessels engaged in maritime navigation, and no contraventions or difficulties, legal or otherwise, were reported during the period covered by the report. The report adds that no observations or representations have been received from organisations of employers or workers regarding the fulfilment of the conditions of the Convention or the application of the national law relating thereto.

*Chile.* — The report states that, according to the reports of the Maritime Labour Inspection Service, four cases of loss by shipwreck occurred during the period under review, concerning four ships totalling 3,909 tons gross, and that the 179 members of the crew of these vessels received the indemnities due to them. The number of persons protected by the legislation is 5,345. The report adds that no observations have been received from organisations of employers or workers concerned with regard to the practical application of the Convention or of the legislation implementing it.

*Colombia.* — See introductory note.

*Cuba.* — The Government states that the reports received from harbour masters show that no case of a claim for indemnity has arisen.

*Denmark.* — The Government states that it is not in possession of material which would enable it to supply general indications on this point, and adds that no observations on the application of the Convention have been received from shipowners' or seamen's organisations.

*Estonia.* — The report states that during the period from 20 August 1937 to 20 August 1938, 2 vessels aggregating 845 tons were lost or wrecked, thereby throwing 15 seamen out of employment and causing the death of 3 seamen. The shipowners and the members of the crew agreed on the indemnities to be paid, and no complaint has been made by the seamen concerned. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*France.* — The report states that the Mercantile Marine Department has received no observations from the employers' and workers' organisations concerned on the practical application of the Convention.

The Government has communicated to the Office, together with its report, statistical tables compiled on 1 July 1938 giving information concerning the number of workers covered by the Convention. For a summary of this information see below under *Convention No. 22 (Seamen's articles of agreement)*, Point VI.

*Great Britain.* — There is no inspection service and there are no statistics respecting the cases in which indemnities under Article 2 of the Convention have been granted. No observations have been received from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing it.

*Greece.* — The report states that the legislation is in full harmony with the Convention and that it is strictly applied.

*Ireland.* — The report states that statistics as to the number of seamen covered by the legislation are not available and that no cases coming within the scope of the Convention occurred during the period under review. No observations have been received from organisations of employers or workers regarding the working of the Convention.

*Latvia.* — The report states that no complaints regarding the practical application of the Convention have been recorded during the period under review.

*Luxemburg.* — See introductory note.

*Mexico.* — Although the Convention has already been published no cases for its direct application have arisen. The protection given to seamen is that outlined above; but they are also entitled to the protection laid down in the Convention as the latter has already been promulgated in the Official Gazette. There are no statistics or reports of inspection services which would enable the Government to give the number of workers covered by the legislation or the number of wrecks that have occurred. No observations have been made by organisations of employers or workers.

*Netherlands.* — The Government states that no figures or other information are available illustrating the working of the Convention it considers, moreover, that their value would in any case be very doubtful having regard to the very short time the Convention has been in force in the Netherlands. No observations have been received from organisations of shipowners or seamen as to the application of the provisions of the Convention.

*Norway.* — The Government states that no observations have been received

from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the National law which implements it.

*Poland.* — A special port of Navigation Inspector has been created at the port of Gdynia, the duties of which include supervision of the application of the Maritime Conventions ratified by Poland.

*Rumania.* — The report states that the Government is not aware of any proposals made by employers' and workers' organisations to amend the Act now in force.

*Sweden.* — The Government states that, it can be stated as a general observation that the Conventions ratified by Sweden are satisfactorily applied. This observation is confirmed by the fact that, so far as the Government is aware, the industrial organisations have not made any complaints with regard to the application of the Conventions.

*Uruguay.* — See introductory note.

*Yugoslavia.* — The Government states that the Ministry of Transport has nothing special to report regarding the practical application of the Convention.

#### 9. Convention for establishing facilities for finding employment for seamen.

This Convention came into force on 23 November 1921. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	30.11.1933	31. 1.1939
Australia . . . . .	3. 8.1925	21.11.1938
Belgium . . . . .	2. 2.1925	21.10.1938
Bulgaria . . . . .	16. 3.1923	2.12.1938
Chile . . . . .	18.10.1935	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Estonia . . . . .	3. 3.1923	11.10.1938
Finland . . . . .	7.10.1922	5.11.1938

COUNTRIES	Date of registration of ratification	Reports received
France . . . . .	25. 1.1928	12. 1.1939
Greece . . . . .	16.12.1925	21. 3.1939
Italy . . . . .	8. 9.1924	
Japan . . . . .	23.11.1922	
Latvia . . . . .	3. 6.1926	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
New Zealand . . . . .	29. 3.1938	9. 1.1939
Norway . . . . .	23.11.1921	22.11.1938
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	10.11.1930	20. 2.1939
Spain . . . . .	23. 2.1931	
Sweden . . . . .	27. 9.1921	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	30. 9.1929	19.11.1938

In its report for the year 1 October 1934-30 September 1935 the Government of the *Argentine Republic* stated that the provisions of Article 7 would be implemented by a Bill which had already been passed by the Senate and submitted for examination to the Chamber of Deputies. In its report for this year the Government states that it has nothing to add to this observation.

In its report for this year the Government of *Colombia* refers to its statement covering the year 1 October 1934-30 September 1935 in which it stated that in view of Colombia's traditions with regard to industry and in view of the economic structure of the country, there, was at present no unemployment problem, and there were therefore no agencies of any sort which engaged in the placing of seamen for pecuniary gain. In adhering to this Convention, the Government of Colombia intended solely to facilitate its adoption by other States Members of the International Labour Organisation, to give a genuine proof of its spirit of international solidarity as regards the solution of labour problems, and to have, when the moment should arise, a doctrinal basis on this particular question for incorporation into the statutory law of the country.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The *Norwegian* Government states in its report that a committee was appointed in 1935 by the Ministry of Commerce and Shipping for the purpose of inquiring into and reporting on the question of reorganis-



ing the machinery for the placing and registration of seamen. The Committee finished its work on 14 June 1938, and a copy of its report will be forwarded to the International Labour Office when printed.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its report for last year in which it stated that Congress still had under consideration the Bills which had been submitted to it with a view to implementing this Convention by adding to the national legislation the provisions rendered necessary by ratification.

The report of the *Yugoslav* Government for the period 1 October 1937 to 30 September 1938 states that regulations concerning the placing of seamen were made on 13 April 1938 and came into force on publication in the Official Gazette (*Službene Novine*) on 20 April 1938. These regulations do not repeal those previously in force which remain in operation provisionally until the new system of placing provided for by the new regulations is working and permanently in respect of ports where it is impracticable to set up the employment offices provided for by the new regulations. It follows that when the new regulations are in operation there will be two systems of placing working together in Yugoslavia.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### *Argentine Republic.*

Act No. 9,148 of 25 September 1913 concerning free employment exchanges as amended by Act No. 12,101 of 15 October 1934 (L. S. 1934, Arg. 2 A).

Act No. 9,661 of 25 August 1915 relating to fines for infringement of the Act concerning the work of women and young persons as amended by Act No. 12,102 of 15 October 1934 (L. S. 1934, Arg. 2 B).

See also introductory note.

### *Australia.*

Navigation Act, 1912-1935.

### *Belgium.*

Act of 5 June 1928 concerning seamen's articles of agreement (L. S. 1928, Bel. 5 A).

Act of 5 June 1928 revising the disciplinary and penal code for the merchant marine and sea fisheries (L. S. 1928, Bel. 5 B).

Royal Order of 20 January 1926 respecting the institution of a Joint Committee on the engagement of seamen (L. S. 1926, Bel. 11).

Royal Order of 10 September 1929 respecting maritime police (L. S. 1929, Bel. 6).

### *Bulgaria.*

Act of 12 April 1925 respecting employment exchanges and unemployment insurance (L. S. 1925, Bulg. 2).

### *Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5405 of 8 February 1934 (L. S. 1934, Chile 1 A).

Decree No. 399 of 5 May 1934 to consolidate the text of the Regulations concerning work in maritime undertakings and allied occupations in harbours.

Decree No. 481 of 4 April 1935 to amend §§ 3 and 6 of the preceding Decree.

Shipping Act of 24 June 1878.

### *Colombia.*

See introductory note.

### *Cuba.*

Legislative Decree No. 659 of 6 November 1934 (concerning seamen's articles of agreement) (L. S. 1934, Cuba 12 A).

Legislative Decree No. 660 of 6 November 1934 (concerning *inter alia* the placing of seamen) (L. S. 1934, Cuba 12 B).

### *Estonia.*

Seamen's Institute Act of 31 January 1928 (L. S. 1928, Est. 1 A).

Seamen's Act of 22 March 1928 (L. S. 1928, Est. 1 B).

### *Finland.*

Act of 23 July 1936 respecting the Finding of Employment (L. S. 1936, Fin. 2).

Order of 23 July 1936 concerning the application of the Act of the same date.

### *France.*

Act of 13 December 1926 to issue a Seamen's Code (L. S. 1926, Fr. 18).

Decree of 29 January 1928 for organising joint maritime employment offices.

Act of 28 December 1910 to codify the labour laws (Book I of the Code of Labour and Social Welfare), § 85 of which, concerning employment exchanges and departmental employment offices in particular, was amended by the Act of 2 February 1925 (L. S. 1925, Fr. 4).

### *Greece.*

Act No. 192 of 30 September 1936 concerning the placing of seamen (L. S. 1936, Gr. 1).

Royal Decree of 3 January 1937 concerning the composition of Managing Committees of Seamen's Employment Exchange and the working of these Exchanges. (Promulgated in the *Official Gazette*, No. 9 of 14 January 1937.)

*Latvia.*

Order of 15 January 1931 respecting seamen's employment exchanges (L. S. 1931, Lat. 1).  
Instruction of 10 September 1935 relating to the preceding Order.

*Luxemburg.*

Act of 2 May 1913 concerning the regulation of employment agencies.  
Decree of 21 August 1918 concerning the carrying out of the above Act (summary in B. B. Vol. IX, 1914, p. CIII).  
Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*New Zealand.*

Shipping and Seamen Act, 1908, and subsequent amendments.

*Norway.*

Act of 29 June 1888 respecting the registration and supervision of the engagement of seamen, with the supplementary Acts of 28 May 1892 and 16 June 1927.  
Seamen's Act of 16 February 1923 (L. S. 1923, Nor. 1).  
Act of 12 June 1896 respecting employment offices and exchanges.  
Act of 12 June 1906 relating to employment bureaux (B. B. Vol. I, 1906, p. 305).  
Act of 14 June 1929 to supplement the Act of 12 June 1896 respecting employment offices and exchanges (L. S. 1929, Nor. 3).

*Poland.*

Seamen's Code (German) of 2 June 1902 (International Labour Office, Studies and Reports, Series P, p. 90).  
See also *Convention No. 2 (Unemployment)*.

*Rumania.*

Employment Exchanges Act of 22 September 1921 (L. S. 1921, Rum. 2).  
Ministerial Decisions Nos. 79024/1931 and 244358/1933 setting up a special section for finding employment for seamen in the public employment exchanges at Constanza and Braila respectively.

*Sweden.*

Seamen's Act of 15 June 1922 (L. S. 1922, Swe. 1).  
Act of 15 June 1934 concerning the Public Employment Exchange Service (L. S. 1934, Swe. 3).  
Royal Decree of 23 November 1934 concerning the co-ordination of public employment exchanges.  
Royal Decree of 23 November 1934 concerning methods of procedure with regard to state subsidies for the Public Employment Exchange Service.

*Uruguay.*

See introductory note.

*Yugoslavia.*

Act of 28 February 1922 respecting the protection of workers (L. S. 1922, S. C. S. 1).  
Regulations of 26 November 1927 respecting the organisation of the employment exchange system (L. S. 1927, S. C. S. 2).  
Order of 29 March 1935, regulating working conditions on board ships engaged in maritime navigation (L. S. 1935, Yug. 2).

Regulations of 13 April 1938 (in force 20 April 1938) on the placing of seamen (*Službene Novine*, No. 89-XXX, 20 April 1938).

See also, under *Convention No. 2 (Unemployment)*.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "seamen" includes all persons, except officers, employed as members of the crew on vessels engaged in maritime navigation.

*New Zealand.* — The term "seaman" is defined by the Act of 1908 (§ 4), as meaning any person employed or engaged in any capacity on board ship, i.e. every description of vessel used in navigation not propelled by oars (except masters, pilots and duly indentured apprentices). The report adds that, though the definition includes officers and the facilities for finding employment are extended to those requiring them, practically all officers are engaged directly by the shipowner.

*Yugoslavia.* — § 2 (2) of the Order of 29 March 1935 defines "seaman" as any person employed on board ship. § 9 (1) of that Order and § 2 (1) of the Regulations of 13 April 1938 provide that the measures for the placing of seamen apply, as a general rule, to seamen excluding deck, engineer and catering staff officers.

## ARTICLE 2.

The business of finding employment for seamen shall not be carried on by any person, company, or other agency, as a commercial enterprise for pecuniary gain; nor shall any fees be charged directly or indirectly by any person, company or other agency, for finding employment for seamen on any ship.

The law of each country shall provide punishment for any violation of the provisions of this Article.

*New Zealand.* — § 40 of the Act of 1908 makes it an offence punishable with a fine for any person to demand or receive, directly or indirectly, from a seaman or apprentice, or from a person seeking employment as a seaman or apprentice, or from a person on his behalf, any remuneration for providing him with employment. The report adds that as a result of this section no person, company or agency is engaged in New Zealand in finding employment for seamen as a commercial enterprise. Subject to § 40, it is

lawful for a Superintendent of Mercantile Marine (in charge of Government shipping offices) or for the owner, master, mate, engineer or chief steward of a ship to engage or supply or to be employed for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship in New Zealand. Other persons acting or being employed for these purposes, or receiving or accepting any seaman or apprentice to be entered on board ship knowing him to have been engaged or supplied by any other person, are guilty of an offence punishable with a fine (§ 41 of the Act of February 1908 as amended 1913, and Act of 1909, § 7).

*Yugoslavia.* — Under the provisions of § 9 (1) of the Order of 29 March 1935 and § 2 (1) of the Regulations of 13 April 1938 the placing of seamen must be effected free of charge. Any person effecting a placing operation in contravention of these provisions is liable to a fine of not less than 100 dinars nor more than 10,000 dinars (§§ 9 (2) and 83 (1) of the Order of 29 March 1935 and § 24 (1) of the Regulations of 13 April 1938).

### ARTICLE 3.

Notwithstanding the provisions of Article 2, any person, company or agency, which has been carrying on the work of finding employment for seamen as a commercial enterprise for pecuniary gain, may be permitted to continue temporarily under Government licence, provided that such work is carried on under Government inspection and supervision, so as to safeguard the rights of all concerned.

Each Member which ratifies this Convention agrees to take all practicable measures to abolish the practice of finding employment for seamen as a commercial enterprise for pecuniary gain as soon as possible.

*In addition, where persons, companies, or agencies have been authorised to continue temporarily the work of finding employment for seamen as a commercial enterprise for pecuniary gain, please state, if such statistics are available, the number of licences issued, and give as full information as possible regarding the operation of such agencies, and regarding the extent and methods of Government inspection and supervision.*

*Please also state what steps, if any, have been taken by the Government to abolish the practice of finding employment for seamen as a commercial enterprise for pecuniary gain.*

*New Zealand.* — See under ARTICLE 2.

*Yugoslavia.* — § 2 (1) of the Regulations of 13 April 1938 confers an exclusive right to effect placing operations on the Maritime Employment Exchange set up in the Central Directorate of Employment Exchanges at Belgrade, acting through its local branches called Seamen's Employment Offices. Any authorisations to carry on placing operations that may have been given previously are revoked, with effect from 20 April, by § 25 (2) of the Regulations of 13 April 1938.

### ARTICLE 4.

Each Member which ratifies this Convention agrees that there shall be organised and maintained an efficient and adequate system of public employment offices for finding employment for seamen without charge. Such system may be organised and maintained, either :

(1) by representative associations of ship-owners and seamen jointly under the control of a central authority, or,

(2) in the absence of such joint action, by the State itself.

The work of all such employment offices shall be administered by persons having practical maritime experience.

Where such employment offices of different types exist, steps shall be taken to co-ordinate them on a national basis.

*In addition, please describe the system of free employment offices and state what measures have been taken, if this question arises, to secure the co-ordination of the work of the various employment offices on a national basis, contemplated by the last paragraph of Article 4.*

*In particular, please state the number of public employment offices established and the places at which they have been set up, the number of vacancies notified, and the number of persons placed in employment, by such offices.*

*Australia.* — A statement appended to the report shows that 11,050 seamen, including officers, were employed in the Australian shipping industry during the twelve months ending 30 June 1938. This number included: certificated officers, 2,089; deck hands, 2,884; stokehold and engineroom ratings, 2,333; catering staff, 2,938, miscellaneous 806. The number of engagements and re-engagements (including officers) at the principal Australian ports during the same period amounted to 34,928, the figures for the different ports being as follows: Sydney, 20,468; Newcastle, 4,694; Melbourne, 3,832; Brisbane, 1,258; Port Adelaide, 2,106; Fremantle, 1,018; Hobart, 356; other ports, 1,196. The estimated daily average numbers of unemployed seamen (excluding officers) during the period referred to were: Sydney, 306; Melbourne, 200; Newcastle, 47; Brisbane, 36; Port Adelaide, 22; Fremantle, 12; Hobart, 6; Total 629.

*Belgium.* — The report states that during the year 1937 the Employment Office of the Union of Belgian Shipowners, under the permanent supervision of the Maritime Recruitment Committee, which centralises the placing of seamen for service on board Belgian vessels, placed 16,068 seamen, of whom 15,366 were Belgians and 702 foreigners.

*Cuba.* — Employment offices organised by the State and working under the Office of the Secretary of Labour, which arrange for the placing of all classes of workers including seamen, are at present in operation in 15 ports of the Republic. In addition, the Office of the Secretary of Labour has under consideration the setting up of committees of shipowners to co-operate with the Maritime Affairs Section of the Office, which already deals with all matters

affecting the improvement of the conditions of maritime labour and labour in the ports.

*Estonia.* — The report gives the following figures with regard to the operations of the employment office of the Seamen's Institute at Tallinn for the period 1 July 1937 to 30 June 1938: deck officers: 134 applications, 18 vacancies filled; engineer officers: 177 applications, 79 vacancies filled; wireless officers: 15 applications, 1 vacancy filled; subordinate deck personnel: 351 applications, 40 vacancies filled; subordinate engine-room personnel: 373 applications, 46 vacancies filled; catering staff: 225 applications, 50 vacancies filled. Total number of applications, 1275; total number of vacancies filled, 234.

*France.* — The activities of the Joint Maritime Employment Officers, of which there were seven, during the period 1 October 1937 to 30 September 1938 may be summarised as follows: Dunkirk 1,376 applications, 545 vacancies notified, 544 vacancies filled; Le Havre 2,968 applications, 888 vacancies notified, 888 vacancies filled; Rouen 3,879 applications, 2,267 vacancies notified, 2,267 vacancies filled; Brest 416 applications, 303 vacancies notified, 288 vacancies filled; Nantes 1,611 applications, 1,192 vacancies notified, 1,192 vacancies filled; Bordeaux 1,517 applications 788 vacancies notified 788 vacancies filled; Marseilles 3,967 applications, 3,097 vacancies notified 3,089 vacancies filled. Total number of applications, 15,734; vacancies notified, 9,080, and vacancies filled, 9,056.

*Greece.* — The report gives the following figures concerning the operation of the Employment Exchange of Piraeus: *No. of seamen registered*: deck officers, 1,129; engineer officers, 1,794; wireless officers, 515; pursers, 129; deck and engineer officer cadets, 873; other deck staff, 8,368; other engine-room staff, 7,950; catering staff, 3,806; apprentices, 2,554; total (less 5,757 persons whose names have been removed from the register) 21,361. *No. of vacancies filled*: deck officers, 1,103; engineer officers, 1,734; wireless officers, 395; pursers, 120; deck and engineer officer cadets, 454; other deck staff, 4,819; other engine-room staff, 5,182; catering staff, 2,481; apprentices, 595; total: 16,883. In addition, 207 persons were provided with transport to foreign ports to be engaged in Greek vessels.

*Latvia.* — The report states that between 1 January and 1 November 1938 the Latvian Seamen's Organisation placed in employment 224 seamen, of whom 51 were certificated officers, 53 deck hands, 48 firemen, 21 trimmers, 29 cooks and 22 other catering personnel.

*New Zealand.* — The report states that the work of finding employment for seamen is vested in the shipping offices of the Government Marine Department at the various ports in New Zealand, and that the State Placement Service established by the Government has rendered valuable assistance in co-operation with the shipping offices at the ports. In order to facilitate the manning of ships at out-ports where seamen are usually in short supply, the Government Superintendents of Mercantile Marine at the four principal ports (Auckland, Wellington, Lyttleton, Dunedin) are empowered by § 4 of the Act of 1913 to engage seamen for ships lying at out-ports on the request of the master or agent of the ship. Further, the Minister is empowered by § 7 of the 1913 Act to appoint Seamen's Inspectors at the various ports for keeping a register of persons desiring to be employed as seamen or apprentices, and for supplying seamen and apprentices. In pursuance of this section, inspectors have been appointed for the two larger ports, Auckland and Wellington. The report states that no special records are kept of the numbers of men dealt with under this organisation.

*Sweden.* — All the employment offices which possess a maritime placing service of any importance — there are 15 such offices — have appointed, from lists of candidates submitted by the competent organisations, a certain number of delegates representing the shipowners and the seamen, whose duty it is to help in studying important questions with regard to the working of the offices. For the period 1 October 1937 to 30 September 1938 there were 58,939 applications, 26,558 vacancies, and 25,246 vacancies filled.

*Yugoslavia.* — In pursuance of the Regulations of 26 November 1927, public employment offices with a staff of persons with experience of maritime affairs were set up in the five ports of Souchak, Split, Chibenik, Dubrovnik and Kotor. These offices are under Government supervision and are organised on a joint basis, and are still in operation for the placing of seamen. During the period from 1 October 1937 to 30 September 1938, the number of seamen registered as unemployed by these offices was as follows:

Classification (Total for 12 months and monthly average)	Officers		Seamen	
	Total	Monthly Average	Total	Monthly Average
Unemployed registered at the end of each month . . . . .	83	7	5,133	427.7
Unemployed registered during each month . . . . .	153	12.7	4,883	407

During the same period, 145 vacancies were notified of which 1 was for an officer; 123 placings were effected, 1 of an officer and 122 of seamen.

In pursuance of § 9 of the Order of 29 March 1935, § 2 of the Regulations of 13 April 1938 provides that the placing of seamen shall be effected free of charge by the Maritime Employment Office of the Central Directorate of Employment Exchanges, through local branches of the Office which are to be set up by the Minister of Social Affairs and Public Health. The Office will have local branches on employment offices in Souchak, Split and Dubrovnik. Branches of the Office may be set up in other ports by the Minister on the recommendation of the Central Committee on Employment-Finding (§ 3 (1) and (4) of the Regulations of 13 April 1938). In ports where there are no local branches of the Office, placing will be effected exclusively, and free of charge, by the public employment exchanges (§ 2 (2) of the aforesaid Regulations).

The Maritime Employment Office is an official organisation, working as a department of the Central Directorate of Employment Exchanges (*id.* § 6 (1)), which is administered by the Central Committee on Employment-Finding constituted on a joint employer-worker basis. As soon as the Maritime Employment Office is set up a representative of shipowners and a representative of seamen will be added to the Central Committee (*id.* §§ 6 and 7). The local branches or employment-offices of the Office will each be administered by a joint "Committee on Maritime and Port Employment", composed of the harbour master, or his deputy, as chairman, and one representative each of the undertakings engaged in loading and unloading cargo, the shipowners of the port or their deputies, the dockers and the seamen of the port, or their deputies (*id.* § 9). These representatives are appointed by the Governor of the Banat from lists submitted by the employers' and workers' organisations concerned and comprising three names for each seat to be filled (*id.* § 10).

The officials in charge of the Office and of its local employment offices are required to possess the qualities of character and experience necessary to enable them to discharge properly and impartially the duties assigned to them. The head of the Office must hold a foreign-going master's certificate and have had five years' service as such on a merchant vessel; the heads of the local employment offices must hold the same certificate but are required to have had only two years' service. The Regulations permit, however, the appointment to these posts of retired naval officers (with the assent of the Minister of Social Affairs and Public Health) and, to the post of head of the Office, of engineer officers having had five years' service in the Marine Inspection Department (*id.* § 13 (3) to (5)). The report adds that on 30 September 1938 the employment offices provided for by

the Regulations of 13 April 1938 had not yet begun operations, the necessary preparatory work for setting them up not having then been completed.

#### ARTICLE 5.

Committees consisting of an equal number of representatives of shipowners and seamen shall be constituted to advise on matters concerning the carrying on of these offices; the Government in each country may make provision for further defining the powers of these committees, particularly with reference to the committees' selection of their chairmen from outside their own membership, to the degree of State supervision, and to the assistance which such committees shall have from persons interested in the welfare of seamen.

*In addition, please indicate the measures taken regarding the methods of consulting the Committees, and state whether provision has been made for further defining the powers of such Committees particularly with reference to:*

- (i) *the selection of their chairmen from outside their own membership;*
- (ii) *the degree of State supervision;*
- (iii) *assistance from persons interested in the welfare of seamen.*

*Please state the number of Committees that have been constituted and the places at which they have been set up, with particulars as to their membership*

*New Zealand.* — The report states that no committees as contemplated by this Article have been set up, nor have any representations been received by the Government from shipowners or seamen with a view to setting up such committees.

*Yugoslavia.* — The public employment offices for seamen set up under the Regulations of 26 November 1927 and still in operation are subject to Government control. Moreover, the Maritime Consultative Committee, established on 22 February 1938 in connection with the Directorate of Maritime Communications at Split, must be consulted on all economic and social questions of maritime interest and, consequently, on the problems involved in the placing of seamen. The membership of this Committee includes a representative of the Federation of Yugoslav Shipowners and of the Yugoslav Seamen's Federation. In addition, the Regulations of 13 April 1938, under which the Maritime Employment Office is established, also provide for the setting up of a joint consultative committee the functions of which extend to the placing of seamen. § 7 (1) of the Regulations stipulates that as soon as the Employment Office begins operations a representative of shipowners and a representative of seamen shall be added to the membership of the Central Committee on Employment-Finding, which administers the Central Directorate of Employment Exchanges at Belgrade, and that they may, by decision of the Central Committee, constitute a Seamen's Committee which will act under the chairmanship of a representative of the Ministry of Commu-

nications. The representatives of shipowners and seamen, and their deputies, are appointed by the Minister of Social Affairs and Public Health, after consultation with the chairman of the Central Committee on Employment-Finding, from lists containing three names for each seat to be filled submitted by the Federation of Yugoslav Shipowners, for the employers, and by the Belgrade Chamber of Labour, for the seamen. The Seamen's Committee is to hold not more than six meetings a year (§ 11 (1) of the Regulations of 13 April 1938). Its functions are: (a) to take any necessary decisions on matters affecting the administration of the Maritime Employment Office and its local branches (seamen's employment offices) and the health and social protection of seamen and dockers, and to undertake any other duties that may be assigned to it by the Central Committee on Employment-Finding or its chairman; (b) to study the social and economic conditions prevailing on Yugoslav merchant vessels and in Yugoslav ports and to submit to the chairman of the Central Committee proposals for the improvement of the social protection enjoyed by seamen (*id.* § 12).

#### ARTICLE 6.

In connection with the employment of seamen freedom of choice of ship shall be assured to seamen and freedom of choice of crew shall be assured to shipowners.

*New Zealand.* — The report states that this Article is carried into effect without the necessity for legislative provisions.

*Yugoslavia.* — By § 14 of the Regulations of 13 April 1938 unemployed seamen seeking an engagement are required to register at the seamen's employment office for the district, and shipowners or their representatives or masters of ships are required to notify the office of any vacancy. Save in cases of urgency or necessity, engagement may be effected only through the employment office (*id.* § 20). The police authorities give their departure visa only to seamen holding an embarkation order issued by the employment office. These provisions guarantee the application of the requirements of § 9 of the Order of 29 March 1935 and § 2 (2) of the Regulations of 13 April 1938 that the seamen shall have free choice of ship and the shipowner or master free choice of seamen.

#### ARTICLE 7.

The necessary guarantees for protecting all parties concerned shall be included in the contract of engagement or articles of agreement, and proper facilities shall be assured to seamen for examining such contract or articles before and after signing.

*In addition please describe the facilities assured for examining such contract or article before and after signing.*

*New Zealand.* — Under §§ 42 and 43 of the Act of February 1908 the engagement of seamen (except in the case of vessels of under 25 tons exclusively employed in trading between different ports on the coasts of New Zealand) has to be made before a Superintendent of Mercantile Marine, or where, in the case of home trade ships, the master engages single seamen during the currency of the agreement for the crew as a whole, the engagement must be reported to and ratified by the Superintendent at the first port of arrival. The Superintendent must cause the agreement to be read over and explained to each seaman or otherwise ascertain that each seaman understands it before he signs, this requirement also applying—if the Superintendent considers it necessary to do so—in the case of single seamen engaged by the master of a home trade ship during the currency of the agreement with the crew as a whole. Further, § 46 of the same Act requires the master at the commencement of every engagement to have a legible copy of the agreement with the crew posted up in some part of the ship accessible to the crew, for the information of all the seamen engaged.

*Yugoslavia.* — §§ 14 and 20 of the Regulations of 13 April 1938 ensure that no seamen can be embarked except through the seamen's employment office (see ARTICLE 6). Further, § 25 of the Order of 29 March 1935 prescribes the matters which must be mentioned in the articles of agreement and § 26 (2) makes it compulsory for the articles to be signed before the port or consular authority. These authorities may not permit seamen to sign articles until they have satisfied themselves that the seamen are acquainted with the general conditions for embarkation (conditions of living and work on board). If an engagement cannot be effected in accordance with these conditions, the captain is required to read and explain the clauses of the articles in the presence of two witnesses and the articles must be submitted for approval by the competent authority at the next port at which the ship calls for more than 48 hours.

#### ARTICLE 8.

Each Member which ratifies this Convention will take steps to see that the facilities for employment of seamen provided for in this Convention shall, if necessary by means of public offices, be available for the seamen of all countries which ratify this Convention and where the industrial conditions are generally the same.

*If statistics are available, please state the number and nationality of foreign seamen who have taken advantage of the facilities provided for finding employment for seamen.*

*Greece.* — The report states that the placing of foreign seamen is operated in conformity with the Convention, subject to the following conditions: The employment of foreign seamen in Greek vessels is prohibited by law as long as unemployed Greek seamen are available. The report mentions that the same rule is operated in foreign ports with regard to Greek seamen, who are not allowed to find employment in foreign ports by means of the employment exchanges of these ports. Greek seamen engaged through a Greek employment exchange for service in a Greek vessel lying in a foreign port are sent to the port in question by the employment exchange. The placing of such seamen is effected by the consular authorities. With regard to foreign seamen seeking employment in foreign vessels in a Greek port, the report states that there is nothing in the law to prohibit their being placed by means of the Greek employment exchanges. No foreign seaman, however, has applied to any employment exchange for the purpose of finding employment.

*New Zealand.* — The report states that the facilities provided are made available to any foreign seamen seeking employment or to a master of any foreign ship requiring a crew; but engagements or discharges of foreign seamen on their national ships are usually executed before their consuls. No statistics are available showing the numbers and nationalities of foreign seamen who have taken advantage of the facilities.

*Sweden.* — The report states that 543 foreign seamen applied to the Employment Exchange Service and 314 of them were placed in employment during the period covered by the report.

*Yugoslavia.* — In accordance with § 17 of the Regulations of 26 November 1927, the public employment exchanges are available to both foreign and national workers. Further, the Regulations of 13 April 1938 do not debar foreign seamen from the benefits of the placing system of the Maritime Employment Office.

#### ARTICLE 9.

Each country shall decide for itself whether provisions similar to those in this Convention shall be put in force for deck-officers and engineer-officers.

*Please state whether provisions similar to those in the present Convention have been put into force for deck-officers and engineer-officers.*

*New Zealand.* — As stated under Article 1, the facilities provided are available to deck officers and engineer

officers desiring to avail themselves of them.

*Yugoslavia.* — § 9 of the Order of 29 March 1935 stipulates that except in the case of captains and deck, engine room and catering staff officers the placing of seamen shall be effected free of charge and exclusively by the public seamen's employment offices. §§ 2 (3) and 3 (3) of the Regulations of 13 April 1938 provide (a) that the Maritime Employment Office and its branches may, at the request of the employers and workers concerned, also effect the placing of captains, deck officers, engineer officers and corresponding grades of the catering staff, and (b) that these grades may set up their own placing organisations.

#### ARTICLE 10.

Each Member which ratifies this Convention shall communicate to the International Labour Office all available information, statistical or otherwise, concerning unemployment among seamen and concerning the work of its seamen's employment agencies.

The International Labour Office shall take steps to secure the co-ordination of the various national agencies for finding employment for seamen, in agreement with the Government or organisations concerned in each country.

*Please state the action taken to give effect to this Article, and give the views of your Government on the means of securing the co-ordination by the International Labour Office of the various national agencies for finding employment for seamen, in agreement with the Governments or organisations concerned in each country, in application of the second paragraph.*

*Australia.* — For the latest statistics, see under ARTICLE 4.

*Belgium.* — For the latest statistics, see under ARTICLE 4.

*Estonia.* — For the latest statistics, see under ARTICLE 4.

*France.* — The report supplies statistical details of the activities of the joint employment exchanges for seamen during the period 1 October 1937-30 September 1938 and also information concerning the measures taken for assisting unemployed seamen. For a summary of these statistics see under ARTICLE 4.

*Greece.* — For statistics of seamen seeking employment and vacancies filled, see under ARTICLE 4. For the position of Greek seamen seeking employment abroad, see under ARTICLE 8.

*Latvia.* — For the latest statistics, see under ARTICLE 4.

*New Zealand.* — As the ratification of this Convention was only given effect to very recently, the Government has had no opportunity of studying its results or preparing any statistics. This will be dealt with in the next report.

*Yugoslavia.* — § 9 (3) of the Order of 29 March 1935 stipulates that statistical and other information about unemployment among seamen and the operations of the public seamen's employment offices shall be communicated to the International Labour Office through the Ministry of Social Affairs and Public Health. § 4 (f) of the Regulations of 13 April 1938 requires the Maritime Employment Office to compile and communicate to the International Labour Office statistical and other information on its operations and those of its local branches and on unemployment among seamen. (See under ARTICLE 4.)

### III.

*Article 11 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing :

(a) Except where owing to the local conditions its provisions are inapplicable ; or

(b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — By Decree of 30 August 1936 the provisions of the Maritime Labour Code were extended to the colony of *Saint-Pierre and Miquelon*.

*New Zealand.* — The report states that this point has no application.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*New Zealand.* — The application of the Convention and the administration of the legislation is vested in the Marine Department under the direction of the Minister of Marine, and, as stated above under ARTICLE 4, the State Placement Service acts in co-operation.

*Rumania.* — The report states that the application of the existing legislative provisions is entrusted to the labour inspectors and to the public employment exchanges. For information regarding the organisation of the labour inspection service, see under *Convention No. 1 (Hours of work, industry)*, Point V.

*Yugoslavia.* — The application of the Act of 28 February 1922 and the Regulations of 26 November 1927 is supervised by the Ministry of Social Affairs and Public Health, which, jointly with the Ministry of Communications and the Governors of the Banats, is also responsible for the application of the Ordinances of 19 October 1863 and 25 September 1867. The application of the provisions of Chapter III of the Order of 29 March 1935 and of the Regulations of 13 April 1938 is, under §§ 86 and 87 of the Order, ensured by the Ministry of Communications, acting through the Directorate of Maritime Communications. In particular, the Directorate of Maritime Communications is required, by § 87, to publish an annual report giving statistical tables and all necessary information concerning the organisation and activities of the port authorities in regard to the social protection and the safeguarding of the lives of seamen on merchant ships. Finally, §§ 4 and 5 of the Regulations of 13 April 1938 require the Maritime Employment Office and its local branches (employment offices) to compile and supply to the Directorate of Maritime Communications full information concerning offences discovered and to propose measures to prevent offences, and to collaborate with the appropriate services of the Directorate in the supervision of working conditions in the ports and on board merchant ships.



## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the texts of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, with special reference to the working, the management and the results of the employment offices as regards seamen. Where possible, please supply information derived from the reports of the inspection services.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not contain any fresh information on this point. See also introductory note.

*Australia.* — The report states that no observations on the Convention have been received from employers or employees.

*Belgium.* — Neither the employers' nor the workers' organisations have made any observations with regard to the practical application of the Convention.

*Bulgaria.* — The placing of seamen, is carried out, as for all other workers, by employment offices attached to each labour inspectorate. However, practically no cases have arisen of seamen applying to employment offices in search of work, because in Bulgaria unemployment among seamen does not exist. The report adds that no observations have been received from the employers' and workers' organisations with regard to the practical application of the provisions of the Convention or of the national legislation which implements it.

*Chile.* — The report states that as compared with last year the number of partially unemployed seamen, has decreased from 730 to 650. These seamen

work under practically normal conditions, as they are engaged to replace seamen who are ill, undergoing punishment, injured, or on regular annual leave, etc. The total number of registered seamen is 3,618 while the total number of persons employed on board is 2,968. Neither the employers' nor the workers' organisations concerned have made any observations with regard to the practical application of the provisions of the Convention or of the national legislation which implements it.

*Colombia.* — See introductory note.

*Cuba.* — It appears from statistics furnished with the report that no placing of seamen were effected during the period 1 October 1937 to 30 September 1938 by the employment offices in the 12 districts to which the statistics relate.

*Estonia.* — See under ARTICLE 4. The report states that no observations have been received from employers' or workers' organisations with regard to the practical application of the national legislation which implements the provisions of the Convention.

*Finland.* — The report states that no observations respecting the application of the Convention have been received from the shipowners' and seamen's organisations.

*France.* — The Ministry of Mercantile Marine has not received any observations from the organisations of employers or workers concerned with regard to the practical fulfilment of the conditions prescribed by the Convention or the application of the provisions of the Seamen's Code relating to the placing of seamen. See also under ARTICLE 4.

*Greece.* — The report does not refer to this point.

*Latvia.* — See under ARTICLE 4. The report states that no complaint has arisen concerning the practical application of the Convention.

*Luxemburg.* — The report states that the question of employment-finding facilities for seamen has no practical application in the Grand Duchy, and that no cases of infringement have been reported. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*New Zealand.* — The organisation for registration and employment of seamen has operated well and has rendered great assistance in meeting requirements of both the shipowner and the worker. No

observations have been received from the employers or workers concerned regarding the subject matters of the Convention, and both organisations work in co-operation and consultation with the State officers.

*Norway.* — The report states that the Convention is strictly applied. The Government has not received from the organisations of employers or workers any observations or complaints regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing it.

*Poland.* — A Navigation Inspector has been appointed in the Maritime Office at

Gdynia for the purpose of supervising the application of the maritime Conventions ratified by Poland.

*Rumania.* — The report states that the provisions of the Convention are applied. During the year 1937, 25 unemployed seamen were registered by the unemployment committees and were given the necessary help until they were placed by the employment exchanges. No observations have been received from the organisations of employers or workers concerned.

*Uruguay.* — See introductory note.

*Yugoslavia.* — See under ARTICLE 4.

## THIRD SESSION (GENEVA, 1921).

**10. Convention concerning the age for admission of children to employment in agriculture.**

This Convention came into force on 31 August 1923. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5.1936	31. 1.1939
Belgium . . . . .	13. 6.1928	21.10.1938
Bulgaria . . . . .	6. 3.1925	2.12.1938
Chile . . . . .	18.10.1935	2. 2.1939
Cuba . . . . .	22. 8.1935	17.11.1938
Czecho-Slovakia . .	31. 8.1923	16. 2.1939
Dominican Republic	4. 2.1933	
Estonia . . . . .	8. 9.1922	11.10.1938
Hungary . . . . .	2. 2.1927	1.11.1938
Ireland . . . . .	26. 5.1925	20.10.1938
Italy . . . . .	8. 9.1924	
Japan . . . . .	19.12.1923	
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	10.11.1930	20. 2.1939
Spain . . . . .	29. 8.1932	
Sweden . . . . .	27.11.1923	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939

The Government of the *Argentine Republic* states in its report that it is at present studying a Bill prepared by the National Department of Labour with a view to bringing the provisions of Act No. 11,317 into harmony with the Convention. This Bill lays down, in particular, that children who have reached the age of twelve years may be employed on agricultural work. At the same time, children who have not

completed their fourteenth year of age may only be employed on agricultural work outside the hours of attendance in the local elementary schools, except during the school holidays which do not exceed four months a year.

The Government of *Cuba* states, as in previous reports, that no special legislation has yet been passed to implement the Convention. At the same time the Government points out that the Regulations concerning the employment of young persons, which are awaiting signature by the President of the Republic, are intended to bring the national legislation into harmony with the provisions of the Convention.

The report of the Government of the *Dominican Republic* has not yet been received.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its report for last year in which it stated that the National Labour Institute would shortly submit to the Ministry of Industry and Labour a Bill for the purpose of bringing the provisions of the Children's Code into complete harmony with those of the Convention.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Argentine Republic.*

Act No. 11,317, of 30 September 1924 concerning the employment of women and young persons (L. S. 1924, Arg. 1).

See also introductory note.

*Belgium.*

Basic Act concerning primary education consolidated by Royal Order of 25 October 1921.

Act of 28 February 1919 relating to the employment of women and children (L. S. 1919, Bel. 2) as amended by the Eight-Hour Day Act of 14 June 1921 (L. S. 1921, Bel. 1).

Royal Order of 15 May 1928 to issue Regulations for the inspection of primary education.

*Bulgaria.*

Act of 1924 respecting public education.

*Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

*Cuba.*

See introductory note.

*Czecho-Slovakia.*

Act of 19 December 1918 respecting the eight-hour working day (L. S. 1919, Cz. 1, 2 and 3).

Act of 17 July 1919 respecting child labour (L. S. 1920, Cz. 2).

Act of 13 July 1922 amending and supplementing the Acts respecting elementary and upper-elementary schools.

*Dominican Republic.*

Order No. 114, of 29 December 1927, on compulsory school attendance.

*Estonia.*

Act of 1 November 1921 to regulate the hours of work and wages of agricultural workers (L. S. 1921, Part II, Est. 1).

Act of 7 May 1920 concerning public elementary schools.

*Hungary.*

Act No. XLV of 30 July 1907 regulating the legal relations between masters and agricultural servants (B. B. Vol. II, 1907, p. 273).

Act No. XXX of 25 July 1921 guaranteeing compulsory education.

Order No. 130,700 of 1922, of the Ministry for Public Instruction, concerning the application of Act No. XXX of 1921.

Act No. II of 15 April 1927 for the ratification of the Convention.

Circular Order No. 85800 of 1929 of the Minister of Agriculture respecting agricultural labour.

*Ireland.*

School Attendance Act, 1926, as amended by School Attendance Act, 1936.

*Luxembourg.*

Act of 10 August 1912 concerning the organisation of elementary education.

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Poland.*

Decree of 7 February 1919 concerning compulsory education, in force in the Central Provinces of Poland.

Constitution of the Republic of Poland of 23 March 1935.

Order of the Minister of Public Worship and Public Instruction of 4 May 1935 concerning the organisation of the school year, issued under the Act of 11 March 1932 concerning the organisation of the school system.

Order of the Minister of Public Worship and Public Instruction of 22 March 1933 concerning the Easter holidays.

Circular of the Minister of Public Worship and Public Instruction of 26 June 1936.

Education laws in force in the Southern and Western Provinces and in Upper Silesia.

*Rumania.*

Act of 26 July 1924 relating to primary education, amended on 10 August 1929, 7 March, 22 April and 18 May 1932, 5 July 1934 and 18 August 1938.

*Sweden.*

Order of 26 September 1921 relating to primary education, amended, in particular, by Royal Decrees of 8 May 1925, 18 June 1926, 28 October 1932, 30 December 1932, 31 May 1934 and 12 June 1936.

*Uruguay.*

Act of 6 April 1934 to approve with amendments a draft Children's Code (L. S. 1934, Ur. 4).

See also introductory note.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Children under the age of fourteen years may not be employed or work in any public or private agricultural undertaking, or in any branch thereof, save outside the hours fixed for school attendance. If they are employed outside the hours of school attendance, the employment shall not be such as to prejudice their attendance at school.

*Bulgaria.* — The Government refers to the supplementary information supplied in reply to a request from the Committee of Experts in 1938, in which it stated that in Bulgaria the school year for children under 14 years of age begins on 15 September and ends on 10 June. The total annual period of school attendance is thus appreciably longer than the period laid down in Article 2 of the Convention.

*Chile.* — The report states that the legislation authorises the employment of children between 12 and 14 years of age in agriculture for work performed solely by members of the same family, one of whom is held responsible. This provision only applies, however, to children who have complied with the regulation regarding compulsory school attendance.

*Rumania.* — The report states that the legal provisions in force applying the Convention have been supplemented by the Act of 13 August 1938 which amends certain provisions of the Act concerning primary education. According to § 10 of the Act of 13 August 1938, instruction in the upper primary course will henceforth be of a practical character, organised on a regional basis. The course is to consist of three classes: agricultural, domestic, industrial and commercial, and will cover the period 15 October to 15 April. In the agricultural class, instruction will mainly be in the following subjects: agriculture, zootechny and co-operation. In the domestic class, the young girls for whom the class is intended will receive instruction in domestic economy and housekeeping, a knowledge of which is necessary for a good housewife. In areas where there are winter schools or itinerant schools for agriculture, and domestic science schools for young girls, students will be required to attend the said schools instead of the upper primary course.

#### ARTICLE 2.

For purposes of practical vocational instruction the periods and the hours of school attendance may be so arranged as to permit the employment of children on light agricultural work and in particular on light work connected with the harvest, provided that such employment shall not reduce the total annual period of school attendance to less than eight months.

*Please state whether any arrangements have been made under the provisions of this Article, and, if so, describe the nature and working of such arrangements.*

*Please state by what means the observance of the minimum annual period of eight months' school attendance is ensured where advantage is taken of this Article.*

*Bulgaria.* — See under ARTICLE 1.

#### ARTICLE 3.

The provisions of Article 1 shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

The reports supplied do not contain any fresh information on this point.

#### III.

*Article 8 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports supplied do not contain any fresh information in this connection.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

The reports supplied do not contain any fresh information in this connection.

#### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The remaining reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services and, if such statistics are available, information concerning the number of children employed subject to the conditions provided for in the Convention, the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — See introductory note.

*Belgium.* — The Government states that no observations have been received from employers' or workers' organisations with regard to the application of the Convention.

*Bulgaria.* — The report states that notwithstanding all the measures adopted to enforce observance of the regulations on compulsory primary education for all children in good health between the ages of 7 and 14, during the school year 1937-1938 out of a total of 959,309 children (168,503 from urban districts and 790,806 from rural districts) under 14 years of age for whom primary education is compulsory, 69,342 (3,605 from urban districts and 65,737 from rural districts) failed to attend owing to: (1) distance; (2) the material conditions of the parents, who were obliged to keep their children at home to assist them; (3) negligence of parents. Proceedings regarding all such contraventions of the Act on primary education were instituted by the communal school authorities.

*Chile.* — The reports of the inspection services state that the provisions of the national legislation concerning the age of admission of children in agricultural work is applied more or less satisfactorily. No statistics, however, are available. The Government adds that neither the employers' nor the workers' organisations have submitted observations with regard to the practical application of the Convention or of the national legislation which implements its provisions.

*Cuba.* — See introductory note.

*Estonia.* — The Government has not received any observations from the employers' or workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*Hungary.* — The report states that during the period covered by the report no cases of infringement of the legislation in question were reported. The Government possesses no available statistical

information regarding the number of children employed in the conditions laid down by the Convention and has not received any observations from employers' or workers' organisations, with regard to the practical application of the Convention and the legislation which implements it.

*Ireland.* — From the records kept by the enforcing authorities, the Minister is satisfied that the contraventions are few and that the offenders are suitably dealt with. Taking this in conjunction with the power which the Minister has to make Regulations forbidding the employment of children under 14, if he has reason to think that such employment is in any way detrimental to their education, the Government is of opinion that the provisions of the Convention are adequately implemented in the existing legislation. About 39.9 % of the total number of children between the ages of 12 and 14 on the school rolls made use of the exception permitted by Article 2. Convictions were obtained in the case of contraventions which represented approximately 0.5 % for children between 6 and 12 years of age and 1.3 % for children between 12 and 14. No observations have been received from employers' or workers' organisations with regard to the practical fulfilment of the conditions prescribed by the Convention.

*Luxembourg.* — The Government states that no observations were made by the inspection services.

*Rumania.* — The report states that the provisions of the relevant legislation are strictly applied and that the teachers and the school authorities supervise the observance of these provisions. No observations have been made by the occupational associations as regards the practical application of the Convention.

*Uruguay.* — See introductory note.

# 11. Convention concerning the rights of association and combination of agricultural workers.

This Convention came into force on 11 May 1923. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938 and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937—30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5.1936	31. 1.1939
Belgium . . . . .	19. 7.1926	21.10.1938
Bulgaria . . . . .	6. 3.1925	2.12.1938
Chile . . . . .	15. 9.1925	2. 2.1939
China . . . . .	27. 4.1934	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	22. 8.1935	17.11.1938
Czecho-Slovakia . .	31. 8.1923	16. 2.1939
Denmark . . . . .	20. 6.1930	21.11.1938
Estonia . . . . .	8. 9.1922	11.10.1938
Finland . . . . .	19. 6.1923	5.11.1938
France . . . . .	23. 3.1929	12. 1.1939
Great Britain . . .	6. 8.1923	28.12.1938
India . . . . .	11. 5.1923	16.12.1938
Ireland . . . . .	17. 6.1924	4.11.1938
Italy . . . . .	8. 9.1924	
Latvia . . . . .	9. 9.1924	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	20. 5.1937	26.11.1938
Netherlands . . . .	20. 8.1926	1.10.1938
New Zealand . . . .	29. 3.1938	9. 1.1939
Norway . . . . .	11. 6.1929	22.11.1938
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	10.11.1930	20. 2.1939
Spain . . . . .	29. 8.1932	
Sweden . . . . .	27.11.1923	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	30. 9.1929	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	11. 5.1923	30. 1.1939

The report of the Government of *Italy* has not been received.

The *Norwegian* Government refers to its previous reports in which it stated that the law of Norway "contains no provision on the right to combine for trade purposes, but this has never been disputed in practice and may therefore be considered to exist as an unwritten law."

The report of the Government of *Spain* has not been received.

The Government of *Sweden* refers to its report for last year in which it stated that

no legal restrictions exist in Sweden preventing the engagement by agricultural workers of the immemorial right secured to all Swedish citizens to combine for any legitimate purpose whatsoever.

# I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

## Argentine Republic.

Constitution of the Argentine Republic (§ 14).

## Belgium.

Belgian Constitution (§ 20).

Act of 24 May 1921 to guarantee freedom of association (L. S. 1921, Bel. 2-3).

Penal Code (§ 151).

## Bulgaria.

Constitution of Bulgaria (§ 83).

## Chile.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

## China.

Act of 30 December 1930 concerning agricultural associations amended by the Act of 21 May 1937.

## Colombia.

Act No. 78 of 19 November 1919 concerning strikes.

Act No. 21 of 4 October 1920 concerning conciliation and arbitration in collective labour disputes, supplementing Act No. 78 of 1919 concerning strikes (L. S. 1920, Col. 1).

Act No. 83 of 23 June 1931 concerning industrial associations (L. S. 1931, Col. 2).

## Cuba.

Decree No. 2605 of 7 November 1933 to issue regulations for the formation of industrial associations, amended by Decree No. 3310 of 26 December 1933 (L. S. 1933, Cuba 2 A and B) and by Legislative Decree No. 3 of 6 February 1934, to issue provisional regulations respecting strikes (L. S. 1934, Cub. 2 A).

## Czecho-Slovakia.

Constitutional Act of 29 February 1920.

## Denmark.

§ 85 of the Danish Constitution of 5 June 1915.

<sup>1</sup> See introduction to the present volume, p. 4.

*Estonia.*

Constitution of 15 June 1920.

Act of 1 June 1922 on the right of public meeting.

Act of 26 March 1926 respecting associations and federations thereof (L. S. 1926, Est. 1 A).

Act of 26 March 1926 respecting the registration of associations, societies, and federations thereof (L. S. 1926, Est. 1 B).

*Finland.*

Act of 4 January 1919 respecting the right of association, amended by the Acts of 17 February 1923, 10 January 1930 and 25 May 1934.

Order of 1 June 1923 respecting the coming into force of the Convention concerning the rights of association and combination of agricultural workers.

*France.*

Chapter I, Book III of the Labour Code (L. S. 1927, Fr. 3).

Act of 25 May 1864 amending §§ 414, 415 and 416 of the Criminal Code.

§ 1 of the Act of 21 March 1884, respecting associations to repeal § 416 of the Criminal Code.

*Great Britain.*

No legislation was necessary to give effect to the Convention, existing legislation already permitting for all those engaged in agriculture the same rights of association and combination as are enjoyed by industrial workers.

*India.*

Indian Trade Unions Act, 1926 (L. S. 1926, Ind. 1) and previous legislation.

*Ireland.*

Trade Union Acts, 1871-1917.

*Latvia.*

Act of 18 July 1923 respecting associations, federations and political organisations (L. S. 1923, Lat. 1), amended by the Act of 12 June 1934 concerning the closing down, dissolution and registration of associations, federations and political organisations during the period of national emergency, and the additions to the Act of 25 July and 27 November 1934.

*Luxemburg.*

Constitution of the Grand Duchy of Luxemburg of 17 October 1868.

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Act of 11 May 1936 to guarantee freedom of association.

*Mexico.*

Political Constitution of the United States of Mexico of 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

*Netherlands.*

Constitution of the Netherlands (§ 9).

Act of 22 April 1855 regulating the exercise of the rights of association and combination.

*New Zealand.*

Industrial Conciliation and Arbitration Act 1925 (L. S. 1925, N.-Z. 1), as subsequently amended in 1928, 1932, 1936 and 1937.

*Norway.*

See introductory note.

*Poland.*

Constitution of the Republic of Poland of 17 March 1921 (L. S. 1921, Pol. 3).

Act of 1 August 1919 on the settlement of collective disputes between employers and workers in agriculture, amended by the Acts of 11 March 1921 (L. S. 1921, Pol. 2) and 25 February 1930 (L. S. 1930, Pol. 3), amended by the Presidential Decree of 25 September 1932.

Presidential Decree of 22 March 1928 concerning Labour Courts (L. S. 1928, Pol. 5).

Order of the President of the Republic of 27 October 1932 to promulgate the law relating to associations (L. S. 1932, Pol. 5).

Various laws and decrees in force in the Provinces of Poland.

*Rumania.*

Rumanian Constitution of 27 February 1938 (§§ 10 and 26).

Act of 12 October 1938 concerning the recognition and working of occupational corporations, salaried employees and craftsmen.

*Sweden.*

See introductory note.

*Uruguay.*

Constitution of the Republic, 1934 (§§ 38 and 56).

*Yugoslavia.*

Act of 26 November 1852 on associations and Act of 14 January 1875 on the right of assembly (in force in the territory of *Croatia* and the *Voivodina*).

Act of 15 November 1867 on the right of association and assembly (in force in the territory of *Dalmatia* and *Slovenia*).

Act of 31 March 1891 on public assemblies and associations (in force in the territory of pre-war *Serbia*).

Act of 17 February 1910 on the right of association and assembly (in force in the territory of *Bosnia* and *Herzegovina*).

Act of 2 August 1921 concerning public safety.

Act of 6 January 1929, amended on 1 March 1929, concerning public safety and the maintenance of order.

Constitution of 1931 (§ 13).

Act of 18 September 1931 on associations, conference and assemblies.

\* \* \*

*Burma.*

Indian Trade Unions Act, 1926 (L. S. 1926, Ind. 1), as amended by the Act of 25 September 1928 (L. S. 1928, Ind. 2).

## II.

*Please indicate in detail for the following Article of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which the Article is applied.*



## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture.

*New Zealand.* — According to § 5 of the Industrial Conciliation and Arbitration Act, 1925, any society consisting of not less than fifteen persons in the case of workers, lawfully associated for the purpose of protecting or furthering the interests of workers in or in connection with any specified industry, or related industries, in New Zealand, may be registered as an industrial union under the Act. According to § 7, every society registered as industrial union shall, as from the date of registration, but solely for the purposes of the Act, become a body corporate. According to the Industrial Conciliation and Arbitration Amendment Act, 1937, (§ 2), the term "industry" includes any calling, service, employment, handicraft or occupation of workers.

*Rumania.* — The Act of 12 October 1938 concerning the recognition and working of occupational corporations of workers, salaried employees and craftsmen reaffirms the right of association recognised by the Rumanian Constitution, and repeals the Trade Union Act of 26 May 1921. According to § 1 of the Act of 1938, the object of the corporations is to investigate, defend and promote occupational interests, without aiming at the distribution of profits. Occupational corporations, by their very nature, are confined to interests of an industrial, commercial, agricultural, technical, economic, educational and social nature. § 2 of the Act lays down that workers, salaried employees and craftsmen working in the same occupation shall be entitled to form corporations. The recognition of the legal personality of a corporation is given by a Royal Decree.

\* \* \*

*Burma.* — The report states that persons engaged in agriculture enjoy the same rights of association and combination as other workers and there is no provision restricting the right of association in the case of workers engaged in agriculture.

## III.

*Article 6 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — In Morocco a Dahir of 24 June 1938 completes the Dahir of 24 December 1936 permitting the formation in the French zone of trade unions and occupational associations for the defence of the economic and occupational interests of the members.

*Great Britain.* — In the case of the Colony of Aden, formerly under the administration of the Government of India, the legislation which was reported by the Government of India as giving effect to the provisions of the Convention is still in force.

*Netherlands.* — In Curaçao, a Service for Social Affairs was set up on 15 March 1938, and is re-examining the Convention.

*New Zealand.* — The report states that this point is not applicable.

## IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced.*

*New Zealand.* — The report states that the Act is administered by the Department of Labour under the control of a Minister of the Crown (Labour Department Amendment Act, 1936, § 2 (2)).

*Rumania.* — The application of the Act is entrusted to the Ministry of Labour, which is carried out through its departments, and the labour inspectors.

\* \* \*

*Burma.* — The Indian Trade Unions Act, 1926, is administered by the Government through the registrar appointed under the Act.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not contain any fresh information on this point.

*Belgium.* — The report states that during the period under review no observations have been made by employers' or workers' organisations concerned with regard to the practical application of the Convention.

*Bulgaria.* — The Government refers to its report for last year in which it stated that no observations have been received from employers' or workers' organisations with regard to the practical application of the Convention or of the national legislation which implements it.

*Chile.* — The reports of the inspection services show that during the past year there has been a slight increase in membership of agricultural trade unions. The Government gives in its report a list of the new associations which have been formed, together with figures for the membership of each association. In 1938 there were 11 agricultural trade unions with a total of 808 members. The report adds that agricultural workers show little interest in forming associations. This is due to the scattered nature of the agricultural population and to the low standard of education which provides no background for the idea of more extended social relationships among them. Neither the employers' nor the workers' organisations concerned have made any observations with regard to the practical application of the Convention or of the national legislation which implements it.

*China.* — The report states that no observations have been received from the organisations of employers or workers concerned.

*Colombia.* — The report does not contain any fresh information on this point.

*Cuba.* — The Government states in its report that the workers' organisations have complained that the provisions of § 1 of Decree No. 2605 prevent them from forming associations of workers belonging to special branches or to different trades. As a result of this complaint the President of the Republic, in his last Message to Congress, requested that the Decree should be so amended as to allow the constitution of important trade union groups.

*Denmark.* — The report states that no special observations have been made by employers' or workers' organisations concerned.

*Estonia.* — The Government states that, in general, the Convention is strictly applied in Estonia. No cases of contravention of the relevant legislation have been recorded during the period under review. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*Finland.* — The report does not refer to this point.

*France.* — The report states that the Government has no fresh information available on this point.

*Great Britain.* — No observations have been received from employers' or workers' organisations with regard to the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*India.* — The Government have not received any observations from employers' or workers' organisations with regard to the practical fulfilment of the conditions prescribed by the Convention or of the national law implementing the Convention.

*Ireland.* — No general observations. No observations have been received from employers' or workers' organisations.

*Latvia.* — The Government is not aware of any difficulty arising out of the application of the Convention. The Ministry of Social and Public Affairs has not received any observations from employers' or workers' organisations with regard to the practical application of the provisions of the Convention.

*Luxemburg.* — The report states that the Government has not received any observations from the employers' or workers' organisations concerned with regard to the application of the national legislation which implements the provisions of the Convention.

*Mexico.* — The report states that as the result of Mexico's experience with trade union organisations certain amendments to the Federal Labour Act are being studied, and will shortly be submitted to Congress.

*Netherlands.* — No observations have been received from employers' or workers' organisations with regard to the application of the provisions of the Convention or of the legislation which implements those provisions.

*New Zealand.* — The report states that combination among agricultural workers in New Zealand has been slow in developing. Awards have been issued under the Industrial Conciliation and Arbitration Act with regard to shearers, musterers, packers and drovers, and threshing mill employees, the workers' organisation being the New Zealand Workers' Industrial Union of Workers.

*Norway.* — See introductory note. The report states that the Convention is strictly applied. The Government has not received any observations from the organisations of employers or workers with regard to the practical fulfilment of the conditions prescribed by the Convention or the application of the national legislation which implements it.

*Rumania.* — § 49 of the Act of 12 October 1938 authorises the Ministry of Labour to draw up a list of the categories of occupations for the whole country. The report refers to a number of decisions the published by the Ministry concerning the grouping of occupations for the formation of corporations. The report adds that the recognition of the legal personality of the first corporations established will be given by a Royal Decree at an early date. § 51 of the Act lays down that associations, groups, federations and trade unions whose legal status cannot be recognised shall continue to function as *de facto* societies.

*Sweden.* — The Government states that, in general, the Convention may be deemed to be satisfactorily enforced in Sweden. This opinion is confirmed by the fact that no complaint as to its enforcement has been received from the occupational organisations. See also introductory note.

*Uruguay.* — The report does not refer to this point.

*Yugoslavia.* — The report states that the most important association of agricultural workers is the Union of Agricultural Workers of the Kingdom of Yugoslavia, the offices of which are at Novi-Sad.

\* \* \*

*Burma.* — The report states that trade unionism is practically non-existent among agricultural workers in Burma. So far only one application for registration has been received from a union of agricultural labourers. The Government of Burma have not received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

## 12. Convention concerning workmen's compensation in agriculture.

This Convention came into force on 26 February 1923. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5.1936	31. 1.1939
Belgium . . . . .	26.10.1932	21.10.1938
Bulgaria . . . . .	6. 3.1925	2.12.1938
Chile . . . . .	15. 9.1925	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	22. 8.1935	17.11.1938
Denmark . . . . .	26. 2.1923	21.11.1938
Estonia . . . . .	8. 9.1922	11.10.1938
France . . . . .	4. 4.1928	24. 1.1939
Great Britain . . .	6. 8.1923	28.12.1938
Ireland . . . . .	17. 6.1924	4.11.1938
Italy . . . . .	1. 9.1930	
Latvia . . . . .	29.11.1929	25. 1.1939
Luxemburg . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	1.11.1937	26.11.1938
Netherlands . . . .	20. 8.1926	1.10.1938
New Zealand . . .	29. 3.1938	9. 1.1939
Poland . . . . .	21. 6.1924	8.12.1938
Spain . . . . .	1.10.1931	
Sweden . . . . .	27.11.1923	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939

In its report the Government of the *Argentine Republic* refers to its previous reports in which it stated that a Bill with

a view to bringing the legislation of the Republic into harmony with the provisions of this Convention was submitted to the Chamber of Deputies for approval on 24 September 1936. The proposed revision will mean the deletion of the clause which provides that workers engaged in agriculture and forestry shall not be included in the scope of the Act unless they are employed in transport service or to attend stationary machinery.

The Government of *Colombia* refers to its reports for previous years in which it stated that it had submitted to Congress a draft Labour Code embodying the fundamental principles of this Convention. The complex nature of the work with the preparatory study involved, has however held up the discussion of these problems, and so far the Convention had not been put into force. The Government stated in its report for last year that the situation had not changed and added that the question of extending the scope of Act No. 57 of 1915 concerning workers' compensation for industrial accidents, to agricultural workers was being examined.

The report of the Government of *Italy* has not been received.

The Government of *Poland* states in its report that the Senate adopted on 14 July 1938 a resolution inviting the Government to submit to Parliament, within a period of three years, a Bill for compulsory insurance of agricultural workers against invalidity and death applicable to the whole of Polish territory. In the framing of this Bill the Ministry of Social Assistance will resume the legislative work already done on the Bill for the insurance of agricultural workers against the risks of invalidity and death which was submitted to the Diet in 1934 and subsequently lapsed.

The report of the Government of *Spain* has not been received.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### *Argentine Republic.*

Act No. 9,688 of 11 October 1915 concerning workmen's compensation for industrial accidents.

See also introductory note.

### *Belgium.*

Consolidated Acts of 24 December 1903, 3 August 1926, 15 May 1929, 30 December 1929 and 18 June 1930 (L. S. 1931, Bel. 9).

Royal Order of 28 September 1931 concerning the Act respecting compensation for injuries resulting from industrial accidents.

### *Bulgaria.*

Act of 6 March 1924 respecting social insurance (L. S. 1924, Bulg. 1), as amended subsequently.

### *Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

Chapter III of Legislative Decree No. 379 of 18 March 1925 relating to industrial accidents (L. S. 1925, Chile 4).

Decree No. 238 of 31 March 1925 issuing Regulations in pursuance of the above Legislative Decree, amended by Decree No. 1239 of 22 July 1930.

Decree No. 217 of 30 April 1926 to approve the appended Regulations respecting industrial hygiene and safety (L. S. 1926, Chile 2).

Decree No. 581 of 21 April 1927 relating to occupational diseases (L. S. 1927, Chile 2).

Decree No. 903 of 8 June 1927 relating to unclassified partial incapacity.

### *Colombia.*

See introductory note.

### *Cuba.*

Decree No. 2687 of 15 November 1933 respecting industrial accidents, to repeal and replace the Industrial Accidents Act of 12 June 1916 (L. S. 1933, Cuba 3 A), amended by Decrees Nos. 3156 and 3341 of 16 and 30 December 1933 (L. S. 1933, Cuba 3 B and 3 C), and by Legislative Decree No. 596 of 18 February 1936 (L. S. 1936, Cuba 1).

Presidential Decree No. 223 of 31 January 1935 to issue regulations in pursuance of the Industrial Accidents Act, amended by Presidential Decrees Nos. 1252 of 6 May, No. 1653 of 27 June 1936, No. 3103 of 11 November 1936 and No. 37 of 31 December 1937.

Decrees Nos. 37 of 31 December 1937 and 1368 of 29 June 1938 on minimum scales of premiums.

Decree No. 452 of 7 March 1938 amending the regulations applying the Act.

### *Denmark.*

Act of 20 May 1933 concerning insurance against the consequences of accidents (L. S. 1933, Den. 5), to supersede the Act of 6 July 1916 and its amendments.

### *Estonia.*

Legislative Decree of 5 February 1936 concerning accident insurance for agricultural workers (L. S. 1936, Est. 1).

*France.*

Act of 15 December 1922 to extend accident insurance legislation to agricultural undertakings (L. S. 1922, Fr. 3).

Act of 30 April 1926 to amend, supplement and interpret the Act of 15 December 1922 (L. S. 1926, Fr. 4).

Decree of 29 July 1923 concerning the application of § 4 of the Act of 15 December 1922.

Decree of 4 August 1927 determining the methods to be adopted by occupiers of undertakings covered by § 4 of the Act of 15 December 1922 as amended by the Act of 30 April 1926.

*Great Britain.*

Workmen's Compensation Acts, 1925-1931 (L. S. 1925, G. B. 3; 1926, G. B. 10 and 1931, G. B. 4).

Workmen's Compensation Act (Northern Ireland) 1927.

The Adoption of Children (Workmen's Compensation) Act, 1934.

The Adoption of Children (Workmen's Compensation) Act (Northern Ireland) 1934.

*Ireland.*

Workmen's Compensation Act, 1934 (L. S. 1934, I. F. S. 1), to consolidate the Workmen's Compensation Acts, 1906-1919.

*Latvia.*

Act of 1 June 1927 concerning the insurance of paid employees against accidents and occupational diseases (L. S. 1927, Lat. 1).

*Luxembourg.*

Act of 17 December 1925 respecting the Social Insurance Code (L. S. 1925, Lux. 2), as amended by the Act of 6 September 1933 (L. S. 1933, Lux. 3).

Grand Ducal Order of 5 April 1938, modifying premium rates for accident insurance in agriculture and forestry.

Act of 27 July 1938 increasing certain accident pensions.

*Mexico.*

Political Constitution, of the United States of Mexico, 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

*Netherlands.*

Act of 20 May 1922 to insure persons employed in agricultural occupations against the pecuniary consequences of accidents with which they meet in connection with their employment (L. S. 1922, Neth. 2), as amended by the Acts of 21 March 1924 (L. S. 1924, Neth. 2), 13 May 1927 (L. S. 1927, Neth. 1), 2 July 1928 (L. S. 1928, Neth. 2), 7 February 1929 (L. S. 1929, Neth. 2 A) and 18 July 1930 (L. S. 1930, Neth. 3 B).

*New Zealand.*

The Workers Compensation Act, 1922, as amended by the Workers Compensation Amendment Act, 1926 (L. S. 1926, N. Z. 2) and the Workers Compensation Amendment Act, 1936, and affected by the Finance Act, 1933 (No. 2), § 56, and the Law Reform Act, 1936, parts III and VI.

Regulations of 1909, 1914 and 1922, published in the New Zealand Gazette.

*Poland.*

Act of 28 March 1933 respecting social insurance (L. S. 1933, Pol. 6), amended by the Legislative Decree of 24 October 1934 (L. S. 1934, Pol. 4).

*Sweden.*

Act of 17 June 1916 respecting insurance against industrial accidents (B. B. Vol. XI, 1916, pp. 267), amended by the Acts of 14 June 1917, 26 April 1918, 19 June 1919, 18 June 1920, 15 June 1922 (L. S. 1922, Swe. 2), 18 June 1926 (L. S. 1926, Swe. 5), 24 May 1928 (L. S. 1928, Swe. 1), 14 June 1933 (L. S. 1933, Swe. 1), 26 June 1936 (L. S. 1936, Swe. 5) and 11 June 1937.

*Uruguay.*

Act of 15 (26) November 1920 respecting occupational accidents (L. S. 1920, Ur. 1), amended by Act of 11 January 1934 to extend and readjust the pensions scheme (L. S. 1934, Ur. 1).

Decree of 25 February 1932 to declare the Act concerning industrial accidents applicable to workers engaged in rural occupations.

## II.

*Please indicate in detail for the following Article of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which the Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to extend to all agricultural wage-earners its laws and regulations which provide for the compensation of workers for personal injury by accident arising out of or in the course of their employment.

*If agricultural workers are covered by a special system of workmen's compensation or accident insurance, please state what differences exist between the general system and that special system especially as regards:*

- (a) *The manner in which the persons and undertakings covered are respectively determined;*
- (b) *The conditions under which benefits in cash and in kind are granted and the amount of such benefits.*

*Mexico.* — Agricultural workers are not covered by a special system of workmen's compensation. The provisions of the Federal Labour Act are of application like those of paragraph XIX of Article 123 of the Constitution. Chapter 8 of Title II of the Labour Act, referring to agricultural labour, makes no distinction with respect to compensation for agricultural accidents, nor do the provisions of Title VI of the Act, which concern occupational risks.

*New Zealand.* — The Workers Compensation Act, 1922, provides that if in any employment to which the Act applies, personal injury by accident arising out of and in the course of the employment is caused to a worker, his employer shall

be liable to pay compensation. The Act draws no distinction between agricultural workers and those in industry and trade. The information given in the report on *Convention No. 17 (Workmen's compensation, accidents)*, Point II, is therefore also applicable to this report.

### III.

*Article 6 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — Three Decrees of 8 October 1937 provide for the application to *French Guiana* of the French Acts concerning workmen's compensation. Of these Decrees, one contains administrative regulations for the application of the French Act of 15 December 1922 extending accident insurance legislation to agricultural undertakings. In the administrative regulations, special clauses provide for the calculation of compensation rates for agricultural workers. In *Morocco* the extension of workmen's compensation to agriculture is not at present contemplated. This is due to the present difficulties of agriculture and to the fact that the most frequent and serious forms of agricultural accidents are those resulting from the use of machinery worked by other than human or animal power. Such accidents are already compensated in virtue of the Dahir of 25 June 1927.

*Great Britain.* — Workmen's compensation has been enacted in the following dependencies in addition to those already reported: *Falkland Islands* (Ordinance No. 4 of 1937), *Jamaica* (Law No. 39 of 1937), *Leeward Islands* (Act No. 11 of

1937), *Trengganu* (Enactment No. 12 of 1936). In the legislation of the Falkland Islands, no distinction is made between agricultural and other workers. In the legislation of Jamaica and the Leeward Islands, persons employed in agriculture are excluded, except in so far as their employment is in connection with any engine or machine worked by mechanical power. The Trengganu Enactment covers persons employed in felling or burning jungle or in felling timber, or employed on any estate or plantation in which not less than 50 persons are employed on any one day in the year. Workmen's compensation legislation is under consideration in the following dependencies: *Barbados*, *Fiji*, *Gambia*, *Gold Coast*, *Kelantan*, *Kenya*, *Nigeria*, *Nyasaland*, *St. Lucia*, *St. Vincent*, *Sierra Leone*, *Uganda*, *Tanganyika Territory*, *Zanzibar*. In *Cyprus*, a workmen's compensation law will shortly be enacted which will repeal Part II of the Mines Regulations (Amendment) Law, 1925. In *Grenada*, Ordinance No. 19 of 1934, as amended by Ordinances Nos. 14 and 38 of 1936, was brought into force on 1 October 1938. The Ordinance excludes agricultural workers except in so far as their employment is in connection with any engine or machine worked by mechanical power. The Convention is not applicable to the *Colony of Aden*, formerly under the administration of the Government of India.

*Netherlands.* — In the *Netherlands Indies*, a draft for statutory Accident Regulations has been submitted to the National Council (*Volksraad*). Agricultural workers for the time being are excluded from the draft. In *Curaçao*, the Accidents Regulations, 1936, came into operation on 1 July 1938. Proposals for extending the rights granted under these Regulations to workers in agricultural undertakings are being prepared.

*New Zealand.* — The report states that Article 6 of the Convention is not applicable.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Mexico.* — The Federal Department of Labour, the Département of the Federal District, the Federal and local conciliation and arbitration committees, the Federal and local labour inspectors and the municipal presidents are responsible for administering labour legislation. The labour inspectors, under the supervision of the

authorities and in accordance with §§ 402-406 of the Federal Labour Act, make periodical inspections to see that the law is complied with. Similar supervision is exercised by the officials of the Department of Agriculture. Special penalties for infringement of the Labour Act are imposed by Title XI. Further, to assist the workers to protect their interests, Chapter 8 of Title VIII of the Act sets up, under the Labour Department, a Solicitor's Office for the Protection of Labour, with representatives in the different States.

*New Zealand.* — The legislation is administered by a Department of State, the Department of Labour, under the control of the Minister of the Crown (Labour Department Amendment Act, 1936, § 2 (2)), and by the Court of Arbitration or, in certain cases, magistrates. No special inspection service is established, the duties being assigned to inspectors of factories.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Argentine Republic.* — The Government attaches to its report the text of two decisions, bearing on the application of the Convention, given by the Courts of Appeal of Rosario (Province of Santa Fé) and La Plata (Province of Buenos Aires).

In the first of these decisions it was held that the ratification of the Convention by Act No. 12232 did not *ipso facto* have the effect of including all agricultural wage-earners among the beneficiaries of Act No. 9688 concerning workmen's compensation for industrial accidents. A new Act would be necessary in order to carry out the obligations prescribed by Article 1 of the Convention.

The opposite view is maintained in the decision of the Court of La Plata, namely, that Act No. 9688, inasmuch as it restricts the rights of agricultural workers to benefits, was amended by the enactment of Act No. 12232 which approved the Conventions adopted by the International Labour Conference at its Session in 1921. It is not necessary to pass a new Act to amend existing legislation where an Act already exists ratifying an international agreement on the same subject. In the event of conflict between the national legislation and an agreement, the latter must certainly prevail when its ratification calls for a decision taken by the legislature the text of which is in contradiction with the international agreement.

*Chile.* — The report states that judicial and administrative decisions applying the

principle of the Convention are constantly being given. Copies of five judicial decisions awarding compensation to agricultural workers are appended to the report.

*Mexico.* — The application of the provisions of the Convention, which are those of Mexican law, constantly give rise to proceedings in the courts.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of infractions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — See the introductory note.

*Belgium.* — The report states that the application of the Convention continues in a normal way. No special information can be supplied regarding the manner in which the Convention is applied.

*Bulgaria.* — No observations have been received from employers' or workers' organisations with regard to the practical application of the Convention or of the legislation which gives effect to it.

*Chile.* — The report states that as practically all agricultural employers insure their workers against the risks of industrial accidents, no difficulties arise in connection with the payment of the corresponding indemnities and therefore the reports of the labour inspectors do not refer to any infringements. The total number of agricultural workers covered by the legislation in question is 400,983. No observations have been made by the employers' and workers' organisations concerned with regard to the practical application of the Convention or of the legislation implementing it.

*Colombia.* — See introductory note.

*Cuba.* — See under *Convention No. 17 (Workmen's compensation, accidents)*.

*Denmark.* — The report states that the employers' and workers' organisations have not made any observations with regard to the practical application of the Convention.

*Estonia.* — The report states that the number of agricultural workers insured, in the period 1 May-31 December 1936, was 71,771. The number of accidents giving rise to compensation was 373, of which 5 cases resulted in dead, 63 in permanent incapacity and 305 in temporary incapacity. The total amount of compensation paid was 13,947.99 crowns, distributed as follows: medical treatment, 7,069.25 crowns; sickners benefit, 4,543.17 crowns; pensions, 2,222.83 crowns; allowances for funeral expenses, 112.74 crowns. The Government has not received any observations from the employers' or workers' organisations concerned in regard to the practical application of the Convention.

*France.* — The report states that the Government has no knowledge of any observations made by the employers' or workers' organisations concerned respecting the practical application of the provisions of the Convention.

*Great Britain.* — The report states that no observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI.

*Ireland.* — The report states that in 1937 the number of fatal accidents in agriculture was 12; the total compensation paid for these accidents amounted to £1,316 (an average of £109. 13s. 0d. per case). The number of non-fatal cases compensated was 2,930 (170 of which were continued from previous years); the total amount of compensation paid for all these cases was £52,393 (an average of £17. 16s. 0d. per case). No observations have been received from the organisations of employers or workers.

*Latvia.* — The Industrial Accident Insurance Department of the Ministry of Public and Social Affairs registered 16,440 accidents in agriculture during the year 1937.

*Luxemburg.* — The report of the Accident Insurance Association for 1937, in the section relating to agriculture and forestry, gives detailed information respecting the causes of accidents and injuries caused thereby. It states that 2,512 accidents were notified and that compensation was paid in 2,225 cases. Death resulted in 9 cases. The number of permanent pensions at the end of 1937 was 1,061.

*Mexico.* — The report states that no inspection reports or statistics are available. The employers' and workers' organisations have not raised any objection regarding the practical fulfilment of the Convention or of the national law implementing the same.

*Netherlands.* — Information concerning the number of accidents and the amount of compensation paid may be found in the report of the State Insurance Bank for the year 1936. The activities of the Bank, however, cover only a very small number of the total of persons insured, since the large majority of agricultural workers are insured with occupational associations set up for this purpose by the employers concerned. The report states that, in connection with the insurance administered by occupational organisations, according to the statement of the Supervisory Council for the year 1937, the number of accidents reported by nearly all these organisations has continued to increase. The Council finds it difficult to account for this increase, as the only data available are the number of persons insured and the total number of accidents notified; but it may be taken that the principal cause of the increase is the frequency of more or less lengthy periods of unemployment, during which the worker loses some of his skill. The Council notes with satisfaction that many occupational organisations continue to recommend various safety measures, orally and in writing, to employers and workers. The total amount of wages paid to workers insured with occupational organisations was in 1937 116,700,000 florins. As regards workers insured with the State Insurance Bank, the number of accidents was in 1937 116,700,000 florins. As regards workers insured with the State Insurance Bank the number of accidents which occurred in 1936 and which gave rise to compensation was 2,784. In 365 cases only medical or surgical treatment was given. In 2,247 cases the incapacity to work lasted for a period of more than 2 and less than 43 days; in 144 cases it lasted for more than 42 days. Death resulted in 8 cases. On 1 July 1937, 20 cases had not yet been definitely decided. No observations were received from the employers' or workers' organisations respecting the application of the provisions of the Convention or the legislation implementing the Convention.

*New Zealand.* — At the 1926 census 48,670 male and 730 female wage or salary earners were employed in agricultural and pastoral occupations. The compilation of the occupation table in respect of the 1936 census is incomplete. Statistics in respect of accidents in agriculture are not available as such accidents are not reportable. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or



the application of the national law implementing the Convention have been received from organisations of employers or workers concerned.

*Poland.* — See introductory note.

*Sweden.* — The Government states that the Convention may be said to be satisfactorily applied in Sweden. This opinion is confirmed by the fact that no complaints have been received from the occupational organisations with regard to the application of the Convention.

*Uruguay.* — The report does not refer to this point.

### 13. Convention concerning the use of white lead in painting.

This Convention came into force on 31 August 1923. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5. 1936	31. 1. 1939
Belgium . . . . .	19. 7. 1926	21. 10. 1938
Bulgaria . . . . .	6. 3. 1925	2. 12. 1938
Chile . . . . .	15. 9. 1925	2. 2. 1939
Colombia . . . . .	20. 6. 1933	10. 3. 1939
Cuba . . . . .	7. 7. 1928	17. 11. 1938
Czecho-Slovakia . .	31. 8. 1923	16. 2. 1939
Estonia . . . . .	8. 9. 1922	11. 10. 1938
Finland . . . . .	5. 4. 1929	5. 11. 1938
France . . . . .	19. 2. 1926	24. 1. 1939
Greece . . . . .	22. 12. 1926	21. 3. 1939
Latvia . . . . .	9. 9. 1924	25. 1. 1939
Luxemburg . . . . .	16. 4. 1928	20. 1. 1939
Mexico . . . . .	7. 1. 1938	26. 11. 1938
Norway . . . . .	11. 6. 1929	22. 11. 1938
Poland . . . . .	21. 6. 1924	8. 12. 1938
Rumania . . . . .	4. 12. 1925	20. 1. 1939
Spain . . . . .	20. 6. 1924	
Sweden . . . . .	27. 11. 1923	28. 11. 1938
Uruguay . . . . .	6. 6. 1933	6. 2. 1939
Venezuela . . . . .	28. 4. 1933	6. 12. 1938
Yugoslavia . . . . .	30. 9. 1929	19. 11. 1938

The Government of *Colombia* refers to its reports for previous years. No new information has been given since 1937, when it was stated that there were no paint factories in Colombia, all paints used being imported from abroad and employed according to the directions given by the firms supplying them. It was known that these paints were used unmixed, which rendered them particularly dangerous. The National Health Service, which was the body competent to take decisions on matters affecting public health, was aware of the terms of the Convention and would certainly take the necessary measures to give effect to its provisions.

The Government of *Greece* mentions in its report that a Decree is to be issued making special provision for spray-gun painting.

The *Mexican* Government states in its report that Regulations relating to industrial hygiene are in course of preparation.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* states in its report that on 23 May 1938 the Ministry of Industry and Labour was requested to substitute Article 3 of the Convention for paragraph (d) of § 1 of the Resolution of 3 March 1937 and to add to § 5 of the said Resolution paragraph III of Article 5 and Article 7 of the Convention, with a view to bringing the regulations into harmony with the provisions of the Convention.

#### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Argentine Republic.*

Act No. 9,688 of 11 October 1915 concerning industrial accidents.

Act No. 11,317 of 30 September 1924 regulating the employment of women and young persons (L. S. 1924, Arg. 1).

*Belgium.*

Act of 30 March 1926 concerning the use of white lead and other white pigments containing lead (L. S. 1926, Bel. 2 A).

Act of 24 July 1927 concerning compensation for injury caused by occupational diseases (L. S. 1927, Bel. 7).

Royal Order of 16 September 1926 to regulate the purchase, sale, transport and use of white lead and other white compounds containing lead intended for trade purposes (L. S. 1926, Bel. 2 B).

Ministerial Order of 16 September 1926 in pursuance of §§ 2, 4, 5 and 7 of the Royal Order to regulate the purchase, sale, transport and use of white lead and other white compounds containing lead (L. S. 1926, Bel. 2 D).

Royal Order of 17 September 1926 concerning the use in painting of white lead, other white pigments containing lead and white pigments the lead content of which in the metallic state exceeds 2 % (L. S. 1926, Bel. 2 C).

Royal Order of 15 November 1927 to supplement the Royal Order of 16 September 1926 to regulate the purchase, sale, transport and use of white lead and other white compounds containing lead intended for trade purposes (L. S. 1927, Bel. 9).

Royal Order of 31 October 1928 prohibiting the employment of young persons under eighteen years of age and women in painting work involving the use of white lead and other white lead pigments (L. S. 1928, Bel. 6).

Royal Order of 14 April 1930 laying down special regulations for the application of paint by the compressed air spraying gun or pneumatic painting (L. S. 1930, Bel. 3).

*Bulgaria.*

Order No. 13,599 of 20 September 1932 laying down the measures to be taken for the handling and the use of lead and its compounds and alloys in trades and factories and in industrial establishments and undertakings (L. S. 1932, Bulg. 2 A).

Order No. 13,600 of 20 September 1932 prohibiting the use of white lead and sulphate of lead in certain painting operations (L. S. 1932, Bulg. 2 C).

*Chile.*

Decree of 30 April 1926 to approve the appended regulations respecting industrial hygiene and safety (L. S. 1926, Chile 2).

Regulations of 21 April 1927 respecting occupational diseases (L. S. 1927, Chile 2).

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

*Colombia.*

See introductory note.

*Cuba.*

Legislative Decree No. 215 of 16 May 1934 to prohibit the use of white lead in painting (L. S. 1934, Cuba 13).

Legislative Decree No. 105 of 25 July 1935, amending the above (L. S. 1935, Cuba 8).

*Czecho-Slovakia.*

Act of 12 June 1924 issuing regulations for the protection of the life and health of persons employed in painting, varnishing and decorating (L. S. 1924, Cz. 1).

*Estonia.*

Act of 25 May 1928 respecting the use of white lead in painting (L. S. 1928, Est. 2).

Ministerial Order of 12 April 1930 concerning the use of white lead in painting (L. S. 1930, Est. 1 A).

Ministerial Order of 30 July 1930 concerning the supervision of the general health of persons employed in painting and the medical examination of such persons in places where white lead, sulphate of lead or products containing these pigments are used (L. S. 1930, Est. 1 B).

Ministerial Order of 20 May 1931 amending Ministerial Order of 12 April 1930 (L. S. 1931, Est. 4).

Ministerial Order of 27 September 1935 to supplement Ministerial Order of 12 April 1930 (L. S. 1935, Est. 8).

*Finland.*

Act of 1 March 1929 prohibiting the use of white lead and sulphate of lead in certain kinds of painting (L. S. 1929, Fin. 1 A).

Decision of the Ministry of Social Affairs dated 22 June 1929 laying down detailed provisions concerning the use of white lead in painting (L. S. 1929, Fin. 1 B).

Order of 1 March 1929 concerning the putting into force of the Convention concerning the use of white lead in painting.

Sanitary regulations of 24 September 1929 for workers employed in painting work in which the use of white lead, sulphate of lead and products containing those pigments is necessary.

Resolution of the Council of State dated 14 March 1919 specifying the trades and branches thereof which must be deemed to be specially dangerous and issuing detailed regulations concerning the employments liable to injure the health of children and young persons or hinder their physical development (L. S. 1924, Fin. 5, Appendix).

*France.*

Code of Labour and Social Welfare, Book II, §§ 78, 79 and 80, as amended by the Act of 31 January 1926 (special provisions respecting the use of lead compounds in painting work) (L. S. 1926, Fr. 1).

Decree of 8 August 1930 respecting the use of white lead and sulphate of lead in painting work (L. S. 1930, Fr. 13 B).

Decree of 21 March 1914 (B. B. 1915, Vol. X, p. 103), amended by the Decrees of 24 September 1926 (L. S. 1926, Fr. 10 A) and 8 August 1930 (L. S. 1930, Fr. 13 A) concerning dangerous work prohibited to children and women.

§ 12 of the Act of 25 October 1919 to extend to industrial diseases the Act of 9 April 1898 respecting industrial accidents (L. S. 1920, Fr. 7).

Decree of 6 November 1929 respecting the application of § 12 of the Act of 25 October 1919 (L. S. 1929, Fr. 9).

Decree of 26 November 1934 to amend the Decree of 8 August 1930 respecting the use of white lead and sulphate of lead in painting work (L. S. 1934, Fr. 9 E).

Order of 4 December 1934 to determine the text of the notice pointing out the dangers of lead poisoning and the precautions to be taken to avoid them, in pursuance of § 11 of the Decree of 8 August 1930.

Order of 4 December 1934 to determine the text of the recommendations laid down in § 9 bis of the Decree of 8 August 1930 as amended by the Decree of 26 November 1934 for the medical examinations made in pursuance of §§ 8 and 9.

*Greece.*

Royal Decree of 17 December 1921 respecting the prohibition of the use of white lead, red lead, litharge and of all other compounds of these oxides in the painting of buildings, ships, etc. (L. S. 1921, Gr. 2 B.).

Act No. 2654 of 6 August 1924 respecting the prohibition of the use of white lead, red lead and litharge in the building industry and other work (L. S. 1921, Gr. 2 A.).

Act No. 2994 for the ratification of the international Convention concerning the use of white lead in painting.

Act No. 6011 of 29 January 1934 (promulgated on 6 February 1934) to amend Act No. 2654 (L. S. 1934, Gr. 2).

Act No. 6080 respecting the prohibition of certain organic colouring matters.

Exceptional Act No. 1204 of 20 April 1938 prohibiting the use of lead paints (L. S. 1938, Gr. 4).

See also introductory note.

*Latvia.*

Act of 13 June 1930 respecting trade in white lead and the use of white lead in painting (L. S. 1930, Lat. 5).

Instruction of 14 February 1936 issued in application of the Act respecting trade in white lead and the use of white lead in painting.

Instruction of 18 July 1936 concerning personal protection against lead poisoning.

*Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Grand Ducal Order of 30 March 1932 respecting the application of certain Conventions adopted by the International Labour Conference during its first ten Sessions (L. S. 1932, Lux. 1).

*Mexico.*

Political Constitution of the United States of Mexico of 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

See also introductory note.

*Norway.*

Act of 24 May 1929 partially prohibiting the use of white lead, etc., in painting (L. S. 1929, Nor. 1).

Royal Decree of 6 December 1929 concerning the putting into force of the above Act.

Regulations concerning the use of white lead, etc., in painting, issued under § 6 of the Act of 24 May 1929.

*Poland.*

Order of 20 September 1920 respecting the notification of cases of poisoning by lead, zinc, phosphorus, arsenic and mercury in industrial undertakings, factories and workshops (L. S. 1920, Pol. 2).

Decree of the President of the Republic of 30 June 1927 concerning the manufacture, importation and use of white lead, sulphate of lead and all other lead compounds (L. S. 1927, Pol. 7), extended to the Province of Silesia by Act of 13 February 1931.

Decree of the President of the Republic of 22 August 1927 respecting the prevention of occupational diseases and the fight against these diseases (L. S. 1927, Pol. 9), extended to the Province of Silesia by Act of 16 September 1930.

Decree of the President of the Republic of 16 March 1928 concerning industrial safety and hygiene (L. S. 1928, Pol. 4), extended to the Province of Silesia by Act of 18 March 1931.

Ministerial Order of 17 December 1928 concerning the application of certain provisions of the Presidential Decree of 22 August 1927 (L. S. 1928, Pol. 8).

Ministerial Decree of 13 September 1930 concerning the health and safety measures which are obligatory in the preparation of paints and pastes containing white lead, etc., and in painting work involving the use of such paints and pastes (L. S. 1930, Pol. 6).

*Rumania.*

Act of 4 July 1930 respecting public health and social welfare (L. S. 1930, Rum. 3).

Royal Decree No. 130 of 30 January 1933 issuing health regulations for undertakings in which lead and its compounds are manipulated (L. S. 1933, Rum. 2).

Ministerial Decision No. 18,858 of 12 May 1934 concerning accident prevention, to approve, *inter alia*, provisions with regard to occupations in industrial undertakings and in foundries, and with regard to soldering apparatus and dye factories.

Ministerial Decision No. 63,162 of 17 October 1935 for the prevention of lead-poisoning.

*Sweden.*

Act of 19 February 1926 to prohibit in certain cases the employment of workers in painting work in which lead colours are used (L. S. 1926, Swe. 1).

Decree of the Royal Department of Labour and Social Welfare of 30 June 1926 concerning the form to be used for reports on cases of lead poisoning in the painting industry.

Royal Decree of 10 December 1926 concerning the payment of the expense of medical examination of working painters, examined in accordance with the above-mentioned Act.

Workers' Protection Act of 29 June 1912 (B. B. Vol. VIII, 1913, p. 84).

*Uruguay.*

Resolution dated 3 March 1937 to regulate the use and manipulation of lead and its derivatives with a view to reducing lead poisoning (L. S. 1937, Ur. 1).

See also introductory note.

*Venezuela.*

Labour Act of 16 July 1936 (L. S. 1936, Ven. 2).

*Yugoslavia.*

Regulations of 7 May 1931 respecting the use of white lead in painting.

Act of 20 December 1921 respecting labour inspection (L. S. 1921, II, S. C. S. 2).

Act of 14 May 1922 respecting social insurance (L. S. 1922, S. C. S. 2).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation ratifying the present Convention undertakes to prohibit, with the exceptions provided for in Article 2, the use of white lead and sulphate of lead and of all products containing these pigments, in the internal painting of buildings, except where the use of white lead or sulphate of lead or products containing these pigments is considered necessary for railway stations or industrial establishments by the competent authority after consultation with the employers' and workers' organisations concerned.

It shall nevertheless be permissible to use white pigments containing a maximum of 2 per cent. of lead expressed in terms of metallic lead.

*Please give a list of the cases (if any) where the use of white lead or sulphate of lead or products containing these pigments has been considered necessary by the competent authority after consultation with the employers' and workers' organisations concerned, stating what is the competent authority in your country for this purpose and what means have been adopted for the consultation of the employers' and workers' organisations concerned.*

*Greece.* — §§ 1 and 2 of Exceptional Act No. 1204 of 1938 prohibit the use in painting work of lead pigments containing more than 2 per cent. of metallic lead. Exceptions are authorised for: (1) Touching-up and restoration of artistic paintings; (2) making of enamelled articles; (3) painting of (a) war material, (b) railway and tramway rolling-stock, (c) ironwork exposed to the weather, (d) interior work in factories in which noxious vapours are produced.

*Mexico.* — The report states the only provision in the Federal Labour Act which corresponds to this Article of the Convention is that contained in § 326, item XXXI, which includes lead poisoning in the Schedule of occupational diseases and refers to its occurrence among painters using white lead. The report adds that the Committee entrusted with drawing up the Regulations relating to industrial hygiene intends to consult the employers' and workers' organisations.

## ARTICLE 2.

The provisions of Article 1 shall not apply to artistic painting or fine lining.

The Governments shall define the limits of such forms of painting, and shall regulate the use of white lead, sulphate of lead, and all products containing these pigments, for these purposes in conformity with the provisions of Articles 5, 6 and 7 of the present Convention.

*Where advantage has been taken of the exemption provided for in the first paragraph of Article 2, please state what definition of the limits of such forms of painting has been laid down. Please forward copies of the regulations which may have been drawn up, pursuant to the second paragraph of this Article, in conformity with the provisions of Articles 5, 6 and 7, unless they have already been communicated to the International Office.*

*Greece.* — See under ARTICLE 1.

*Mexico.* — The report states that this Article of the Convention will be taken into account in the industrial hygiene Regulations which are in course of preparation.

## ARTICLE 3.

The employment of males under eighteen years of age and of all females shall be prohibited in any painting work of an industrial character involving the use of white lead or sulphate of lead or other products containing these pigments.

The competent authorities shall have power, after consulting the employers' and workers' organisations concerned, to permit the employment of painters' apprentices in the work prohibited by the preceding paragraph, with a view to their education in their trade.

*Please state whether permission has been granted for the employment of painters' apprentices in the conditions laid down in the second paragraph; please state also what methods were adopted for the consultation of the employers' and workers' organisations concerned.*

*Bulgaria.* — The Government refers to its previous report in which it stated that the Government has always considered it advisable to consult employers' and workers' organisations with regard to the provisions of this Article.

*Greece.* — § 11 (3) of Act No. 1204 prohibits the employment of women and children on painting work. Male young persons under 18 years of age (15 years and over) may be engaged only as apprentices for the purpose of their education in their trade, and may in no case be employed for more than four hours a day in the preparation and handling of lead pigments.

*Mexico.* — The report states that the Regulations relating to industrial hygiene and the proposed amendments to the Political Constitution will cover not only the minimum age for admission to employment but also the minimum age for the admission of women and children to employment in dangerous and unhealthy occupations. The Government also intends to regulate the employment of male apprentices; the workers' and employers' organisations will be consulted.

## ARTICLE 4.

The prohibitions prescribed in Articles 1 and 3 shall come into force six years from the date of the closure of the Third Session of the International Labour Conference.

The reports supplied contain no fresh information with regard to this Article.

## ARTICLE 5.

Each Member of the International Labour Organisation ratifying the present Convention undertakes to regulate the use of white lead, sulphate of lead and of all products containing these pigments, in operations for which their use is not prohibited, on the following principles:

- I. (a) White lead, sulphate of lead, or products containing these pigments shall not be used in painting operations except in the form of paste or of paint ready for use.
- (b) Measures shall be taken in order to prevent danger arising from the application of paint in the form of spray.
- (c) Measures shall be taken, wherever practicable, to prevent danger arising from dust caused by dry rubbing down and scraping.
- II. (a) Adequate facilities shall be provided to enable working painters to wash during and on cessation of work.
- (b) Overalls shall be worn by working painters during the whole of the working period.
- (c) Suitable arrangements shall be made to prevent clothing put off during working hours being soiled by painting material.
- III. (a) Cases of lead poisoning and of suspected lead poisoning shall be notified, and shall be subsequently verified by a medical man appointed by the competent authority.
- (b) The competent authority may require, when necessary, a medical examination of workers.
- IV. Instructions with regard to the special hygienic precautions to be taken in the painting trade shall be distributed to working painters.

*Please give full information concerning the regulations made under this Article and their application, in relation to each of the paragraphs of the Article.*

*In particular, please furnish information on the following points: (a) To what extent are special precautions required in the use of paint in the form of spray; (b) to what extent are facilities for washing and cleanliness required to be given for workers in small establishments as well as in large undertakings.*

*Greece.* — I. (a) and (c). § 11 (1) and (2) of Act No. 1204 stipulates that paints must be supplied to the workers in the form of paste or liquid ready for use, and that master painters must supervise scraping and rubbing down so as to ensure that dry scraping is avoided and that any dust created is damped and removed.

I. (b) § 12 of the same Act prohibits the use of spray guns with lead paints in any undertaking which is not equipped with (a) special compartments completely closed off from the other work-places, and (b) proper protective masks for the use of the workers. The use of spray guns is not prohibited for building work done in the open air or in well ventilated premises provided that the direction of the jet follows that of the wind and that the worker stands in an appropriate place.

II. (a), (b) and (c). § 11 (4) to (9) requires master painters to provide their workers with everything necessary for their personal cleanliness and with special working clothes, and to arrange appropriate places

in which the workers may keep their food and garments so that those will not come into contact with lead pigments used in painting.

III. (a) § 14 of the Act requires employers to notify to the labour inspection service or the competent police authority any case of lead poisoning within five days of the first appearance of symptoms of the poisoning; (b) § 16 of the Act provides that workers employed on work entailing a risk of lead poisoning must undergo medical examination very year, even if not attacked by the disease.

IV. § 11 (10) and (11) of the Act imposes on employers an obligation to call the attention of workers to the dangers arising from the toxic substances contained in lead pigments, to indicate to them the precautions to be taken, and to distribute to them, or in some other appropriate way to make them acquainted with, the pamphlets on the subject published by the Ministry.

See also introductory note.

*Mexico.* — The report states that this Article will be taken into account in the Regulations which are in course of preparation.

## ARTICLE 6.

The competent authority shall take such steps as it considers necessary to ensure the observance of the regulations prescribed by virtue of the foregoing Articles, after consultation with the employers' and workers' organisations concerned.

*Please give a summary of any steps which may have been taken in pursuance of this Article, stating in what manner the employers' and workers' organisations concerned were consulted.*

*Bulgaria.* — The Government refers to its letter of 25 May 1938, in which it stated that there have been no occasions on which the competent authority has had, for certain purposes, to consult the organisations of workers and employers concerned, as provided for in this Article.

*Greece.* — The necessary provision is made in §§ 3 to 13 of Act No. 1,204 § 7 of the Act requires vessels containing lead pigments to bear a label with the words "Lead-Poison" and a statement of the percentage of metallic lead in the contents. § 8 imposes on municipal public works departments and on similar services of private undertakings and philanthropic establishments an obligation to include in their contracts a clause prohibiting the use of lead paints with more than 2 per cent. of metallic lead. § 9 prohibits the sale of lead paints unless the buyer produces a special permit given by the labour inspection service or the police authority, and § 10 prohibits employers from using lead paints without having such a permit, subject to certain excep-

tions. § 20 imposes a penalty for contraventions of imprisonment for from 5 to 30 days or a fine of from 100 to 1000 drachmes; these penalties may be doubled if the offence inspected. Consultation with the employers' and workers' organisations in the framing of rules is ensured by the composition of the Superior Labour Council, which includes representatives of the trade organisations of employers and of workers nominated by the Confederation of Labour.

*Mexico.* — The report states that this Article will be taken into account in the Regulations relating to industrial hygiene which are being drafted.

#### ARTICLE 7.

Statistics with regard to lead poisoning among working painters shall be obtained:

(a) As to morbidity — by notification and certification of all cases of lead poisoning.

(b) As to mortality — by a method approved by the official statistical authority in each country.

*Please give any statistics with regard to lead poisoning among working painters which may have been obtained, describing the statistical methods adopted.*

*Cuba.* — The report states that during the period 1934-1936 no cases of lead poisoning among working painters have been recorded. (The Government appends to its report statistics relating to cases of lead poisoning in the printing trade and in the manufacture of storage batteries).

*Greece.* — §§ 17, 18 and 19 of Act No. 1,204 require employers to keep a special register showing the state of health of their workers, cases of sickness, death, etc. Statistics will be compiled from the data thus recorded. No statistics are furnished with the report.

*Mexico.* — The Government states that the statistics required under this Article will be compiled.

### III.

*Article 12 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates in accordance with the provisions of Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — The Decree of 28 December 1937 extending the provisions of the Convention to all French Colonies (other than *Guadeloupe*, *Martinique* and *Réunion*, covered by a previous Decree of 1 July 1933) and to the Territories of the *Camerouns* and *Togoland under French Mandate*, has been promulgated in *French West Africa* by order of 24 January 1938, in the *Camerouns* by Order of 4 February 1938, in *Madagascar* by Order of 4 February 1938, and in *Indo China* by Order of 22 February 1938. In *Indo China*, observance of the provisions of the Convention is further assured by §§ 101 and 102 of the Native Labour Decree of 30 December 1936 and §§ 90 and 91 of the Decree of 24 February 1937 concerning the employment of Europeans and of assimilated persons. In *Madagascar*, § 61 of the Native Labour Decree of 7 April 1938 prohibits the use of white lead. In practice the application of the provisions of the Convention results from the fact that the toxic substances in question are not used. In the West Indies in particular, nearly all the products used in the preparation of paints come from France, where the use of white lead has ceased in consequence of the Act of 31 January 1926. The labour inspectorate is entrusted with the enforcement of the laws; in colonies where there is no organised labour inspectorate an officer is specially appointed to act as labour officer. In practice no use of poisonous substances has been noted, and no case of white lead poisoning has come to the knowledge of the administrations.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Greece.* — The application of the Convention is entrusted to the authorities of the labour inspection service, to the

health officers and to the health services of the Ministry of Labour and the municipalities.

*Mexico.* — The staff of the Labour Department, in particular, the Social Welfare Offices and the inspection service attached to it, and the Department of the Federal District are entrusted with the application and supervision of the the legislation.

*Sweden.* — The report states that, from 1 January 1938, questions with regard to the application of the Convention are dealt with by the State Insurance Office which is the competent highest authority.

#### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information regarding the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not refer to this point.

*Belgium.* — According to the report of the Medical Inspection Service for the year 1937, 2,585 authorisations were granted in accordance with the Act of 30 March 1926 concerning the use of white lead. The total quantity of white lead thus authorised amounted to 1,607,615 kgs., of which 1,422,940 kgs. was in the form of paste and 184,645 kgs. in the form of powder. No observations have been received by the Government from the

employers' and workers' organisations concerned with regard to the practical application of the Convention.

*Bulgaria.* — The report states that so far no cases have been notified of the employment of young persons under 18 or women in industrial establishments in painting work involving the use of white lead, sulphate of lead and products containing these pigments.

*Chile.* — The Government states in its report that labour inspectors, on their visits to industrial establishments and work places, constantly require conformity with the regulations in force concerning industrial health and safety. The number of persons employed in paint factories has not changed and is 200. The number of workers employed as painters is about 5000. According to information furnished by the inspection services, no infringement of the national legislation implementing the provisions of the Convention has occurred. No cases of lead poisoning have been found. The employers' and workers' organisations concerned have not made any observations with regard to the legislative provisions which give effect to the Convention.

*Colombia.* — See introductory note.

*Cuba.* — The report states that no observations have been put forward by the employers' or workers' organisations concerned regarding the practical application of the Convention.

*Estonia.* — The report states that the administration of the Act and regulations thereunder has not so far given rise to any difficulty and that the labour inspectors have not reported any cases of contravention of the provisions in question during the period under review. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*Finland.* — The report states that there occurred no cases coming under Articles 1, 2 and 3 of the convention. No statistics are available with regard to the number of workers covered by the relevant legislation. The employers' and workers' organisations concerned have made no observations with respect to the application of the Convention or the national legislation which implements it.

*France.* — The report states that during 1937 there were no cases of proceedings regarding contraventions of the regulations prohibiting the use of lead compounds in the painting of buildings. 15 warnings

were issued and two cases were noted of infringements of the regulations regarding the use of lead compounds in painting work where their use is not prohibited. During the period under review the employers' and workers' organisations have made no observations regarding the practical application of the Convention or of the national legislation which implements it.

*Greece.* — The report states that no observations with regard to the application of the Convention have been submitted by employers' or workers' organisations. See also introductory note.

*Latvia.* — The Government states in its report that, according to the Health Department of the Ministry of Social Welfare, there were 9 cases of lead poisoning among working painters in 1937 and 12 cases during the year 1938 (1 January-30 November). The practical application of the Convention has given rise to no difficulty.

*Luxemburg.* — The Government refers to the report of the Accident Insurance Association (Industrial Section, Statement for 1937) which mentions notification of two cases of lead poisoning for which compensation was not accorded, the diagnosis not having been confirmed. No infringements of the legislation were reported by the labour inspection service.

*Mexico.* — The Government states that pending the drafting of the industrial hygiene Regulations the Labour Department has given the requisite instructions to the Committee entrusted with this work to ensure that all provisions of the Convention are covered. See also introductory note.

*Norway.* — The report states that in 1937 no cases of lead poisoning due to the use of white lead in the internal pointing of buildings were reported by the Labour Inspectorate nor were there any infringements of the legislative provisions. The Government states that the Convention is applied strictly and that no observations have been received from the employers' and workers' organisations concerned regarding the practical fulfilment of the conditions presented by the Convention of the application of the national law which implements it.

*Poland.* — The report of the head of the Medical Labour Inspection Service for the year 1937 states that there were no cases of poisoning due to the use of white lead during the year under review.

*Rumania.* — The Government states that the reports of the factory inspectors for 1937 contain no precise information with regard to the practical application of the relevant legislation. The report

adds that it is not possible for the moment to state the number of workers covered by the relevant legislation on the number of contraventions. No observations have been received from the employers' and workers' organisations with regard to the practical application of the Convention.

*Sweden.* — The Government states that, in general, the Convention may be said to be satisfactorily applied. This is confirmed by the fact that no complaints have been received from the occupational organisations with regard to its application.

*Uruguay.* — The report does not refer to this point. See also introductory note.

*Venezuela.* — The Government states in its report that as soon as the Regulations applying the Labour Act, which are still in course of preparation, are published, the Statistical Department, with the assistance of the labour inspectors, will compile statistics regarding the number of workers covered by the legislation, together with the number and nature of contraventions reported. The Government will not fail to supply the Office with this data which will form the basis of the information regarding the practical application of the Convention. With regard to the method of calculating the number of infractions, the report adds that under § 83 of the Penal Code every person who is guilty of an infringement of the legislation is liable to the corresponding penalty, but if the infringement is in respect of one provision only of the legislation it is treated as a single offence, even if it covers several persons. No observations have been received from the employers' or workers' organisations regarding the practical application of the legislative provisions implementing the Convention.

*Yugoslavia.* — The report states that the labour inspectors have not reported any cases of infringement with regard to the application of the Convention.

#### 14. Convention concerning the application of the weekly rest in industrial undertakings.

This Convention came into force on 19 June 1923. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:



COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5.1936	31. 2.1939
Belgium . . . . .	19. 7.1926	21.10.1938
Bulgaria . . . . .	6. 3.1925	2.12.1938
Canada . . . . .	21. 3.1935	23. 3.1939
Chile . . . . .	15. 9.1925	2. 2.1939
China . . . . .	17. 5.1934	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Czecho-Slovakia . .	31. 8.1923	16. 2.1939
Denmark . . . . .	30. 8.1935	21.11.1938
Estonia . . . . .	29.11.1923	11.10.1938
Finland . . . . .	19. 6.1923	5.11.1938
France . . . . .	3. 9.1926	12. 1.1939
Greece . . . . .	11. 5.1929	21. 3.1939
India . . . . .	11. 5.1923	16.12.1938
Ireland . . . . .	22. 7.1930	4.11.1938
Italy . . . . .	8. 9.1924	
Latvia . . . . .	9. 9.1924	25. 1.1939
Lithuania . . . . .	19. 6.1931	7.11.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	7. 1.1938	26.11.1938
New Zealand . . . .	29. 3.1938	7. 2.1939
Norway . . . . .	7. 7.1937	22.11.1938
Poland . . . . .	21. 6.1924	8.12.1938
Portugal . . . . .	3. 7.1928	8.11.1938
Rumania . . . . .	18. 8.1923	20. 2.1939
Spain . . . . .	20. 6.1924	
Sweden . . . . .	22.12.1931	28.11.1938
Switzerland . . . . .	16. 1.1935	1.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	11. 5.1923	30. 1.1939

For the general statement made by the Government of *Canada* in a letter dated 10 March 1939, see *Convention No. 1 (Hours of work, industry)*, introductory note.

The report of the Government of *Italy* has not been received.

The Government of *Portugal* states in its report that on 19 October 1937 instruc-

tions were issued with regard to the application of the principle of the weekly rest, to the effect that the provisions relating thereto in collective agreements should take into consideration the local customs or standards already laid down by the municipal authorities concerned. In virtue of § 34 of the National Labour Code, collective agreements must contain provisions relating to the weekly rest. The report adds that during the period under review national and regional collective agreements, all containing compulsory clauses regarding the weekly rest, were concluded in the following industries: loading and unloading of goods, preserved fish industry, coopers' sheds, flour and dough-making, match, cutlery and slate industries.

The report of the Government of *Spain* has not been received.

#### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular: (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Argentine Republic.*

*National legislation in force in the Federal capital and in the national territories:*

Act. No. 4,661 of 6 September 1905 concerning the weekly rest (French text, B.B. 1905, Vol. IV, page 343), amended by Act No. 9,104 of 12 August 1913.

Act No. 11,640 of 7 October 1932 concerning the five-and-a-half-day week (L.S. 1932, Arg. 2).

General Decree No. 16,117 of 16 January 1933 to issue Regulations (for the Federal capital) under Acts No. 4,661 and No. 11,640 mentioned above, partially amended by Decrees No. 46,701 of 9 August 1934, No. 61,908 of 11 June 1935, No. 69,843 of 30 October 1935, No. 79,276 of 27 March 1936 and No. 104,911 of 5 May 1937.

Decree No. 61,907 of 11 June 1935 to issue Regulations under the above-mentioned Acts in the national territories.

#### *Provincial legislation:*

Acts and Administrative Regulations enacted by the fourteen Provinces.

#### *Special provisions:*

Decree No. 65,240 of 10 August 1935 to issue Regulations under Act No. 11,544 concerning railways under national jurisdiction.

<sup>1</sup> See the introduction to the present volume, p. 4.

*Belgium.*

Act of 17 July 1905 relating to the Sunday rest in industrial and commercial undertakings (French text in B. B. Vol. IV, 1905, p. 212), amended by the Acts of 25 May 1914 and 24 July 1927 (L. S. 1927, Bel. 6), and Orders issued in pursuance thereof.

*Bulgaria.*

Act of 1911 respecting holidays and Sunday rest (French translation in B. B. Vol. XVII, 1918, p. 67).

Act of 1917 respecting the health and safety of workers (B. B. Vol. XIII, 1918, p. 26).

*Canada.*

See under *Convention No. 1 (Hours of Work, industry)*, introductory note.

*Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

Regulations of 16 January 1918.

Decree No. 338 of 13 April 1936 concerning exceptions to the Sunday rest in undertakings for the revision and distribution of cinematograph films.

Decree No. 611 of 5 August 1936 concerning exceptions to the Sunday rest in the refrigerating plant of San Cristobal.

Decree of 23 September 1937 concerning exceptions to the Sunday rest in cardboard and paper factories.

*China.*

Factory Act as amended. Consolidated text of 30 December 1932 (L. S. 1932, Chin. 2 A).

Amended Regulations for the administration of the Factory Act. Consolidated text of 30 December 1932 (L. S. 1932, Chin. 2 B).

Order of the Minister of Industry of 1 November 1934.

Mines Act of 25 June 1936.

*Colombia.*

Act No. 57 of 16 November 1926 to establish Sunday rest and to issue other provisions respecting labour legislation (L. S. 1926, Col. 2).

Act No. 72 of 28 May 1931 to amend Act No. 57 of 1926 respecting Sunday rest (L. S. 1931, Col. 1 A).

Decree No. 1278 of 23 July 1931 to issue regulations under Acts No. 57 of 1926 and No. 72 of 1931 respecting Sunday rest (L. S. 1931, Col. 1 B).

*Czecho-Slovakia.*

Act of 19 December 1918 respecting the eight-hour working day (L. S. 1919, Cz. 1-3).

Order of 11 January 1919 in pursuance of the Act respecting the eight-hour day (L. S. 1919, Cz. 1-3).

Austrian Act of 16 January 1895 relating to the regulation of the Sunday rest and of holidays as amended by the Act of 18 July 1905 (B. B. Vol. IV, 1905, p. 311, German text).

Austrian Order of 12 September 1912 completing and partially amending the Order in pursuance of the Act relating to the regulation of the Sunday rest and of holidays (B. B. Vol. VIII, 1913, p. 1).

Hungarian Act No. XIII of 1891 concerning Sunday rest in industry.

*Denmark.*

Act of 29 April 1913 relating to work in factories, etc. (B. B. Vol. VIII, 1913, p. 324).

Act of 18 April 1925 respecting the employment of children and young persons (L. S. 1925, Den. 1).

Notification of the Act respecting work in bakeries and confectionery businesses, as amended by the Act of 9 June 1920 (L. S. 1920, Den. 3).

*Estonia.*

Act of 17 December 1925 concerning the application of the weekly rest in industrial undertakings (L. S. 1925, Est. 4) as amended by the Legislative Decree of 17 June 1936.

Order of the Minister of Labour and Social Welfare of 23 October 1926 relating to the granting of rest periods and compensation to persons employed on work which may be performed on Sundays and public holidays in virtue of § 4 of the Act of 17 December 1925 (L. S. 1926, Est. 2).

Orders of the Minister of Education and Social Welfare of 26 January 1933, respecting the method of granting rest periods and pay to transport workers employed in undertakings in connection with work which may be performed on Sundays and public holidays in pursuance of § 4 of the Act of 17 December 1925 (L. S. 1933, Est. 1).

*Finland.*

Act of 27 November 1917 respecting the eight-hour working day, as amended by the Act of 14 August 1918 (B. B. Vol. XIII, 1918, pp. 36 and 39).

Order of 1 June 1923 bringing the Convention into force in Finland.

Decision of the Council of Ministers of 16 December 1937 concerning certain exceptions to the provisions of the Act of 27 November 1917 respecting the eight-hour working day.

Decision of the Council of Ministers of 16 December 1937 respecting hours of work in continuous undertakings.

Factory Inspection Act of 4 March 1927 (L. S. 1927, Fin. 1.)

*France.*

Code of Labour and Social Welfare, Book II, §§ 30 and following, amended by Legislative Decree of 30 October 1935.

Decree of 24 August 1906, amended by the Decree of 13 July 1907, relating to the supervision of the enforcement of the Act relating to the weekly day of rest (B. B. Vol. I, 1906, p. 291 and Vol. II, 1907, p. 284).

Decree of 14 August 1907, amended by Decrees of 10 September 1908, 30 April 1909 and 19 June 1930, completing the schedule of establishments permitted to give weekly rest by rotation (B. B. Vol. III, 1908, p. 69).

Decree of 31 August 1910 determining relaxations of the general regulations for the weekly rest as regards special workers employed in works where continuous furnaces are used (B. B. Vol. VI, 1911, p. 166).

Decree of 29 April 1913 determining the schedule of establishments in which the weekly rest of women and children may be suspended in virtue of §§ 45, 46 and 47 of Book II of the Labour Code (B. B. Vol. VIII, 1913, p. 290.)

*Greece.*

Decree of 8 March 1930 to consolidate the Acts respecting Sunday rest (L. S. 1930, Gr. 3).

Legislative Decree of 2 November 1935 to supplement § 2 of the above Decree of 8 March 1930.

Act No. 199/1936 concerning the weekly rest of taxi-drivers.

Various Decrees and orders in application of the Act of 8 March 1930.

*India.*

- Indian Factories Act of 1934 (L. S. 1934, Ind. 2) as subsequently amended (L. S. 1936, Ind. 3).
- Indian Mines Act of 1923 (L. S. 1923, Ind. 3) as subsequently amended (L. S. 1928, Ind. 1 and 1935, Ind. 3).
- Indian Railways Act of 1890, as amended in 1930 (L. S. 1930, Ind. 1 A).
- Railway Servants (Hours of Employment) Rules. 1931.

*Ireland.*

- Conditions of Employment Act, 1936 (L. S. 1936, I.F.S. 1).
- Road Traffic Act, 1933 (L. S. 1933, I. F. S. 4).

*Latvia.*

- Act of 24 March 1922 respecting hours of work (L. S. 1922, Lat. 1) as amended by the Act of 15 May 1929 (L. S. 1929, Lat. 3).

*Lithuania.*

- Act of 30 November 1919 respecting hours of work (L. S. 1920, Lith. 2), amended by Acts of 24 November 1925 (L. S. 1925, Lith. 1) and 2 April 1931 (L. S. 1931, Lith. 2).
- Act of 14 May 1930 concerning public holidays and days of rest (L. S. 1930, Lith. 1).

*Luxemburg.*

- Act of 21 August 1913 concerning the weekly day of rest for employees and workmen (B. B. Vol. IX, 1914, p. 106).
- Resolution of 21 August 1914 in pursuance of the above Act (B. B. Vol. XI, 1916, p. 16).
- Act of 31 October 1919 concerning contract of service of private employees (L. S. 1920, Lux. 2-4), as amended by the Act of 7 June 1937.
- Grand-Ducal Order of 21 October 1938 concerning the application of § 6 of the Act of 7 June 1937 amending the Act of 31 October 1919.
- Rules relating to railway staff, approved by the Grand-Ducal Orders of 14 May 1921 and 26 May 1930.
- Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Mexico.*

- Political Constitution of the United States of Mexico of 1917.
- Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1), amended by the Decree of 20 February 1936 (L. S. 1936, Mex. 1).

*New Zealand.*

- Factories Act, 1921-1922, as amended by the Factories Amendment Act, 1936 (L. S. 1936, N. Z. 2).
- Factories Consolidating Regulations, 1937.
- Factories Act Modification and Extension Orders, 1938.
- Coal Mines Act, 1925, as amended by the Coal Mines Amendment Act, 1937 (L. S. 1925, N. Z. 2; 1937, N. Z. 2).
- Mining Act, 1926 (L. S. 1926, N. Z. 1) as amended by the Mining Amendment Act, 1937.
- Industrial Conciliation and Arbitration Act, 1925 (L. S. 1925, N. Z. 1), as amended by the Industrial Conciliation and Arbitration Amendment Act, 1936 (L. S. 1936, N. Z. 1).
- Transport Licensing Act, 1931, and Regulations made thereunder.

Various awards made and agreements approved under the Industrial Conciliation and Arbitration Act.

Police Offences Act, 1927.

*Norway.*

Workers' Protection Act dated 19 June 1936 (L. S. 1936, Nor. 1).

*Poland.*

Act of 18 December 1919 relating to hours of work in industry and commerce (L. S. 1920, Pol. 1), text as in the Notification of the Minister of Social Welfare of 25 October 1933 (L. S. 1933, Pol. 1).

Decree of the Minister of Labour and Social Welfare of 10 December 1921 respecting work at night and on Sundays and holidays in preparatory processes in the bakery trade (L. S. 1921, Pol. 5-8).

Decree of the Ministry of Labour and Social Welfare of 26 January 1922 (L. S. 1922, Pol. 1) concerning the hours of work of persons employed in watching as defined by the Decree of 3 October 1930.

Order of the President of the Republic of 15 November 1924 concerning public holidays (L. S. 1924, Pol. 1 G), amended by the Act of 18 March 1925 (L. S. 1925, Pol. 3 B).

Decree of the President of the Republic of 7 June 1927 relating to industrial law (L. S. 1927, Pol. 4).

Decree of the President of the Republic dated 16 March 1928, concerning the contract of employment of intellectual workers (L. S. 1928, Pol. 2).

Decree of the President of the Republic of 16 March 1928 concerning the contract of employment of wage-earning employees (L. S. 1928, Pol. 3).

Order of the Ministry of Labour and Social Welfare of 13 August 1930 concerning the hours of work of the traffic staff of tramways (L. S. 1930, Pol. 1 B).

Order of the Minister of Social Welfare of 10 August 1932 concerning night work and work on Sundays and public holidays in printing works and allied undertakings (L. S. 1932, Pol. 1 B), replacing the Order of 5 June 1921.

Act of 22 March 1933 to amend and supplement certain provisions of the Act of 18 December 1919 concerning hours of work in industry and commerce, as amended by the Act of 7 November 1931.

Decree of 13 December 1933 concerning the hours of work of persons employed in the transport industry.

Decree of 20 December 1933 concerning the hours of work of persons employed in hospital undertakings.

Decree of the Minister of Social Welfare of 27 December 1933, made in agreement with the Minister of Industry and Commerce, respecting the hours of work of tramway workers.

*Portugal.*

Legislative Decree of 8 March 1911 concerning the weekly rest (B.B. Vol. VI, 1911, p. 189.)

Decree No. 22,500 of 10 May 1933 concerning hours of work in transport undertakings (L.S. 1933, Port. 2).

Legislative Decree No. 23,048 of 23 September 1933 to promulgate the National Labour Statute (L.S. 1933, Port. 5).

Legislative Decree No. 24,402 of 24 August 1934 regulating hours of work in industrial and commercial undertakings (L. S. 1934, Port. 5 A) amended by Legislative Decree No. 26,917 of 24 August 1936 (L. S. 1936, Port. 3).

**Rumania.**

- Act of 18 June 1925 respecting the Sunday rest and legal holidays (L.S. 1925, Rum. 2).  
 Regulations of 24 June 1925 issued in application of the Act of 18 June 1925.  
 Ministerial decisions of 4 July and 2 December 1925, 1 February, 4 and 15 March, 21 April, 4 August, 29 September and 22 December 1928, 28 June, 3 July and 24 August 1929.  
 Various decisions issued between 6 June 1930 and 16 June 1931 concerning hours of work in banks, large industrial undertakings in Bucarest and commercial undertakings.  
 Act of 28 April 1936 concerning the Superior Economic Council and occupational Chambers.  
 Act of 2 August 1938 amending certain provisions of the Act respecting the Sunday rest and legal holidays (L. S. 1938, Rum. 2).  
 Administrative Act of 14 August 1936.

**Sweden.**

- Act of 29 June 1912 respecting the protection of workers, amended by the Act of 12 June 1931 (L. S. 1931, Swe. 5).

**Switzerland.**

- Federal Act of 26 September 1931 respecting weekly rest (L. S. 1931, Switz. 9).  
 Regulations and Orders in pursuance of the above Act:  
 Administrative Regulations of the Federal Council of 11 June 1934.  
 Order of the Federal Department of Public Economy of 14 January 1935 concerning the weekly rest of the staff of cinematographs.  
 Order of the aforesaid Department of 8 August 1935 concerning the weekly rest of workers employed by gardeners.  
 Order of the aforesaid Department of 8 August 1935 concerning the weekly rest of workers employed by dairy contractors and in dairies.  
 Order of the aforesaid Department of 11 June 1937 concerning the weekly rest of staff employed by owners of house-drawn vehicles and other persons utilising horses.  
 Order of the aforesaid Department of 20 December 1937 concerning the weekly rest of persons employed in newspaper kiosks.  
 Order of the aforesaid Department of 17 June 1938 concerning the weekly rest of the technical staff of power stations not covered by the Federal Factory Act.  
 Federal Factory Act of 18 June 1914/27 June 1919 (B.B. 1914, Vol. IX, p. 269 and L.S. 1919, Switz. 3).  
 Order promulgated by the Federal Council on 3 October 1919/7 September 1923, in pursuance of the above Act (L. S. 1919, Switz. 4 and 1923, Switz. 3).  
 Federal Act of 6 March 1920 regulating the hours of labour of persons employed on railways and in other services connected with transport and communications (L.S. 1920, Switz. 1).  
 Administrative Orders Nos. I and II of the Federal Council of 12 August 1921.  
 Federal Act of 15 March 1932 concerning the circulation of motor vehicles and cycles.  
 Order of the Federal Council of 4 December 1933 regulating the hours of work and rest of professional drivers of motor vehicles (L. S., 1933, Switz. 8).  
 Order of the Federal Council of 9 October 1936 regulating work in the watch and clock-making industry not carried on in factories extended by Order of the Federal Council of 29 December 1937.  
 Various Federal Circulars, Instructions drawn up by the Federal Office of Industry, Arts and Crafts, and Labour, — *inter-alia* the Circular of 24 May 1938 issued by the Federal Department of Public Economy to the cantonal governments concerning the application of the Federal Act of 26 September 1931 respecting weekly rest — and measures taken by the Cantons, which are in the first instance responsible for the application of the Federal Acts, with the exception of the Act of 6 March 1920. These measures are of an essentially administrative character.

**Uruguay.**

- Act of 10 December 1920 concerning weekly rest (L. S. 1920, Ur. 2).  
 Decree of 26 June 1935 to issue regulations in pursuance of the above Act.  
 Act of 31 May 1923 to explain the meaning of "the workers' half-holiday."  
 Legislative Decree of 18 December 1933 to exempt from the obligation to grant a weekly rest employers of establishments which are not subject to the legislation concerning the closing of shops.

**Yugoslavia.**

- Workers' Protection Act of 28 February 1922 (L. S. 1922, S. C. S. 1).  
 Regulations of 25 October 1921 concerning measures for hygiene and safety in undertakings (L. S. 1921, Part II, S. C. S. 3).

\* \* \*

**Burma.**

- Indian Factories Act of 20 August 1934 (L. S. 1934, Ind. 2), as subsequently amended.  
 Indian Mines Act of 23 February 1923 as subsequently amended (L. S. 1923, Ind. 3; 1928, Ind. 1; and 1935, Ind. 4).  
 Act of 26 March 1930 amending the Indian Railways Act, 1890 (L. S. 1930, Ind. 1).  
 The Burma Factories Rules, 1935.

**II.**

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

**ARTICLE I.**

For the purpose of this Convention, the term "industrial undertakings" includes:

- (a) Mines, quarries, and other works for the extraction of minerals from the earth.  
 (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding and the generation, transformation and transmission of electricity or motive power of any kind.  
 (c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundation of any such work or structure.  
 (d) Transport of passengers or goods by road, rail, or inland waterway, including the handling of goods at docks, quays, wharves or warehouses, but excluding transport by hand.

This definition shall be subject to the special national exceptions contained in the Washington Convention limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week, so far as such exceptions are applicable to the present Convention.

Where necessary, in addition to the above enumeration, each Member may define the line of

division which separates industry from commerce and agriculture.

*In addition, please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Lithuania.* — The report states that it was not considered necessary to define the line of division between industry on the one hand, and commerce and agriculture on the other.

*Mexico.* — The report states that up to the present no decision has been taken with regard to the definition of the line between industry, on the one hand, and commerce and agriculture, on the other. The report adds that the Government points out that the principles at present enforced by the national legislation make it comparatively easy to define this line.

*New Zealand.* — See under *Convention No. 1 (Hours of work, industry)*, ARTICLE 1.

*Norway.* — The Convention is applied by the Workers' Protection Act of 19 June 1936 which applies to every establishment in which employees perform work or mechanical power exceeding 1 h.p. is used. As regards the line of division which separates industry from commerce and agriculture the report refers to § 1 (c) of the Act under which horticulture, stock-raising and agriculture (including forestry connected therewith) and establishments connected therewith which are carried on mainly to meet the requirements of the farm are excluded from the scope of application of the Act. The provisions regarding weekly rest are however applicable to commercial undertakings.

\* \* \*

*Burma.* — The provisions of this Convention continue to be applied in Burma under the legislation in force in India. In the case of Burma, the field of application corresponds to that laid down in ARTICLE 10 of the *Hours of Work (Industry) Convention, 1919*. The Convention applies to workers in the industries at present covered by the Factories Act, in mines and in such branches of railway work as shall be specified by the competent authority.

## ARTICLE 2.

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.

This period of rest shall, wherever possible, be granted simultaneously to the whole of the staff of each undertaking.

It shall, wherever possible, be fixed so as to coincide with the traditions or customs of the country or district.

*Mexico.* — § 123, Chapter IV of the Constitution lays down that an employee shall be entitled to one day of rest for every six days' work. This provision of the Constitution is also contained in § 78, paragraph 1, of the Federal Labour Code, amended by the Decree of 20 February 1936, which states, in addition, that the employee shall receive full wages for work on the weekly day of rest. Paragraph 2 of the above Article states that governors of the States and Territories shall issue regulations enacting this provision and ensuring that Sunday shall be the weekly day of rest. In addition, § 80 of the Labour Act, as amended by the Decree of 31 December 1936, lays down the following compulsory rest days: 1 May, 16 September, 20 November and 25 December.

*New Zealand.* — The report gives the following information:

*Coal mines.* Except in cases where the previous authority in writing of an Inspector has been obtained it shall not be lawful for any person to do any skilled or unskilled manual labour on or about any mine on Sunday or for any person to directly or indirectly employ any workman on Sunday for hire or reward to do any skilled or unskilled manual labour in or about any mine. Such authority shall be given only when the Inspector is satisfied that the labour cannot be suspended on Sunday without risk or injury to the mine or its operations. (Coal Mines Act, 1925, § 72, see also 1937 amendment, § 9).

*Gold mines and mines other than coal mines.* Except in cases where the previous authority in writing of an Inspector of Mines has been obtained it shall not be lawful for any person or company to directly or indirectly employ any workman on Sunday for hire or reward to do any skilled or unskilled manual labour in or about any mine. Such authority shall be given only where the Inspector is satisfied that the labour cannot be suspended on Sunday without risk or injury to the mine or its operations. (Mining Act, 1926, § 260).

*Quarries.* Awards and collective agreements provide for a five-day week.

*Factory Production.* No woman or boy shall be employed in or about a factory . . . on any Sunday. (Factories Amendment Act, 1936, § 3 (2)).

*Laundries.* The number of working hours may from time to time be extended but such extension shall not be in the case of any person who is an employee on . . . any Sunday. (Factories Act, 1921-22, § 20).

*Dairy factories and creameries.* Except as to a dairy factory or creamery in which not more than two workers are regularly employed no worker shall be employed in or about a dairy factory or a creamery on more than six days in any one week.

(Factories Amendment Act, 1936, § 4). A worker who is employed on more than six days in any week is entitled to an equivalent number of days off at the close of the season or to payment therefor.

Thus, except as to laundries and dairy factories and creameries, the restriction to a six-day week in the case of male workers (other than boys) is contained in arbitration awards or collective agreements. See also the provisions of the Police Offences Act, 1927, § 18.

*Construction.* Construction work in the main is covered by arbitration awards and collective agreements. As an example, the New Zealand Carpenters' and Joiners' Award, dated 8 November 1937, is quoted, which fixes hours of work at eight per day on five days of the week.

Other awards contain similar provisions. In respect of construction work carried out by the Government the Public Works Workers' Agreement, 1936, contains the following clause: "The working time in any one week, unless absolutely unavoidable owing to emergency, shall not exceed forty hours; and shall consist of not more than eight hours per day, to be worked between 7.30 a.m. and 5 p.m. on each day of the week from Monday to Friday inclusive . . ."

*Transport.* Regulations under the Transport Licensing Act, 1931, provide that it shall be a condition of every licence (whether inserted therein or not) that, unless otherwise provided in the licence, the licensee shall not drive or cause or permit any person employed by him or subject to his orders to drive any passenger-service or goods-service vehicle used under the authority of a licence . . . so that the driver has not at least twenty-four consecutive hours for rest in any period of seven days. Arbitration awards also provide like requirements.

The report adds that in New Zealand the weekly rest day, apart from the forty-hour week and the legislation directing the Court of Arbitration to eliminate Saturday work where practicable, is generally observed on the Sunday and special provisions securing Sunday observance are contained in the Police Offences Act, § 18. This Act does not apply to works of necessity or charity, or the driving of live stock, or the sale of refreshments for consumption on the premises, or the sale of medicine or of surgical or medical appliances, or of anything required in connection with sickness or accident, or the sale or delivery of milk, or to hairdressers or barbers before nine o'clock in the forenoon, or to persons driving any public or private motor-car, carriage or cab, or to persons employed in the working of railways, trams or tramcars or cable-lines or on steamers, vessels, boats or in a motor-garage, or to any livery stable-keeper, or to any person employed in or

in connection with any telegraph office or post office, or to any person employed in preparing printing and publishing a daily newspaper.

*Norway.* — § 22, paragraph 2 of the Workers' Protection Act provides that "the normal hours of work of employees shall be so arranged that each employee has a continuous weekly rest period of not less than 24 hours." The free day must as far as possible be given on a Sunday or public holiday and must be given at the same time to all the employees of the establishment. In the case of work which on account of its nature or conditions cannot be interrupted on Sundays and public holidays work may be arranged in shifts which in pursuance of § 15, paragraph 3 must alternate weekly. In respect of such work or in other special cases the competent department may fix another arrangement of the weekly rest period provided that the employees are granted a continuous rest period of not less than 24 hours a week on an average over the shift period or another specified period.

#### ARTICLE 3.

Each Member may except from the application of the provisions of Article 2 persons employed in industrial undertakings in which only the members of one single family are employed.

*Mexico.* — The report states that this exception is provided for in §§ 211 and 212 of the Federal Labour Act which state that the provisions of this Act other than those relating to labour inspectors, sanitation and hygiene, shall not apply to work carried on in family workshops.

*New Zealand.* — See under ARTICLE 2.

*Norway.* — The Workers' Protection Act makes no provision for the exemption authorised by this Article.

*Switzerland.* — The Order of the Federal Council of 9 October 1936/29 December 1937 regulating work in the watch and clock-making industry not carried on in factories covers small undertakings and family undertakings. The legislation therefore goes further than the provisions of the Convention.

\* \* \*

*Burma.* — The report states that the Factories and Mines Acts are not applicable to such small undertakings.

## ARTICLE 4.

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.

Such consultation shall not be necessary in the case of exceptions which have already been made under existing legislation.

*Where advantage has been taken of the provisions of this Article, please state the methods adopted for consulting the responsible associations of employers and workers.*

*Finland.* — The report states that, in virtue of a decision of the Council of Ministers dated 16 December 1937, the exception allowed under this Article of the Convention in respect of certain classes of railway workers only applies to railway stations of secondary importance.

*Lithuania.* — The report states that no advantage has been taken of the provisions of the Article.

*Mexico.* — The report states that no exceptions with regard to weekly rest are provided for in the national legislation. Any exceptional case which may arise is the result of an arrangement between the employer and his employees. In addition, under § 81 of the Federal Labour Act, in processes which require continuous work the parties shall fix by agreement the days on which which employees must rest after six consecutive working days or in place of the compulsory rest days.

*New Zealand.* — A statutory exception exists in regard to dairy factories and creameries in which not more than two workers are regularly employed, a worker who is employed on more than six days in any week being entitled to an equivalent number of days off at the close of the season or to payment therefor.

*Norway.* — The question of authorising certain exceptions under this Article is under consideration and the associations of employers and workers have been asked to submit their views in writing.

*Switzerland.* — As was the case with former Orders in pursuance of the Federal Factory Act respecting weekly rest, the groups of employers and workers concerned were asked for their opinion in writing when the Order of 17 June 1938, concerning the weekly rest of the technical staff of power stations not covered by the Federal Factory Act, was in course of preparation. In addition a meeting of these groups was convened in order to discuss the draft which had been prepared.

*Burma.* — The report states that this Article has been applied to the extent and in the manner indicated under ARTICLE 5. The rules issued in application of these Articles were made after publication in draft in the Official Gazette and in the local press and circulation in draft to the main organisations of employers and workers.

## ARTICLE 5.

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 custom already provide for such periods.

*Please give information with regard to (a) the provision made for compensatory periods of rest for the suspensions and diminutions (if any) made in virtue of Article 4; (b) agreements or customs which already provide for such periods.*

*Mexico.* — No provision is made for compensatory periods of rest for suspensions or diminutions in the national legislation, which merely provides for the payment of overtime. The report adds that, in the absence of a provision compelling the employee to take a compensatory rest period, the legislation lays down that hours worked during periods of rest shall be paid as overtime at twice the normal rate of wages.

*New Zealand.* — See under ARTICLE 4.

*Norway.* — In 1937 permission was given to five food businesses (dairies) and one construction undertaking to arrange the weekly rest in such a way that the workers had an *average* rest of 24 hours a week. In undertakings in which for technical reasons work is carried on without interruption during the seven days of the week the Act stipulates under § 15 (3) that a weekly change of shifts must be arranged according to a plan approved by the inspectorate. In some of these plans the minimum weekly rest period is fixed at 24 hours on an average and at a minimum of 16 consecutive hours during one week; all the other shift plans approved provided more favourable conditions for the workers.

*Switzerland.* — The Order of 17 June 1938, concerning the technical staff of power stations not covered by the Federal Factory Act, lays down that staff authorised by the above Order to be on duty on Sunday shall be granted a compensatory period of rest equal at least to the actual period of work and at most to the number of hours on duty. This period of rest may be carried over to slack periods but must be granted at the latest within three months after the date on which it was worked.

*Burma.* — The Burma Factories Rules made under § 43 of the Indian Factories Act provide for the exceptions and compensatory rest periods indicated below. The exceptions made are in every case partial.

(a) Persons engaged on urgent repairs to machinery or plant used in a manufacturing process, for the winning of oil or any mineral, in connection with any public service or on a ship, provided that such persons shall be given not less than four holidays in a month.

(b) Adult male workers engaged on work on the three-shift system which for technical reasons must be carried on continuously throughout the day in electrical generating stations, ice factories, mineral oil refineries, timber seasoning plant, water and oil pumping stations, air or gas compressing stations, chemical works and vegetable oil mills, provided that such workers shall be granted one holiday in every week on a fixed day while they are working on the same shift, if they are working in a relay of more than seven men, or a holiday of 32 consecutive hours at intervals of not more than three weeks, if they are working in a relay of not more than seven men.

(c) Adult male workers employed in sugar factories on the three-shift system, provided that every worker shall have either four days' holiday a month or a period of not less than 32 hours at intervals of not more than three weeks.

(d) Adult male workers engaged in the making or supply of bread, confectionery or other articles of food of a perishable nature intended for immediate consumption, provided that a substitute day is given on one of the three days preceding or following.

(e) Adult male workers engaged in rubber manufacturing, which is a process dependent on the irregular action of natural forces, provided that these workers are granted rest days on which they are not required to work in the factory, so as to compensate them for the Sundays on which they do so work.

(f) Workers engaged in steeping, steaming and drying paddy, provided that such rest intervals are given so as to ensure that they do not actually work for more than ten hours in any day or more than 54 hours in any week.

(g) Workers engaged in receiving or despatching goods or materials, including oil, that have been brought to or are to be removed from a factory by water, provided that no such person is employed for more than 14 days without a holiday and that a record of the number of hours worked is kept.

(h) Persons attending to the engines and boilers in a factory, provided that no such persons shall work for more than

14 days without a holiday of 24 hours and that compensatory rest periods are given so that average weekly hours over three consecutive weeks do not exceed 66 in a seasonal factory or 60 in a non-seasonal factory.

#### ARTICLE 6.

Each Member will draw up a list of the exceptions made under Articles 3 and 4 of this Convention and will communicate it to the International Labour Office, and thereafter in every second year any modifications of this list which shall have been made.

The International Labour Office will present a report on this subject to the General Conference of the International Labour Organisation.

*In communicating the list required by this Article, please indicate separately (a) the total exceptions, (b) the partial exceptions, distinguishing in the latter case suspensions and diminutions and giving as full information as possible regarding such suspensions and diminutions.*

*Denmark.* — A list of exceptions granted during the period 1 October 1937 to 30 September 1938 is appended to the report.

*Estonia.* — The Government has communicated to the Office the two following lists of exceptions permitted by law :

1. *List of kinds of work permitted on Sundays and public holidays in the public interest, to meet the daily needs of the population supplemented on 15 November 1937.*

work in connection with broadcasting programmes.

2. *List of kinds of work in undertakings with continuous processes which are permitted on Sundays and public holidays.*

(List promulgated on 31 October 1931 (L. S. 1931, Est. 3 C), completed on 18 August 1932 (L. S. 1932, Est. 2), 18 January 1933 (L. S. 1933, Est. 1), 21 March 1933 (L. S. 1933, Est. 1) and 30 June 1933 (L. S. 1933, Est. 1), and amended and completed on 23 April 1934-10 September 1935 and 12 September 1938, in virtue of § 6 of the Act respecting the weekly rest in industrial undertakings.

(2) *In paper-pulp and wood-pulp factories :*

heating of the liquid mass (resin) recuperated from the surface of the black lye ; supervision of the dryers ; separation of turpentine and pouring it into drums.

(3) *Bituminous shale industry :*

Work in connection with the heating and emptying of retorts operating with continuous processes in the distillation of crude oil ; work in connection with the loading and conveyance of bituminous shale for distilleries ; loading and opera-



tion of hoists; distillation of spirit and manufacture of other kinds of oil and bitumens; loading and conveyance of derivatives of oil.

(17) *Milk industry:*

Prepared of milk powder by the Krause method.

(18) *Railways:*

Current repairs to rolling stock in depôts of the transport services.

*Luxemburg.* — The report mentions that most of the collective agreements provide for an increase in wages, generally of 40 per cent., for permitted Sunday work.

*Mexico.* — The report states that it is not possible at present to supply a list of the partial exceptions required by this Article of the Convention.

*New Zealand.* — A weekly day of rest is operative in practically every industry within the scope of the Convention. Where Sunday is not observed as the rest day provision is made for some other day in the week to be observed in lieu thereof — for exception see ARTICLES 3 and 4.

*Norway.* — See under Article 5.

*Switzerland.* — The Order of 17 June 1938 concerning the weekly rest of the technical staff of power stations not covered by the Federal Factory Act authorises (a) a suspension of the Sunday rest in order to carry out essential work in connection with power lines and installations, provided that a compensatory rest period is granted, (b) the organisation of Sunday duty by shifts at intervals of not less than three weeks, and on condition that a compensatory rest period is granted.

\* \* \*

*Burma.* — See under ARTICLE 5.

### ARTICLE 7.

In order to facilitate the application of the provisions of this Convention, each employer, director, or manager, shall be obliged:

(a) Where the weekly rest is given to the whole of the staff collectively, to make known such days and hours of collective rest by means of notices posted conspicuously in the establishment or any other convenient place, or in any other manner approved by the Government.

(b) Where the rest period is not granted to the whole of the staff collectively, to make known by means of a roster drawn in accordance with the method approved by the legislation of the country, or by a regulation of the competent authority, the workers or employees subject to a special system of rest, and to indicate that system.

*In addition, please forward specimen copies of the notices and rosters specified in virtue of this Article.*

*Mexico.* — The Government states in its report that it is unable to forward specimen copies of the notices and rosters specified in virtue of this Article, in view of the fact that under the national legislation its provisions are applied by the works regulations for each undertaking which must keep its employees informed of their time-table.

*New Zealand.* — A specimen from of poster is attached to the report.

*Norway.* — § 39 of the Workers' Protection Act 1936 provides that all exemptions from the provisions concerning hours of work must be posted up in a legible form in a conspicuous place or places in the establishment.

### III.

*Article 12 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports supplied contain no fresh information in this connection.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*India.* — The report states that the number of labour inspectors who assist the supervisor of railway labour has been raised to 16.

*Mexico.* — The supervision and application of the legislation is entrusted to the Labour Department, the Department of the Federal District, the Federal and Municipal arbitration and conciliation boards and to the inspection and welfare services. The Supreme Court of Justice is competent to take the final decision.

*New Zealand.* — Enforcement of the provisions giving effect to the Convention is achieved as follows: Police Offences Act, by officers of the Police Department; Mines, by Inspectors attached to the Mines Department; Transport by road, by Inspectors attached to the Transport Department; in factories and under arbitration awards and collective agreements, by Inspectors of Factories attached to the Department of Labour.

*Norway.* — The application of the above-mentioned legislation is entrusted to the State labour inspectorate (formerly the State factory inspectorate). In conformity with §§ 41 and 42 of the Workers' Protection Act this inspectorate is responsible, in co-operation with the local labour committees, for the enforcement of the provisions of the Act. Regulations concerning the organisation and activity of the inspection service are laid down in the Royal Order of 31 March 1938.

*Rumania.* — The report states that supervision of the application of the legislation is effected by the inspection and enforcement services of the Ministries of Labour, of Commerce and Industry, and of the Interior, by the Chambers of Labour and the Chambers of Industry and Commerce, by the magistrates and police, and by the local authorities. The inspection and enforcement services of the Ministry of Labour include the inspection service of the Central Social Insurance Fund, together with certain officials specially designated for the purpose by Ministerial decision. The district administrators are now authorised not only to report offences against the Act respecting the Sunday rest and legal holidays but also to inflict fines not exceeding 1,000 leis; other cases must be brought before a Justice of the Peace, who determines the penalty to be inflicted. As regards the present organisation of the labour inspection service, the Chambers of Labour and the Labour Courts, see under *Convention No. 1 (Hours of work, industry)*, Point V.

\* \* \*

*Burma.* — The report states that the factories and mines inspectors are respon-

sible for the application of the legislation. Detailed reports of the working of each enactment are published annually and are furnished to the International Labour Office.

## V.

*Please state whether decisions have been given by courts of laws, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The report states that almost all the judicial awards and administrative decisions relating to weekly rest have no direct bearing on the Convention as they relate to the application of weekly rest in commercial establishments. Copies of 9 of these awards are appended to the report.

*Lithuania.* — The Government appends to its report copies of seven decisions concerning infringements of the legislation.

*Mexico.* — The Government states that a number of decisions have been given by the courts, and adds that the text of the most important of these decisions will be forwarded with the report for next year.

*Switzerland.* — The report states that during the period under review 130 decisions were given in connection with infringements of the provisions of the Federal Act respecting weekly rest. In each case the penalty inflicted was a fine. The heaviest fine amounted to 100 francs. 75 of the above judgments were pronounced by the judicial, and 55 by the administrative authorities. Most of these sentences concerned proprietors of hotels, restaurants and cafés, and bakers and pastrycooks. During the same period no decisions were given for infringements of the provisions respecting the weekly rest laid down in the Federal Factory Act and in the Act of 6 March 1930 regulating the hours of work in services connected with transport. On the other hand, 6 judgments were pronounced (5 by the judicial and one by the administrative authorities) for infringements of similar provisions in the Order of 4 December 1933 regulating the hours of work and rest of professional drivers of motor vehicles.

\* \* \*

*Burma.* — No such decisions have come to the notice of the Government of Burma.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not refer to this point.

*Belgium.* — The report states that during the period under review the enforcement of the Convention has not given rise to any special difficulties. No statistics exist showing the number of workers covered by the regulations concerning the weekly rest in industry. During the period covered by the report the labour inspection services have initiated proceedings in 83 cases of infringement of the national legislation concerning Sunday rest. No observations have been received from the employers' or workers' organisations concerned with respect to the practical application of the Convention or of the relevant legislation.

*Bulgaria.* — The number of workers protected by the relevant legislation is about 209,641, and the number of cases of infringement recorded was 174. No observations have been received from employers' or workers' organisations with regard to the practical application of the provisions of the Convention or of the national legislation which implements those provisions.

*Canada.* — See under *Convention No. 1 (Hours of work, industry)*, introductory note.

*Chile.* — The report states that the weekly rest is satisfactorily observed in industrial undertakings and that the factory inspectors pay strict attention to prevent breaches of the relevant legislation. The number of wage-earning and salaried employees covered by the legislation regarding weekly rest is approximately 1,500,000, only 321,051 of whom are employed in industrial undertakings (27,676

salaried employees and 293,375 workers). The number of visits made by inspectors in industrial and commercial undertakings was 3,282. The number of cases of infringement notified was 863, almost all of which concerned commercial establishments. Neither the employers' nor the workers' organisations have made any observations with regard to the practical application of the Convention or of the national legislation which implements it.

*China.* — No observations have been received from either workers' or employers' organisations with regard to the practical application of the Convention or of the legislation which gives effect to it.

*Colombia.* — The report does not refer to this point.

*Denmark.* — The number of cases of infringement of § 26 of the Factories Act during the year 1937 was 110, and the number of undertakings covered by the relevant legislation in 1937 was 9,274.

*Estonia.* — In 1937 the number of workers protected by the Act was 66,619. During that year the factory inspectors received 22 complaints of non-observance of the Act. In their reports they noted 183 cases of contravention of the legal provisions, of which 100 were the subject of a warning and 83 entailed legal proceedings. The Ministry has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the national legislation which implements the Convention.

*Finland.* — The report refers to the annual factory inspection reports which are regularly communicated to the Office, and adds that, owing to the absence of any statistics, it is impossible to supply the information required under this heading.

*France.* — The Government states that it has no observations to make regarding the manner in which the Convention is applied. The employers' and workers' organisations concerned have not made any observations during the period covered by the report concerning the practical application of the provisions of the Convention or of the national laws implementing it.

*Greece.* — No observations have been received from employers' or workers' organisations.

*India.* — See under *Convention No. 1 (Hours of Work, industry)*, Point VII.

*Ireland.* — The Government repeats the general observations made last year regarding the practical application of the Convention, and adds that no observations regarding the working of this Convention have been received from organisations of employers or workers.

*Latvia.* — The report states that no complaint has so far been made regarding the non-application of the Convention.

*Lithuania.* — The report states that the relevant legislation contains provisions regarding the manner in which the Convention is to be applied. The number of industrial workers protected by the legislation is 29,906. The reports of the factory inspectors show that 9 cases of infringement of the legislative provisions were noted. No observations have been received from employers' or workers' organisations.

*Luxemburg.* — During the period under review the labour inspection service did not report any cases of infringement.

*Mexico.* — The report states that, strictly speaking, the Convention has not had any direct application, as the weekly rest was already provided for in the national legislation and there was no necessity to amend this legislation in order to bring it into harmony with the Convention.

*New Zealand.* — The report states that in New Zealand, observance of a weekly rest day is normally associated with the observance of Sunday. Administration of this is largely in the hands of officers of the Police Force, although inspectors of other Departments are also involved. The Police Department publishes information relative to the number of offences reported concerning Sunday trading. For the calendar year, 1937, 270 cases were reported, this comparing with 266 in 1936, and 235 in 1935. It should be understood that these statistics cover contraventions of legislation having a considerably wider basis than the Convention, and it is probable that the cases dealt with are chiefly Sunday sales and thus not within the enumeration of industry.

*Norway.* — The report states that no infringements of the provisions applying this Convention have come to the notice of the State labour inspectorate and that no observations have been received either from employers' or workers' organisations concerning the application of the Convention.

*Poland.* — The report supplies certain details which are contained in the Annual Report on Labour Inspection in Poland in 1937, and according to which the number

of workers protected by the legislation on 31 December 1937 was 1,110,600 persons, employed in 35,457 industrial establishments registered by the labour inspectorate and subject to its supervision (not including small undertakings employing less than five workers and not using motive power). The figure for the number of persons employed is made up as follows: 843,781 men, 228,094 women, 31,507 boys, and 7,218 girls.

*Portugal.* — The Government states that the weekly rest is strictly applied in all branches of employment and adds that the application of Portuguese legislation on the weekly rest has not given rise to any complaints from the parties concerned.

*Rumania.* — The report states that the provisions of the Act are strictly applied in industry and that the offences reported occur in commerce. During 1938, labour inspectors instituted proceedings in 7,372 cases and issued 2,639 warnings, of which 1,408 had been complied with by the employers up to the end of the year. During the same year, the inspectors authorised 457 exceptions from the requirements of the legislation (of which 50 applied to industrial undertakings) and withdrew 104 authorisations (of which 8 in industry) previously accorded.

*Sweden.* — The Government declares that in a general way the Convention is satisfactorily applied in Sweden. This opinion is confirmed by the fact that the industrial organisations concerned have made no complaints with respect to its application.

*Switzerland.* — The report states that with regard to the number of persons covered by the Federal Act respecting weekly rest, the only information available is that concerning the number of persons covered by the Factory Act. According to the reports of the federal factory inspectors for the year 1937 the total number of workers covered by the Factory Act was 360,003. The report adds that, generally speaking, the idea of active co-operation among the occupational groups for the protection of workers has gained ground during the period under review. The report of the Federal Government to the Chambers on its work in 1937 points out, in connection with the Federal Act respecting weekly rest that the reports of the cantons regarding the manner in which this Act is applied and observed are entirely satisfactory; the economic crisis had reached its peak when the Act came into force. In the earlier part of the period covered by the report further complaints were received. As

no Federal supervisory body exists, the Federal authorities approached the cantonal services and requested them to ensure the stricter application of the Convention. With regard to the Order of 9 October 1936 regulating work in the watch and clock-making industry performed at home and in small undertakings, the Federal Government points out that the methods for the application of this Order were discussed by the cantons at a special meeting. As a result of this meeting, small establishments and home workers who encounter serious difficulties in applying the Order were allowed a certain lapse of time within which to adapt themselves to the new regulations. Finally, with regard to the Act regulating hours of work in transport undertakings, circumstances necessitated the granting of permits to railways for the loading, unloading and conveyance of goods and live stock on Sunday.

*Uruguay.* — The report states that in 1937 the number of inspections made was 67,373. The number of cases of infringement of the legislation concerning weekly rest was 830 and the amount of fines inflicted was 11,357 pesos.

*Yugoslavia.* — According to the report of the central labour inspectorate, the labour inspectors visited 3,770 undertakings during 1937. The number of workers employed in these undertakings was 152,710, of which 112,722 were men and 39,988 were women. The labour inspectors imposed (under §§ 12-15 of the Workers' Protection Act which applies the Convention) fines in 188 cases.

\* \* \*

*Burma.* — See under *Convention No. 1 (Hours of work, industry)*, Point VII.

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5.1936	31. 1.1939
Australia . . . . .	28. 6.1935	21.11.1938
Belgium . . . . .	19. 7.1926	21.10.1938
Bulgaria . . . . .	6. 3.1925	2.12.1938
Canada . . . . .	31. 3.1926	15.10.1938
Chile . . . . .	18.10.1935	2. 2.1939
China . . . . .	2.12.1936	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	7. 7.1928	17.11.1938
Denmark . . . . .	12. 5.1924	21.11.1938
Estonia . . . . .	8. 9.1922	11.10.1938
Finland . . . . .	10.10.1925	5.11.1938
France . . . . .	16. 1.1928	12. 1.1939
Great Britain . . . .	8. 3.1926	5.11.1938
Greece . . . . .	14. 6.1930	21. 3.1939
Hungary . . . . .	1. 3.1928	1.11.1938
India . . . . .	20.11.1922	16.12.1938
Ireland . . . . .	5. 7.1930	4.11.1938
Italy . . . . .	8. 9.1924	-
Japan . . . . .	4.12.1930	-
Latvia . . . . .	9. 9.1924	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Netherlands . . . . .	17. 6.1931	1.10.1938
Norway . . . . .	7.10.1927	22.11.1938
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	18. 8.1923	20. 1.1939
Spain . . . . .	20. 6.1924	-
Sweden . . . . .	14. 7.1925	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	20.11.1922	30. 1.1939

# **15. Convention fixing the minimum age for the admission of young persons to employment as trimmers or stokers.**

This Convention came into force on 20 November 1922. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937 - 30 September 1938 or of a part of that period :

The Government of *Cuba* states in its report, with reference to Article 6 of the Convention, that the Secretary of Labour has under consideration a proposed Order making it compulsory to include in articles of agreement a summary of the provisions of the Convention.

The report of the Government of *Finland* mentions new legislation, dated 4 June

<sup>1</sup> See the introduction to the present volume, p. 4.

1937, which came into force on 1 January 1938 and which provides for the discontinuance of the Seamen's Offices and for the concentration of all functions concerning the supervision of the engagement and discharge of seamen, formerly exercised by the Offices, in the hands of State Registration Officers appointed by the Shipping Board. The summary of the annual report given below is confined to the changes made by this legislation and by an Order in application of it dated 19 November 1937.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The Government of *Luxemburg* states that the Convention has no practical application in the Grand Duchy.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its report for last year in which it stated that a Bill for amending the Child Labour Code was being prepared which would bring the provisions of the Code into complete harmony with those of the Convention.

# I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

## *Argentine Republic.*

Decree of 12 September 1927, approving the regulations concerning the registration of the crew of the national mercantile marine.

Decree of 31 March 1931 approving the regulations concerning the registration, departure and arrival of vessels.

## *Australia.*

The Navigation (Maritime Conventions) Act, 1934 (L. S. 1934, Austral. 10).

## *Belgium.*

Act of 5 June 1928 concerning seamen's articles of agreement (L. S. 1928, Bel. 5 A.).

## *Bulgaria.*

Regulations of 8 August 1923 relating to the crews of merchant vessels belonging to the Bulgarian Navigation Company.

## *Canada.*

Canada Shipping Act (L. S. 1934, Can. 7).

## *Chile.*

Legislative Decree No. 678 of 27 November 1925, concerning recruitment for the military and naval forces.

Legislative Decree No. 178, of 13 May 1931, to ratify the Labour Code (L. S. 1931, Chile 1).

Commercial Code, Book III, § 823.

## *China.*

The Shipping Act of 4 December 1930.

The Mercantile Marine Code of 1 January 1931.

Regulations of 28 October 1933 concerning Shipping Inspection.

Regulations of 26 January 1937 concerning the employment of Chinese Seamen.

## *Colombia.*

Act No. 48 of 29 November 1924 concerning child welfare (L. S. 1924, Col. 1).

Act No. 56 of 10 November 1927 laying down certain provisions respecting education (L. S. 1927, Col. 2).

## *Cuba.*

Legislative Decree No. 592 of 16 October 1934 (concerning in particular, the minimum age for admission of young persons to employment as trimmers or stokers (L. S. 1934, Cuba 9).

## *Denmark.*

Seamen's Act No. 181 of 1 May 1923 (L. S. 1923, Den. 2).

Act No. 76 of 31 March 1937 concerning Placing and Registration of Seamen, and Supervision of their engagement and discharge.

## *Estonia.*

Seamen's Act of 22 March 1928 (L. S. 1928, Est. 1 B).

## *Finland.*

Seamen's Act of 8 March 1924 (L. S. 1924, Fin. 1) as amended by Act of 26 May 1925 (L. S. 1925, Fin. 2) and Act of 11 May 1928 (L. S. 1928, Fin. 2).

Order of 23 December 1924 respecting the signing on and off of the crews of vessels (L. S. 1924, Fin. 4) as amended by Order of 20 September 1929 (L. S. 1929, Fin. 4).

Order of 19 September 1925 bringing the Convention into force.

Order of 29 October 1925 concerning the Shipping Board.

Act of 4 June 1937 concerning the registration of seamen and the supervision of their engagement and discharge.

Order of 19 November 1937 in application of the Act of 4 June 1937.

See also introductory note.

## *France.*

Act of 13 December 1926 to issue a Seamen's Code (L. S. 1926, Fr. 13).

Regulations of 27 April 1931 issued under the above Act.

Legislative Decree of 19 March 1852 concerning the list of crew and the particulars regarding sea-going vessels and craft,

*Great Britain.*

Merchant Shipping (International Labour Conventions) Act, 1925 (L. S. 1925, G. B. 5).

*Greece.*

Act No. 4505 of 7 April 1930 ratifying the Convention.

Decree of 3 January 1937 concerning the Managing Committees of Seamen's Employment Exchanges and the working of these Exchanges.

*Hungary.*

Act No. XVII of 1928, ratifying the Convention.  
Order No. 32043 of 1933 issued by the Minister of Commerce for the application *inter alia* of the above Act.

*India.*

Indian Merchant Shipping (Amendment) Act, 1931 (L. S. 1931, Ind. 1).  
Notification of the Government of India (Department of Commerce (No. 80-M, II/31, of 5 December 1931 (L. S. 1931, Ind. 3).

*Ireland.*

Merchant Shipping (International Labour Conventions) Act, 1933 (L. S. 1933, I. F. S. 2.).

*Latvia.*

Seamen's Order of 30 October 1928 (L. S. 1928, Lat. 4).

*Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Netherlands.*

Decree of 25 September 1933 promulgating the text of the Labour Decree, 1920, as last amended by Royal Decree of 12 July 1933 (L. S. 1933, Neth. 4).

[Issued under the Labour Act, 1919 (L. S. 1922, Neth. 1), as amended by Act of 14 June 1930 (L. S. 1930, Neth. 2 A)].

*Norway.*

Seamen's Act of 16 February 1923 (L. S. 1923, Nor. 1).

Act of 29 June 1888 concerning the registration and the supervision of the engagement of seamen, and supplementary Acts No. 2 of 28 May 1892 and No. 2 of 16 June 1927.

*Poland.*

Act of 2 July 1924 relating to the employment of women and young persons (L. S. 1924, Pol. 2), amended and completed by the Act of 7 November 1931 (L. S. 1931, Pol. 2 A).

Order of the Minister of Labour and Social Welfare of 24 December 1931 respecting registers and lists of young persons (L. S. 1931, Pol. 2 C).

Order of the Minister of Labour and Social Welfare of 3 October 1935, enumerating the occupations in which young persons and women may not be employed. (L. S. 1935, Pol. 4).

Seamen's Code (German) of 2 June 1902 (International Labour Office, Studies and Reports, Series P, No. 1, p. 90).

Act of 28 May 1920 concerning Polish merchant vessels.

Order of the President of 24 November 1930 concerning the security of shipping.

Instruction of the Ministry of Industry and Commerce of 11 April 1932, to the Maritime Office at Gdynia.

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1) as amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).

Regulations of 30 January 1929 issued under the above Act (L. S. 1929, Rum. 1), amended on 19 December 1932 (L. S. 1932, Rum. 6 B).

Act of 1907 respecting the organisation of the mercantile marine.

*Sweden.*

Seamen's Act of 15 June 1922 (L. S. 1922, Swe. 1) amended by the Act of 27 February 1925 (L. S. 1925, Swe. 1).

Royal Decree of 13 July 1911 concerning seamen's employment offices and the signing on and off seamen, etc., as amended by the Decree of 22 December 1922.

*Uruguay.*

See introductory note.

*Yugoslavia.*

Order of 29 March 1935 respecting the conditions of employment on board seagoing vessels of the Kingdom of Yugoslavia (L. S. 1935, Yug. 2).

\* \* \*

*Burma.*

The Indian Merchant Shipping Act, 1923 (L. S. 1923, Ind. 4) (subsequently amended).

Notification of the Government of India (Department of Commerce) of 5 December 1931 concerning the conditions of employment of young persons as trimmers or stokers in coasting ships (L. S. 1931, Ind. 3).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "vessel" includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

*China.* — The report states that the term 'vessel' is defined in § 1 of the Mercantile Marine Code of 1 January 1931 as including all ships navigating at sea or in waters connected with the sea and navigable to seagoing ships.

*Sweden.* — With regard to the interpretation of the term "maritime navigation" the Report refers to a letter of 25 May 1938 from the Swedish Minister of Social Affairs to the International Labour Office in response to an observation of the Committee of Experts on the application of Conventions. This letter recalls that the prohibition under the

Seamen's Act to employ young persons under the age of 18 years as trimmers and stokers does not apply to navigation in territorial waters, in the Öresund, or in the Oslo Fjord as far as Laurvig. It states, however, that the formation of the Swedish coast with its large archipelagoes is a particular phenomenon, and that navigation in these archipelagoes differs substantially from navigation along the usually open coasts of other countries. Moreover, the small vessels plying in the archipelagoes also very often navigate waters which are undoubtedly inland waters. The letter also points out that it would not be in accordance with Swedish linguistic practice to characterise the archipelago navigation as maritime navigation. It may be added that the minimum age prescribed by the Seamen's Act for employment of young person as trimmers and stokers in vessels engaged in trade in territorial waters, in the Öresund, or in the Oslo Fjord as far as Laurvig, is 16 years.

\* \* \*

*Burma.* — The Act of 1923 (as subsequently amended) and the Notification of the Government of India of 5 December 1931 continue their existing provisions in British Burma. Information regarding these provisions has already been furnished by the Government of India in the Reports for the years 1932, 1935 and 1936.

#### ARTICLE 2.

Young persons under the age of eighteen years shall not be employed or work on vessels as trimmers or stokers.

*China.* — See under ARTICLE 3.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 3.

The provisions of Article 2 shall not apply

(a) to work done by young persons on school-ships or training-ships, provided that such work is approved and supervised by public authority;

(b) to the employment of young persons on vessels mainly propelled by other means than steam;

(c) to young persons of not less than sixteen years of age, who, if found physically fit after medical examination, may be employed as trimmers or stokers on vessels exclusively engaged in the coastal trade of India and of Japan, subject to regulations made after consultation with the most representative organisations of employers and workers in those countries.

*India and Japan only.* — Please state if advantage has been taken of paragraph (c), and, if so, give information with regard to the regulations made thereunder, and their application, stating what method has been adopted for the consultation of the most representative organisations of employers and workers.

*China.* — The report states that since climatic and other conditions of China are similar to those of India and Japan, it is considered that the special provisions of paragraph (c) of this Article may be regarded as applicable to China. The report adds that no special provision has been made either by administrative regulations or legislation for the case of trimmers and stokers, but that, in virtue of §§ 2 and 3 of the Regulations of 26 January 1937, all young persons employed at sea must be over 16 and must undergo a medical examination; moreover, as no Chinese vessels have so far engaged in maritime navigation other than coasting trade, the protection of trimmers and stokers is adequately secured in China.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 4.

When a trimmer or stoker is required in a port where young persons of less than eighteen years of age only are available, such young persons may be employed and in that case it shall be necessary to engage two young persons in place of the trimmer or stoker required. Such young persons shall be at least sixteen years of age.

*China.* — The report states that no corresponding provisions are contained in Chinese laws or regulations.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 5.

In order to facilitate the enforcement of the provisions of this Convention, every shipmaster shall be required to keep a register of all persons under the age of eighteen years employed on board his vessel, or a list of them in the articles of agreement, and of the dates of their births.

*In addition, please give details of the method of registration in use and forward a specimen copy of the register, if any, prescribed in virtue of this Article.*

*China.* — The report states that § 7 of the Shipping Act of 4 December 1930 provides that the master of the vessel is required to keep a list of the crew.

*Denmark.* — § 11 of the Seamen's Act provides that the master must keep a list of the crew containing the articles of agreement, and that every seaman must be in possession of a seaman's certificate or registration certificate. These documents are delivered by the competent public authority on production of the seaman's birth certificate. Under §§ 6 and 9 of the Act of 31 March 1937, the lists of the crew and the seamen's certificates are



to be submitted to the registration officer, who is to verify that the provisions of the Seamen's Act have been complied with before the crew is allowed to embark. Thus all possibility of evading the provisions relating to the age of admission is excluded unless the information contained in the seaman's birth certificate is false.

*Finland.* — By § 10 of the Seamen's Act the age of young persons under 18 years must be established by means of a certificate delivered by a pastor or other public authority. Under § 4 of the Act of 4 June 1937 respecting the registration and the signing on and off of crews of vessels, and § 9 of the Decree of 19 November 1937 applying this Act, the carrying of a list of the crew, giving particulars (including age) of the members of the crew, is obligatory for all Finnish vessels.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 6.

Articles of agreement shall contain a brief summary of the provisions of this Convention.

*Cuba.* — See introductory note.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### III.

*Article 11 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Articles 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — By Decree of 30 August 1936, the provisions of the Maritime Labour Code were extended to the Colony of *Saint-Pierre and Miquelon*.

*Great Britain.* — The provisions of the Convention have been applied to the following dependencies in addition to those already reported: *Somaliland Protectorate* (Ordinance No. 6 of 1938), *Mandated Territory of Tanganyika* (Ordinance No. 28 of 1937). In the *Colony of Aden*, formerly under the administration of the Government of India, Ordinance No. 20 of 1938 (The Employment of Women, Young Persons and Children Ordinance) gives effect to the provisions of the Convention and replaces Indian legislation on the subject.

*Netherlands.* — In *Curaçao* a Service for Social Affairs was set up on 15 March 1938, and is re-examining the Convention.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*China.* — The application of the Regulations in force is entrusted to the local shipping offices. The supervising authority is the Ministry of Communications. Methods of enforcement are laid down in § 22 of the regulations of 22 October 1933, according to which the master is required to produce a list of the crew for examination.

*Denmark.* — The supervision of the application of the relevant legislation is entrusted to the registration officers. For the methods of supervision, see under ARTICLE 5.

*Finland.* — The Act of 4 June 1937 concerning the registration and signing on and off of crews of vessels, and the Decree of 19 November 1937 applying the Act, provide that when signing on the crew of a Finnish vessel the officers of the State registration offices in Finland, and the Finnish consuls abroad, are to see that the legal provisions in force respecting the employment of young persons on board ship are observed. In addition, the Order of 29 October 1925 concerning the Shipping Board entrusts to the shipping inspectors general powers of supervising the enforcement of all legal provisions concerning employment on board ship.

\* \* \*

*Burma.* — See under ARTICLE 1.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection and registration services, and information concerning the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not refer to this point.

*Australia.* — The Government states that no observations on the application of the Convention have been received from employers or employees.

*Belgium.* — The report states that there are no observations to make under this point, since all deck crew and engine-room crew working under the Belgian flag during 1937 were more than 16 and 18 years of age respectively. The report adds that no observations were made by the organisations of employers or workers regarding the practical application of the Convention.

*Bulgaria.* — The report contains no general indications of the manner in which the Convention is applied. No observations have been received from employers' or workers' organisations with regard to the practical application of the provisions of the Convention.

*Canada.* — The provisions of the Convention, which are embodied in the Canada Shipping Act, are observed by owners, masters and seamen of Canadian vessels engaged in maritime navigation, and no difficulty, legal or otherwise, was reported during the period under review. The

report adds that no observations or representations have been received by the Department from organisations of employers or workers regarding the fulfilment of the conditions of the Convention or the application of the national law relating thereto.

*Chile.* — The Government states that the Maritime Labour Inspectors pay constant attention, on their visits to vessels, to the strict observance of the relevant provisions. It may be concluded from the reports of the maritime labour inspection services that no cases have been discovered in which young persons of less than eighteen years of age have been permitted to sail on any Chilean merchant vessel as members of the crew, nor have any relevant cases of infringement been found. Neither employers' nor workers' organisations have made any observations with regard to the practical application of the provisions of the Convention or of the national legislation which implements it.

*China.* — The report states that no observations have been received from employers' or workers' organisations.

*Colombia.* — The report does not contain any fresh information on this point.

*Cuba.* — The report states that, according to information communicated to the Ministry of Labour by the port authorities, no offences were reported. Neither the employers' nor the workers' organisations have made any observations with regard to the application of the Convention or the Legislative Decree which implements it.

*Denmark.* — The report states that no observations have been received from the organisations of employers or workers concerned.

*Estonia.* — The report states that during the period under review no breaches of the law have been recorded. No observations have been received from the employers' or workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*Finland.* — The report states that there are no general observations to make in regard to the Convention. No statistics are available showing the number of persons covered by its provisions.

*France.* — The report gives statistics of the number of young persons under 18 entered as light hands (over 16) and ship's boys (under 16) on 1 July 1938:

Rating	Employed		Not employed	Total
	Merchant service	Fishing		
Light hands	1,912	3,218	847	5,977
Ship's boys	1,516	3,584	716	5,816
Total	3,428	6,802	1,563	11,793

The Ministry of the Mercantile Marine has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the provisions of the Convention or of the sections of the Seamen's Code which relate to the minimum age for the employment of young persons as trimmers or stokers.

*Great Britain.* — No relevant statistics are compiled, and no reports of inspection or registration services are available. The Government is satisfied that the measures taken to enforce the Convention are effective. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI. No observations have been received from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Greece.* — The report does not refer to this point.

*Hungary.* — The report states that, according to the report of the Royal Hungarian Maritime Navigation Office, during the period 1 October 1937-30 September 1938 no young person of under 18 years of age was employed on board any Hungarian vessel, and consequently no cases of infringement of the relevant legislative provisions of Order No. 32043 of 1933 were recorded. The report adds that no observations were made by the employers' or workers' organisations concerned with regard to the practical application of the provisions of the Convention, and of the national legislation which implements those provisions.

*India.* — No young persons below the age of 18 years were signed on on vessels as trimmers or stokers at any of the ports of recruitment in India. The report states that no observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

*Ireland.* — The Government states that it has not been the practice to employ

persons under 18 as firemen or trimmers and that no contraventions have been reported. Seamen's and shipowners' organisations have made no representations in the matter.

*Latvia.* — The report states that no observations regarding the application of the Convention have been received from the trade union organisations during the period under review.

*Luxembourg.* — See introductory note.

*Netherlands.* — The Government states that no infractions have been reported. No observations by employers' or workers' organisations were brought to the notice of the Government.

*Norway.* — The report states that the Convention is strictly applied. No observations have been received from the shipowners' and seamen's organisations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Poland.* — A Navigation Inspector has been attached to the Maritime Office at Gdynia for the purpose of ensuring the application of the maritime Conventions ratified by Poland.

*Rumania.* — The report states that the Convention is strictly applied. No observations have been received from the professional organisations concerned regarding the application of the Convention.

*Sweden.* — The Government states that no general statistical information is available as required under this heading, but that the Convention may be considered to be satisfactorily enforced. This opinion is confirmed by the fact that no complaints with regard to its enforcement have been received from the occupational organisations.

*Uruguay.* — See introductory note.

*Yugoslavia.* — See under *Convention No. 7 (Minimum age, sea)*, point VI, for statistics regarding the application of Maritime Conventions.

\* \* \*

*Burma.* — No contraventions of the provisions of the Act implementing the Convention have been reported. No observations regarding the fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from the organisations of employers or workers.

# **16. Convention concerning the compulsory medical examination of children and young persons employed at sea.**

This Convention came into force on 20 November 1922. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Argentine Republic.	26. 5.1936	31. 1.1939
Australia . . . . .	28. 6.1935	21.11.1938
Belgium . . . . .	19. 7.1926	21.10.1938
Brazil . . . . .	8. 6.1936	28. 2.1939
Bulgaria . . . . .	6. 3.1925	2.12.1938
Canada . . . . .	31. 3.1926	15.10.1938
Chile . . . . .	18.10.1935	2. 2.1939
China . . . . .	2.12.1936	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	7. 7.1928	17.11.1938
Denmark . . . . .	23. 4.1938	28. 3.1939
Estonia . . . . .	8. 9.1922	11.10.1938
Finland . . . . .	10.10.1925	5.11.1938
France . . . . .	22. 3.1928	12. 1.1939
Great Britain . . .	8. 3.1926	5.11.1938
Greece . . . . .	28. 6.1930	21. 3.1939
Hungary . . . . .	1. 3.1928	1.11.1938
India . . . . .	20.11.1922	16.12.1938
Ireland . . . . .	5. 7.1930	4.11.1938
Italy . . . . .	8. 9.1924	
Japan . . . . .	7. 6.1924	
Latvia . . . . .	9. 9.1924	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	9. 3.1938	26.11.1938
Netherlands . . . .	9. 3.1928	1.10.1938
Poland . . . . .	21. 6.1924	8.12.1938
Rumania . . . . .	18. 8.1923	20. 1.1939
Spain . . . . .	20. 6.1924	
Sweden . . . . .	14. 7.1925	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	20.11.1922	30. 1.1939

<sup>1</sup> See the Introduction to the present volume, p. 4.

For the general information supplied by the Government of *Brazil* in its letter of 23 February 1939 see under *Convention No. 3 (Childbirth)*, introductory note.

The Government of *Colombia* refers to its previous reports in which it stated that in adhering to this Convention its object was solely to facilitate international solidarity in the study and solution of labour problems, and to have a doctrinal basis in this field on which, if occasion arose, it might build up statutory law. The reports pointed out that in Colombia there are no undertakings engaged in maritime transport, properly speaking, as Colombian shipping is for the most part engaged in river transport. Shipping undertakings are required by the general Labour Office of the Ministry of Industry and Labour to have rules of employment embodying all the appropriate labour protection measures, from the 8-hour day to health services, compulsory collective insurance, etc.

The Government of *Finland* mentions certain new legislation dated 4 June 1937, which came into force on 1 January 1938 and which provides for the discontinuance of the seamen's offices, which previously exercised certain functions in supervising the signing on and off of seamen in Finland, and for the concentration of all such functions in the hands of State Registration Officers appointed by the Shipping Board.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The Government of *Luxemburg* states that the Convention has no practical application in the Grand Duchy.

The Government of *Mexico* states in its report that the Social Welfare Section of the Department of Labour is at present engaged in the revision of all the regulations concerning industrial hygiene and has been instructed to include the provisions of the Convention in the revised regulations. It adds that in the next report it may be possible to give a more detailed report on the application of the Convention.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its report for last year in which it stated that a Bill for amending the Child Labour Code was being prepared which would bring the provisions of the Code into complete harmony with those of the Convention.

The Government of *Yugoslavia* mentions in its report that new regulations were issued on 15 June 1938 which came into force on 15 September 1938 and repealed the earlier regulations of 1 June 1930. Although for almost the whole of the period under review the Convention continued to be applied as hitherto under the regulations of 1930, it has appeared desirable in the following summary to indicate what is the position under the new regulations of 15 June 1938. The information submitted for previous years holds good for the period 1 October 1937 to 15 September 1938, as no change has occurred during this latter period.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Argentine Republic.*

Decree of 20 March 1913 approving the maritime and river sanitary regulations.

Decree of 12 September 1927 approving the regulations relating to the registration of the crew of the mercantile marine, as amended by Decree No. 112,924 of 25 August 1937.

Order No. 9 of 2 December 1930 concerning the medical examination of the crew of the mercantile marine.

#### *Australia.*

The Navigation (Maritime Conventions) Act, 1934 (L. S. 1934, Austral. 10).

The Navigation (Health) Regulations (Amendment, S. R. 1935, No. 76).

#### *Belgium.*

Act of 5 June 1928 relating to seamen's articles of agreement (L. S. 1928, Bel. 5A).

#### *Brazil.*

Decree No. 220 of 3 July 1935 to approve the new regulations for harbour authorities (L. S. 1935, Braz. 5).

#### *Bulgaria.*

Regulations of 8 August 1923 relating to the crews of merchant vessels belonging to the Bulgarian Navigation Company.

#### *Canada.*

Canada Shipping Act (L. S. 1934, Can. 7).

#### *Chile.*

Legislation. Decree No. 678 of 27 November 1925 concerning recruitment for the army and navy.

Legislative Decree No. 178, of 13 May 1931, to ratify the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5405 of 8 February 1934 (L. S. 1934, Chile 1 A).

Decree No. 1682 of 21 December 1935 to issue general regulations concerning the registration of seamen.

Commercial Code, Book III, § 823.

#### *China.*

The Mercantile Marine Code of 1 January 1931. Regulations of 28 October 1933 concerning Shipping Inspection.

Regulations of 26 March 1935 concerning the medical examination of seamen.

Regulations of 26 January 1937 concerning the employment of Chinese seamen.

#### *Colombia.*

See introductory note.

#### *Cuba.*

Legislative Decree No. 592 of 16 October 1934 concerning, in particular, the compulsory medical examination of children and young persons employed at sea (L. S. 1934, Cuba 9).

#### *Denmark.*

Notification of 8 January 1938 (in force 1 March 1938) respecting medical examination of ships' crews, issued by the Ministry of Commerce, Industry and Shipping under § 1 (2) of the Ships Officers' and Engineers' Act of 28 February 1916, as subsequently amended, and § 26 (2) of the Seamen's Act of 1 May 1923.

#### *Estonia.*

Seamen's Act of 22 March 1928 (L. S. 1928, Est. 1 B).

#### *Finland.*

Seamen's Act of 8 March 1924 (L. S. 1924, Fin. 1) as amended by Act of 26 May 1925 (L. S. 1925, Fin. 2), and Act of 11 May 1928 (L. S. 1928, Fin. 2).

Order of 19 September 1925 bringing the Convention into force;

Order of 29 October 1925 concerning the Shipping Board.

Act of 4 June 1937 concerning the registration of seamen and the supervision of their engagement and discharge.

Order of 19 November 1937 applying the Act of 4 June 1937.

See also introductory note.

#### *France.*

Act of 13 December 1926 to issue a Seamen's Code (L. S. 1926, Fr. 13).

Legislative Decree of 19 March 1852 concerning the list of crew and the particulars regarding sea-going vessels and craft.

#### *Great Britain.*

Merchant Shipping (International Labour Conventions) Act, 1925 (L. S. 1925, G. B. 5).

*Greece.*

Act. No. 4674 of 12 May 1930 to ratify the Convention.

Circular of the Ministry of Marine of 23 May 1930 drawing attention to the provisions of the above Act.

Decree of 3 January 1937 concerning the Managing Committees of Seamen's Employment Exchanges and the working of these Exchanges.

*Hungary.*

Act No. XVIII of 1928, ratifying the Convention.

Order of the Minister of Commerce, No. 32,043 of 1933, for the application, *inter alia*, of the above Act.

*India.*

Indian Merchant Shipping (Amendment) Act, 1931 (L. S. 1931, Ind. 1).

Notification No. 80-M of the Department of Commerce of 8 August 1931.

*Ireland.*

Merchant Shipping (International Labour Conventions) Act, 1933 (L. S. 1933, I. F. S. 2).

*Latvia.*

Seamen's Order of 30 October 1928 (L. S. 1928, Lat. 4).

*Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Mexico.*

Political Constitution of the United States of Mexico, 1917.

Federal Labour Act, 1931 (L. S. 1931, Mex. 1).

See also the introductory note.

*Netherlands.*

Decree of 25 September 1933 to promulgate the text of the Labour Decree, 1920, as last amended by the Royal Decree of 12 July 1933 (L. S. 1933, Neth. 4).

[Issued under the Labour Act, 1919 (L. S. 1922, Neth. 1) as amended by Act of 14 June 1930 (L. S. 1930, Neth. 2 A)].

Seamen's Decree ("Schepelingenbesluit") dated 15 May 1937 (L. S. 1937, Neth. 4), a decree to issue public administrative regulations as provided *inter alia* in § 451 d. of the Commercial Code as amended by an Act of 14 June 1930 (L. S. 1930, Neth. 1).

*Poland.*

Act of 28 May 1920 concerning the Polish Mercantile Marine.

Act of 2 July 1924 relating to the employment of women and young persons (L. S. 1924, Pol. 2), supplemented and amended by the Act of 7 November 1931 (L. S. 1931, Pol. 2 A).

Order of the Minister of Labour and Social Welfare of 24 December 1931 respecting registers and lists of young persons (L. S. 1931, Pol. 2 C).

Seamen's Code (German) of 2 June 1902 (French text in B.B. Vol. I, 1902, p. 357).

Order (German) of 1 July 1905 relating to the certification of the fitness of sailors for employment.

*Rumania.*

Act of 9 April 1928 relating to the employment of young persons and women and the regulation of hours of work (L. S. 1928, Rum. 1), as amended by the Act of 10 October 1932 (L. S. 1932, Rum. 6 A).

Regulations of 30 January 1929 issued under the above Act (L. S. 1929, Rum. 1), amended on 19 December 1932 (L. S. 1932, Rum. 6 B).

Act of 1907 respecting the organisation of the mercantile marine.

*Sweden.*

Royal Order No. 263 of 22 May 1925 concerning the standard of health and physique required of seamen before engagement for certain voyages.

Royal Order of 31 December 1917 relating to medical certificates for seamen, amended by the Royal Order No. 264 of 22 May 1925.

*Uruguay.*

See introductory note.

*Yugoslavia.*

Act of 6 December 1926 ratifying the Convention.

Regulations of 1 June 1930 concerning the medical examination of persons employed on board vessels in the Mercantile marine of the Kingdom of Yugoslavia (L. S. 1930, Yug. 1).

Decree of 29 March 1935 regulating conditions of employment on board merchant vessels (L. S. 1935, Youg. 2).

Regulations of 15 June 1938 concerning the medical examination of the crew of merchant vessels (*Službene Novine*, No. 131-XL, 15 June 1938).

See also the introductory note.

\* \* \*

*Burma.*

The Indian Merchant Shipping Act, 1923 (L. S. 1923, Ind. 4) (as subsequently amended).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "vessel" includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

*China.* — The report states that the term "vessel" is defined in §1 of the Mercantile Marine Code of 1 January 1931 as including all ships navigating at sea or in waters connected with the sea and navigable by sea-going ships.

*Denmark.* — Under § 2 of the Notification of 8 January 1938, the obligation to submit to a medical examination applies

to any young person engaged for employment or employed in any Danish vessel trading outside canals, rivers and lakes.

*Mexico.* — See the introductory note.

*Sweden.* — See under *Convention No. 15 (Minimum age, trimmers and stokers)* ARTICLE 1.

*Yugoslavia.* — The Decree of 29 March 1935 (§§ 1 and 2) is applicable to all vessels of whatever kind, whether public or private, with the exception of ships of war, engaged in maritime navigation and registered in Yugoslavia. The Regulations of 15 June 1938 (§ 1) apply to the crews of all vessels registered for coast-wise or foreign-going navigation as well as to the crews of pleasure-boats.

\* \* \*

*Burma.* — The Act of 1923, as subsequently amended, continues its existing provisions in force in British Burma. Information regarding these provisions has already been furnished by the Government of India in its report for the year 1932.

#### ARTICLE 2.

The employment of any child or young persons under eighteen years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a doctor who shall be approved by the competent authority.

*China.* — The report states that under § 3 of the Regulations of 26 January 1937 no person may be employed as a seaman on a mechanically propelled vessel without the production of a certificate attesting his fitness issued by the competent authority (the Ministry of Communications or the authorities under it). Further, under § 22 of the Regulations of 26 March 1935 all applicants for such certificates are required to undergo a medical examination by a doctor approved by the competent authority (the Ministry of Communications). This examination was formerly required only in the case of certain special categories of seamen, but since the issue of the regulations of 26 January 1937 is compulsory for all persons employed at sea.

*Denmark.* — § 2 of the Notification of 8 January 1938 provides that young persons under 18 years of age are not to be engaged for service on board vessels covered by the Notification unless it is proved by medical examination that they are fit for the work for which they are engaged. Further, § 4 of the Notification

prescribes that the medical examination (which as far as possible shall be undertaken in the Kingdom of Denmark) is to comprise an examination of the extremities, respiratory organs, heart, eyesight, hearing and urine, and, further, that the doctor shall give his opinion as to whether in view of the general physical condition of the seaman, the latter is fit for the service for which he is to be engaged. According to § 5 of the Notification, the doctor shall issue a certificate as to the result of the examination, in a prescribed form schedule to the Notification. He shall further make an entry of the examination on a special card to be inserted in the seaman's discharge book. If the person examined is found to be unfit, he may, under § 6 of the Notification, submit his case to the Ministry of Commerce, Industry and Shipping, which, if it considers this to be necessary, may order a new examination to be made under the auspices of the Board of Health, this examination being final. It is stated in the prescribed medical form that the examination shall as far as possible be carried out by the doctor who has previously attended the person concerned. The examination is to be free of charge to Danish seamen.

*Mexico.* — See the introductory note.

*Netherlands.* — The Regulations issued in 1937 under § 451d of the revised Commercial Code extend compulsory medical examination to all seamen whatever their age; only persons holding a valid health certificate, delivered within the year by an approved medical practitioner and attesting that the holder is physically fit to perform his duties on board and that his presence does not endanger the health of the other persons on board, are allowed to sign articles of agreement (§§ 30, 31 and 32, Seamen's Decree, 1937). The Chief Inspector of Shipping is the competent authority empowered to compile a list of approved doctors, to prescribe a form of certificate and to issue detailed regulations for the holding of medical examinations (§§ 33 and 34).

*Yugoslavia.* — The Decree of 29 March 1935 (§ 6 (1) and (2)) stipulates that no person may be employed on board a vessel unless he has been examined by a doctor appointed by the competent authority and has obtained from him a certificate of physical fitness. Children and young persons under 18 years of age employed on vessels the crew of which is composed exclusively of members of their family are, however, exempt from this medical examination (§ 6 (3)). Similar provisions, allowing the same exemption, are contained in the Regulations of 15 June 1938 (§ 4 (1)).

## ARTICLE 3.

The continued employment at sea of any such child or young persons shall be subject to the repetition of such medical examination at intervals of not more than one year, and the production, after each such examination, of a further medical certificate attesting fitness for such work. Should a medical certificate expire in the course of a voyage, it shall remain in force until the end of the said voyage.

*China.* — The report states that since the minimum age for the employment of young persons at sea is fixed at 16 years, the requirements of this Article imply, in the case of China, an obligation to have a second examination, in the case of continued employment, for young persons between 17 and 18 years of age, and that it is considered that this measure may be unnecessary.

*Denmark.* — Under § 2 of the Notification of 8 January 1938, the continued employment of young persons under 18 years of age is conditional on their proving by medical examinations held at intervals of not more than 12 months that they are still fit for the work on which they are employed on board ship. If the 12-months' time limit expires during a voyage, the last medical examination is to remain valid until the termination of the voyage.

*Mexico.* — See the introductory note.

*Netherlands.* — See under ARTICLE 2.

*Yugoslavia.* — The Decree of 29 March 1935 (§ 6 (2)) provides that the medical certificate shall be valid only for a period of one year or until the end of the voyage in the course of which the period expires. The Regulations of 15 June 1938 (§ 4 (2)) make the continued employment of children or young persons at sea subject to repeated medical examination at intervals not exceeding one year and the production of a certificate attesting continued physical fitness. Moreover (§ 3), a further medical examination must take place whenever the seaman applies for a new service book or is promoted or changes to another service on board.

\* \* \*

*Burma.* — See under ARTICLE 1.

## ARTICLE 4.

In urgent cases, the competent authority may allow a young person below the age of eighteen years to embark without having undergone the examination provided for in Articles 2 and 3 of this Convention, always provided that such an examination shall be undergone at the first port at which the vessel calls,

*China.* — The report states that no provisions corresponding with this Article have been adopted.

*Denmark.* — Under § 3 of the Notification of 8 January 1938, young persons under the age of 18 may in urgent cases be engaged without having undergone the prescribed medical examination, provided that the shipping master, or, in case the young person is not signed on in the presence of a shipping master, the master considers it warrantable to allow the young person to perform work on board the ship. In such cases the medical examination shall be undergone at the first port at which the vessel calls.

*Mexico.* — See the introductory note.

*Yugoslavia.* — The Decree of 29 March 1935 (§ 6 (4)) permits a captain to engage a seaman if he has been made to procure a medical certificate either because no doctor is available on board or at the port or because it is necessary to replace another seaman within a period not exceeding twenty-four hours; but a seamen so engaged must be examined by an authorised doctor at the next port at which the vessel makes a call of more than twenty-four hours. The Regulations of 15 June 1938 (§ 3 (4)) provide that the port authorities may, in exceptional and urgent cases, authorise the engagement of young persons under eighteen years of age without medical certificate on condition that the medical examination takes place at the next port of call.

\* \* \*

*Burma.* — See under ARTICLE 1.

## III.

*Article 9 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article,*



*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Denmark.* — The ratification does not apply to *Greenland*, in conformity with the general treatment of this country as a "closed country".

*France.* — By Decree of 30 August 1936 the provisions of the Maritime Labour Code were extended to *Saint-Pierre* and *Miquelon*.

*Great Britain.* — The provisions of the Convention have been applied to the following dependencies in addition to those already reported: *Somaliland Protectorate* (Ordinance No. 6 of 1938), *Mandated Territory of Tanganyika* (Ordinance No. 28 of 1937). In the *Colony of Aden*, formerly under the administration of the Government of India, Ordinance No. 20 of 1938 (The Employment of Women, Young Persons and Children Ordinance) gives effect to the provisions of the Convention, and replaces Indian legislation on the subject.

*Netherlands.* — In *Curaçao*, a Service for Social Affairs was set up on 15 March 1938, and is re-examining the Convention.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*China.* — The application of the Regulations in force is entrusted to the local shipping offices. The supervising authority is the Ministry of Communications. Methods of enforcement are laid down in § 22 of the Regulations of 28 October 1933 concerning shipping inspection, which requires the master to produce a list of the crew for inspection.

*Denmark.* — The administration of the provisions concerning compulsory medical examination of young persons is entrusted to the Ministry of Commerce, Industry and Shipping in collaboration with the Board of Health. Shipping masters before

whom seamen are ordinarily engaged see to the carrying out of the arrangements, or, in case the seaman is not engaged before a shipping master, the master. Rules concerning supervision of the arrangements are laid down by special Instructions to Shipping Masters, issued by the Ministry in February 1938 (see Point VI).

*Finland.* — The Act of 4 June 1937 and the Decree of 19 November 1937 applying the Act, provide that when signing on the crew of a Finnish vessel the officers of the State registration offices in Finland, and the Finnish consuls abroad, are to see that the legal provisions in force respecting the employment of young persons and the health and physique of the persons signed on are observed. In addition, the Order of 29 October 1925 entrusts to the shipping inspectors general powers of supervising the enforcement of all legal provisions concerning employment on board ship.

*Mexico.* — See the introductory note.

*Netherlands.* — The report states that under § 31 of the Seamen's Decree of 1937 medical examinations for seamen are governed by more stringent conditions than those applying hitherto under § 3 bis of the Labour Decree. Consequently, in order to avoid duplication, such examinations since 1 October 1937 are carried out by the medical practitioners nominated by the Inspector of Shipping instead of by the Labour Inspector as previously, in accordance with an arrangement between the two Services.

*Yugoslavia.* — Under § 14 of the Regulations of 15 June 1938, the port authorities, and the consular authorities abroad, are required to ensure the enforcement of the provisions relating to medical examination and in particular to ensure that children and young persons under 18 years of age are regularly and carefully examined. Medical examination is effected by the Medical Superintendents of the Regional Social Insurance Offices at *Soushak*, *Split* and *Dubrovnik* or by doctors appointed by them (§ 2 (3)). The port authorities are required to prohibit the engagement of any person found unfit on medical examination and, to that end, to refuse to issue or renew the service book of any person not presenting a certificate of fitness (§ 11 (2) and 12 (1)). To facilitate supervision by the competent authorities, shipowners and masters are required to draw up lists of the children and young persons under 18 years of age employed on their vessels, giving particulars of each person, including the day, month and year of birth (§ 4 (4)). The port authorities are empowered to deal with offences against the provisions relating to medical examination of persons employed on board ship, to make any necessary

inquiries and to impose penalties; an appeal may be lodged against their decision with the Directorate of Maritime Communications within fourteen days of the date of the decision. Abroad, the consular authorities are required to report any infraction discovered to the local competent authorities (§ 16).

\* \* \*

*Burma.* — See under ARTICLE 1.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection and registration services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Argentine Republic.* — The report does not refer to this point.

*Australia.* — The report of the Director-General of Health for the years 1937-38 gives a table showing that 390 young persons under 18 years of age were medically examined in the principal ports of the Commonwealth during the year ending 30 September 1938, 357 of them being passed as fit (including 10 re-examined), 23 being rejected as unfit, and 10 being deferred for re-examination.

The report states that a question arose during the year whether a young person desiring to serve on deck and failing to

pass a sight test should be regarded as physically unfit for sea service for the purpose of the Convention. On the Director-General's advice, it was held that failure merely to pass the lantern test would not be a bar to sea service, but would preclude the applicant subsequently from sitting for examination for a certificate of competency. On the other hand, a marked defect in acuity of vision, in contrast to defects in colour-vision, would render the applicant unfit for sea service. No observations on the working of the legislation have been received from employers or employees.

*Belgium.* — The Government states that it is the rule to submit all seamen to a medical examination before signing on. This examination is particularly strict in the case of young persons. No observations regarding the practical application of the Convention were made during 1937 by employers' or workers' organisations.

*Brazil.* — See under *Convention No. 3 (Childbirth)* introductory note.

*Bulgaria.* — The report contains no general indications of the manner in which the Convention is applied. No observations have been received from employers' or workers' organisations with regard to the practical application of the provisions of the Convention or of the national legislation which implements them.

*Canada.* — The provisions of the Convention, which are embodied in the Canada Shipping Act, are strictly observed by owners, masters and seamen of Canadian vessels to which they apply, and no difficulty, legal or otherwise, was reported during the period under review. No statistics are compiled by the Department of Marine in connection with the operation of the Convention. No observations or representations have been received by the Department from organisations of employers or workers regarding the fulfilment of the conditions of the Convention or the application of the national law relating thereto.

*Chile.* — No breaches of the law have been reported, and no observations have been received from either the employers' or the workers' organisations concerned with regard to the practical application of the provision of the Convention or of the national legislation which implements them.

*China.* — No observations have been received from the organisations of employers and workers.

*Colombia.* — See introductory note.

*Cuba.* — The Government states that, from the reports received from the harbour masters and Customs Officers, it would appear that as no cases falling within the scope of the Convention having arisen there have been no medical examinations. Neither the employers' nor the workers' organisations have submitted observations concerning either the Convention or the Legislative Decree applying it.

*Denmark.* — The Government states that it does not possess any material of the kind mentioned under this point. Detailed rules concerning the practical application of the Notification of 8 January 1938 are laid down by Instructions to Shipping Masters of February 1938, and by a Circular from the Board of Health to medical practitioners in Denmark. Under these Instructions, masters are to provide young persons being engaged for employment on board ship with a medical card which is to be passed in the seamen's discharge book, and with a medical certificate form, and to refer them to a doctor for examination. After having examined the seaman, the doctor is to fill in and sign the medical card and the certificate form. The expenses of the medical examinations are to be borne by the Ministry of Commerce, Industry and Shipping, in the case of Danish seamen. In the case of foreign seamen, this provision as well as the provisions concerning the medical card do not apply. The Circular to Danish doctors specifies the illnesses and physical defects which render a young person unfit for service at sea. The Notification of 8 January 1938 contains provisions for penalties against persons infringing the requirements of §§ 2 and 3 of the Notification.

*Estonia.* — The Government states in its report that no infractions of the relevant legislation have been reported during the period under review. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*Finland.* — The report states that there are no general observations to make.

*France.* — The Mercantile Marine Department has received no observations from the employers' or workers' organisations concerned. For statistical data, see under *Convention No. 15 (Minimum age, trimmers and stokers)*, point VI.

*Great Britain.* — No observations have been received from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or

the application of the national law implementing it.

With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI.

*Greece.* — The report states that the Convention is strictly applied, and that the compulsory medical examination of children has become a rule from which no exceptions have been made during the period covered by the report.

*Hungary.* — According to the report of the Royal Hungarian Maritime Navigation Office no young person of under eighteen years of age was employed on board any Hungarian vessel during the period under review. No observations were made by the employers' or workers' organisations concerned with regard to the practical application of the provisions of the Convention and of the national legislation which implements those provisions.

*India.* — The report states that the Convention has been working satisfactorily in India. At the port of Bombay, 35 young persons were medically examined for employment none of whom was rejected as unfit for employment at sea. The organisations of employers and workers have not offered any observations regarding the practical fulfilment of the conditions prescribed by the national law implementing the Convention.

*Ireland.* — The report states that very few young persons are employed on Irish ships and that no difficulty in the working of the Act has been reported. The report adds that no observations have been forwarded by seamen's or employers' organisations.

*Latvia.* — The report states that no cases of contravention have been reported by the labour inspectorate.

*Luxemburg.* — See introductory note.

*Mexico.* — See introductory note.

*Netherlands.* — In 1937, 1,833 young persons, including one girl, were examined; 32 boys were rejected as unfit. No infringements of the rule that young persons employed on board must hold a medical certificate were reported. The report adds that no observations by the organisations of employers or workers concerned with regard to the application of the Convention were brought to the notice of the Government.

*Poland.* — A Navigation Inspector has been appointed to the Maritime Office at Gdynia for the purpose of ensuring the

application of the maritime Conventions ratified by Poland.

*Rumania.* — The report states that during 1938 no young persons under 18 years of age were employed on board Rumanian vessels. No observations have been received from the employers' or workers' organisation concerned regarding the practical application of the Convention or of the national legislation which implements the Convention.

*Sweden.* — The Government states that no general statistical information is available as required under this heading, but that the Convention may be considered to be satisfactorily applied in Sweden. This opinion is confirmed by the fact that no complaints with regard to the

application have been received from the occupational organisations.

*Uruguay.* — See introductory note.

*Yugoslavia.* — See under *Convention No. 7 (Minimum age, sea)*, point VI for statistics regarding the application of Maritime Conventions.

\* \* \*

*Burma.* — No contraventions of the provisions of the Act implementing the Convention have been reported. No observations regarding the fulfilment of the conditions prescribed by the Convention or the application of the national law implementing it have been received from the organisations of employers or workers.

## SEVENTH SESSION (GENEVA, 1925).

## 17. Convention concerning workmen's compensation for accidents.

This Convention came into force on 1 April 1927. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938 and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Belgium . . . . .	3.10.1927	21.10.1938
Bulgaria . . . . .	5. 9.1929	2.12.1938
Chile . . . . .	8.10.1931	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Hungary . . . . .	19. 4.1928	14.11.1938
Latvia . . . . .	29. 5.1928	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	12. 5.1934	26.11.1938
Netherlands . . . . .	13. 9.1927	1.10.1938
New Zealand . . . . .	29. 3.1938	9. 1.1939
Poland . . . . .	3.11.1937	28.12.1938
Portugal . . . . .	27. 3.1929	8.11.1938
Spain . . . . .	22. 2.1929	
Sweden . . . . .	8. 9.1926	28.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938

The Government of *Colombia* refers to its previous reports in which it stated that a Bill providing for compulsory accident insurance was under preparation.

The Government of *Mexico* again states in its report that in the Bill to amend the Federal Labour Act of 1931 provisions were included to bring the national legislation into conformity with the Convention, in particular with regard to compensation

which the Convention lays down shall be paid in the form of pensions, while Mexican law does not provide to this effect.

The report of the Government of *Spain* has not been received.

In its previous reports the Government of *Uruguay* stated that a Bill was under consideration with a view to establishing the necessary concordance between the Act concerning industrial accidents and the Convention. The report for this year contains no information on this point.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Belgium.*

Royal Order of 28 September 1931 concerning the Act respecting compensation for injuries resulting from industrial accidents. Consolidated Acts of 24 December 1903, 3 August 1926, 15 May 1929, 30 December 1929 and 18 June 1930 (L. S. 1931, Belg. 9).

Act of 23 July 1927 for the approval of the Convention, published in the *Moniteur belge* of 19 November 1927.

*Bulgaria.*

Act of 6 March 1924 respecting social insurance (L. S. 1924, Bulg. 1), amended and supplemented by the Acts of 2 February 1929 (L. S. 1929, Bulg. 1), 9 April 1931 (L. S. 1931, Bulg. 2), 25 June 1932 (L. S. 1932, Bulg. 4), 28 June 1933 (L. S. 1933, Bulg. 3), and the Legislative Decrees of 11 August 1934 (L. S. 1934, Bulg. 3 B), 5 January 1935 (L. S. 1935, Bulg. 1), 30 June 1936, 11 February 1937 and 26 August 1937.

*Chile.*

- Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).  
 Chapter III of Legislative Decree No. 379 of 18 March 1925 concerning accident compensation (L. S. 1925, Chile 4).  
 Decree No. 238 of 31 March 1925 issuing regulations under the preceding Legislative Decree, amended by Decree No. 1239 of 22 July 1930.  
 Decree No. 217 of 30 April 1926 to approve the amended regulations respecting industrial hygiene and safety (L. S. 1926, Chile 2).  
 Decree No. 903 of 8 June 1927 concerning unclassified partial incapacity.

*Colombia.*

- Act No. 57 of 15 November 1915 concerning workmen's compensation for accidents, supplemented and amended by Act No. 32 of 17 June 1922 (L. S. 1929, Col. 2 B) and Act No. 133 of 9 December 1931 (L. S. 1931, Col. 3).  
 Resolution No. 34 of 1937 containing in particular provisions relating to workmen's compensation for accidents in gold, silver and platinum mines.  
 See also introductory note.

*Cuba.*

- Decree No. 2687 of 15 November 1933 to repeal and replace the Act of 12 June 1916 (L. S. 1933, Cuba 3 A), amended by Decrees Nos. 3156 and 3341 of 16 and 30 December 1933 respectively (L. S. 1933, Cuba 3 B and C).  
 Presidential Decree No. 223 of 31 January 1935 issuing Regulations under the Act concerning industrial accidents, amended by Presidential Decrees Nos. 1252 and 1653 of 6 May and 27 June 1936 and No. 452 of 7 March 1938.  
 Decrees Nos. 37 of 31 December 1937 and 1368 of 29 June 1938 concerning minimum premium scales.  
 Various Orders relating to the application of the above legislation.

*Hungary.*

- Act No. XXI of 1927 respecting compulsory insurance against sickness and accidents (L. S. 1927, Hung. 1), amended by Orders Nos. 9090 of 29 December 1931 (L. S. 1931, Hung. 5), 9600 of 1932 (L. S. 1932, Hung. 4) 6000 of 1933 (L. S. 1933, Hung. 4), 6500 of 1935 (L. S. 1935, Hung. 2) and 1250 of 6 March 1936 (L. S. 1936, Hung. 4).  
 Act No. XXIX of 1928 to embody the Convention in Hungarian legislation.  
 Act No. LXV of 1912 respecting pensions for State employees and their widows and orphans.

*Latvia.*

- Act of 1 June 1927 concerning the insurance of paid employees against accidents and occupational diseases (L. S. 1927, Lat. 1).

*Luxemburg.*

- Act of 17 December 1925 respecting the Social Insurance Code, Books II and IV (L. S. 1925, Lux. 2), as amended by Act of 6 September 1933 (L. S. 1933, Lux. 3).  
 Act of 21 July 1927 respecting the reassessment of accident pensions (L. S. 1927, Lux. 2).  
 Grand Ducal Orders of 23 January, 7 and 23 April 1903, 11 June 1926, 4 April, 29 July and 23 December 1927, 7 December 1928, 27 December 1929 and 22 August 1936.  
 Railway Employees' Pensions Regulations, approved by the Grand Ducal Orders of 30 July 1925 and 2 March 1926.

- Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).  
 Act of 27 July 1938 increasing certain accident benefits.  
 Grand Ducal Order of 30 July 1938 to fix normal maximum wages under sickness insurance.

*Mexico.*

- Political Constitution of the United States of Mexico of 1917.  
 Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).  
 Draft Staff regulations for civil servants.

The Government states that in virtue of § 133 of the Political Constitution, the provisions of the Convention have the force of a constitutional Act in view of the fact that the Convention has been duly approved, ratified and promulgated. See also introductory note.

*Netherlands.*

- Act of 2 January 1901 respecting the statutory insurance of workers against the pecuniary consequences of accidents in specified industries, text of the Decree of 28 June 1921 promulgating the said Act as amended and supplemented (L. S. 1921, Part II, Neth. 1), amended by the Acts of 2 July 1928 (L. S. 1928, Neth. 1 B), 7 February 1929 (L. S. 1929, Neth. 2 B) and 18 July 1930 (L. S. 1930, Neth. 3 A), 23 May 1935 (Staatsblad, No. 304 and 17 July 1936 (Staatsblad, No. 800). (L. S. 1935, Neth. 3).

*New Zealand.*

- The Workers Compensation Act, 1922, as amended by the Workers Compensation Amendment Act, 1926 (L. S. 1926, N. Z. 2) and the Workers Compensation Amendment Act, 1936, and affected by the Finance Act, 1933 (No. 2), Section 56, and the Law Reform Act, 1936, parts III and VI.

*Poland.*

- Social Insurance Act of 28 March 1933 (L. S. 1933, Pol. 5), amended by the Order of the President of the Republic of 24 March 1934 (L. S. 1934, Pol. 4).  
 Order of the Council of Ministers of 27 December 1933 concerning the rights of insured persons to benefits under former accident insurance legislation.

*Portugal.*

- Act No. 1,942 of 27 July 1936 respecting the right to compensation for the consequences of industrial accidents or occupational diseases, amended by Legislative Decree No. 27,165 of 10 November 1936 (L. S. 1936, Por. 2 A and B).  
 Decree No. 27,649 of 12 April 1937 issuing regulations concerning compensation for industrial accidents and occupational diseases under Act No. 1942 of 27 July 1936. (L. S. 1936, Port. 2).  
 Legislative Decree No. 23,048 of 23 September 1933 to promulgate the National Labour Code (L. S. 1933, Por. 5).  
 Legislative Decree No. 23,053 of 23 September 1933 to set up a National Labour and Provident Institution (L. S. 1933, Por. 8).  
 Legislative Decree No. 24,363 of 15 August 1934 to supersede Legislative Decree No. 24,194 concerning the procedure and work of the labour courts (L. S. 1934, Por. 3).

*Sweden.*

Act of 17 June 1916 (B.B. Vol. XI, p. 267) respecting insurance against industrial accidents, as amended by the Acts of 14 June 1917, 26 April 1918, 19 June 1919, 18 June 1920, 15 June 1922 (L. S. 1922, Swe. 2), 23 May 1924 (L. S. 1924, Swe. 1 A), 18 June 1926 (L. S. 1926, Swe. 5), 24 May 1928 (L. S. 1928, Swe. 1), 14 June 1933 (L. S. 1933, Swe. 1), 26 June 1936 (L. S. 1936, Swe. 5) and 11 June 1937.

Act of 29 June 1917 concerning the Insurance Council.

Royal Decree of 30 November 1917 laying down certain provisions relating to the application of the Act respecting insurance against accidents to workers employed upon State employment, as amended by Decrees of 31 January 1919 and 9 November 1928.

Royal Decree of 9 November 1928 respecting reports upon industrial accidents, etc., amended by the Decrees of 4 December 1930 and 24 November 1932.

Royal Decrees of 24 March 1938 respecting compensation for industrial accidents and occupational diseases for prisoners and inmates of penitentiary institutions.

*Uruguay.*

Act of 26 November 1920 respecting occupational accidents (L. S. 1920, Ur. 1).

Decree of 9 February 1933 extending the application of the Act respecting occupational accidents to domestic servants.

See also introductory note.

*Yugoslavia.*

Act of 14 May 1922 respecting workers' insurance (L. S. 1922, S.C.S. 2).

Regulations of the Miners' Insurance Fund for workers and salaried employees employed in undertakings covered by the Mines Act, issued by the Order of 16 February 1933 (L. S. 1933, Yug. 1).

Order of the Minister of Transport and Communications of 30 May 1922 respecting the sickness and accident insurance of staff employed in the State transport and communications services.

## II

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation, and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to ensure that workmen who suffer personal injury due to an industrial accident, or their dependants, shall be compensated on terms at least equal to those provided by this Convention.

See below under ARTICLES 2 to 11.

## ARTICLE 2.

The laws and regulations as to workmen's compensation shall apply to workmen, employees and apprentices employed by any enterprise,

undertaking or establishment of whatsoever nature, whether public or private.

It shall nevertheless be open to any Member to make such exception in its national legislation as it deems necessary in respect of :

(a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business ;

(b) outworkers ;

(c) members of the employers' family who work exclusively on his behalf and who live in his house ;

(d) non-manual workers whose remuneration exceeds a limit to be determined by national laws or regulations.

*Please give an analysis of the provisions of the laws and regulations which determine the scope of application of the legislation or systems of legislation concerning workmen's compensation for accidents or accident insurance applying to workmen, employees and apprentices covered by Article 2 of the Convention.*

*If advantage has been taken of the exceptions provided for in the second paragraph of this Article, please indicate :*

(a) the definition of employment which is of a casual nature and is for the purpose of the employer's trade or business ;

(b) the definition of outworkers ;

(c) the persons who are considered as members of the employer's family ;

(d) the limit of remuneration fixed by national legislation in order to determine the sphere of the application to non-manual workers.

*Luxemburg.* — The report states that, under the Act of 27 July 1938, certain accident pensions which were re-assessed in 1927, were increased by 30 per cent.

*New Zealand.* — The Workers Compensation Act, 1922, provides that if in any employment to which the Act applies personal injury by accident arising out of and in the course of the employment is caused to a worker, his employer shall be liable to pay compensation as set out in the Act. The Act applies to the occupations specified, whether carried on for the purposes of the employers' trade or business or not, including mining and quarrying ; excavation, the cutting of standing timber, the erection or demolition of any building or structure ; the manufacture or use of any explosive, the charge or use of any machinery in motion and driven by steam or other mechanical power ; the driving of any vehicle drawn or propelled by horse power or mechanical power ; any occupation in which a worker incurs risk of falling any distance exceeding 12 feet, if the injury or death of the worker results from such a fall. In addition the Act applies to any employment of a worker in and for the purpose of any trade or business carried on by the employer. "Trade or business" includes any trade, business or work carried on temporarily or permanently by or on behalf of an employer. An employer may, for the purposes of the Act, have more than one trade or business. The exercise and performance of the powers, duties or functions of any corporation or of any local authority

or other governing body of a corporation, is deemed to be the trade or business of the corporation. Finally, the Act applies to any other occupation if, within the period of twelve months immediately preceding the date of the accident, the worker has been at any time engaged or employed for not less than three consecutive days by the employer by whom he is employed at the time of such accident. Any two days separated by a Sunday or holiday on which the worker has not been actually engaged or employed are nevertheless considered as being consecutive. The Act binds the Crown in respect of the Government of New Zealand, with the exception of accidents happening to persons in the naval or military service and to members of the air force. "Worker" means any person who has entered into or works under a contract of service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and includes share farmers and persons engaged in plying for hire on certain conditions. Persons employed otherwise than by way of manual labour whose remuneration exceeds £400 a year are not covered.

*Poland.* — All persons employed for remuneration as wage-earning or salaried employees shall be liable to insurance without distinction of age, sex or nature of work. Homeworkers and persons collaborating with them are also liable to insurance. The following persons shall be exempt from insurance: (a) persons on active military service; (b) clergymen of the denominations recognised by the State as well as members of religious orders, brotherhoods and societies of such denominations, provided that their work is a direct outcome of their clerical avocation; (c) persons who perform work or services without remuneration, purely from religious, humanitarian or ideal motives; (d) the employers' wife or husband; (e) relatives of the employer in the descending and ascending line, and brothers and sisters of the employer employed by him and living in his household; (f) domestic servants employed only temporarily, i.e. for less than two consecutive weeks with the same employer. The accident insurance regulations are applicable to all employees, irrespective of the amount of their wages, the latter only being taken into account for the calculation of contributions and benefits up to the amount of 174 zloty per week. (§§ 2, 5, 13 of the Act of 1933).

#### ARTICLE 3.

This Convention shall not apply to

- (1) seamen and fishermen for whom provision shall be made by a later Convention;
- (2) persons covered by some special scheme, the terms of which are not less favourable than those of this Convention.

*If advantage has been taken of the exception provided for in paragraph 2 of this Article, please indicate the categories of persons exempted because they are covered by some special scheme the terms of which are not less favourable than those of the Convention, and give a list of the laws, regulations and statutes relating to the protection of such persons in case of accident, forwarding the texts of the said laws, regulations or statutes with this report where this has not already been done.*

*New Zealand.* — 1) The Workers Compensation Act applies to seamen. 2) § 64 of the Workers Compensation Act provides that if any scheme of compensation, benefit or insurance for the workers is on the whole not less favourable to the general body of workers and their dependants than the provisions of the Act, a certificate to this effect can be obtained from the Court of Arbitration, and the employer may contract with his workers that the provisions of this scheme shall be substituted for those of the Act. The employer is then, as regards the workers concerned, liable in accordance with the scheme in lieu of the Act. Only one such scheme has been approved by the Court, which applies to all the employees of a sugar refining company.

*Poland.* — Permanent and temporary State officials and employees of the Polish State Railway Undertaking are not liable to the general accident insurance system if they come under the Act of 11 December 1923 respecting pensions for State officials and regular soldiers or the Order of the Council of Ministers dated 8 July 1932 respecting pensions for salaried employees of the Polish State Railway Undertaking and provision for their widows and orphans, and likewise respecting compensation for accidents (§ 5 of the Act of 1933).

#### ARTICLE 4.

This Convention shall not apply to agriculture, in respect of which the Convention concerning workmen's compensation in agriculture adopted by the International Labour Conference at its Third Session remains in force.

*New Zealand.* — Agricultural workers are covered, no distinction being made between agricultural workers and those employed in industry.

#### ARTICLE 5.

The compensation payable to the injured workman, or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments: provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that it will be properly utilised.

*Please state whether the compensation payable in the case of an accident resulting in permanent incapacity or death is paid to the injured person or his dependants in the form of a pension.*



*If the compensation may be wholly or partially paid in a lump sum, please state what authority is competent to decide that the payment shall be made in a lump sum and what guarantees for the proper utilisation of the compensation are usually required.*

**New Zealand.** — Where the amount of compensation due in respect of the death of a worker has been arrived at, the employer or other person liable shall pay the compensation to the public trustee, unless the Court otherwise orders. The trustee holds the money for the persons entitled thereto pending an order of the Court disposing of or apportioning the compensation. If the public trustee does not receive, within one month after receipt of the money, notice from any dependant that application for such an order is being made, the public trustee shall apply for such order. (§ 38 of the Workers Compensation Act, 1926). Where the worker's total or partial incapacity for work results from the injury the compensation payable shall, in default of agreement, be in the discretion of the Court either a lump sum or a weekly payment during the period of incapacity (§ 5).

**Poland.** — *Accident pension:* An insured person shall be entitled to an accident pension for the duration of the period of incapacity for work if in consequence of an industrial accident he becomes wholly or partially incapacitated for work. If the period for which he is incapacitated does not exceed four weeks or if his earning capacity is not reduced by at least 10 per cent., the insured person is not entitled to an accident pension. In the event of total incapacity for work, the monthly amount of the accident pension shall be  $66\frac{2}{3}$  per cent. of the average monthly wage of the insured person; in the event of partial incapacity for work the pension is reduced in proportion to the degree of incapacity. A person who is in receipt of an accident pension for an accident sustained after 1 January 1934 and whose earning capacity is reduced by at least  $66\frac{2}{3}$  per cent. is entitled to a bonus equal to one-tenth of the pension for each child dependent on him. (§§ 136, 139, 141 of the Act of 1933).

*Widow's pension:* A widow whose husband dies in consequence of an industrial accident shall be entitled, until she marries again, to a widow's pension equal to 30 per cent. of the average wage of the deceased person. If a widow in receipt of a widow's pension remarries before attaining the age of fifty-five years she shall receive a lump sum by way of commutation equal to three annual payments of the pension; if the widow remarries after attaining the age of fifty-five years she shall receive a lump sum by way of commutation equal to one annual payment of the pension (§§ 142, 143, *et seq.*).

*Orphan's pension:* Children whose father or mother die in consequence of an industrial accident are entitled to an orphan's pension equal to 20 per cent. of the average wage of the deceased person. In the case of a full orphan, the pension is equal to 25 per cent. of the average wage. Boys shall receive an orphan's pension only until they attain the age of seventeen years, and girls until they attain the age of eighteen years. An orphan who is studying at a public educational establishment shall be entitled to receive an orphan's pension until he reaches the age of twenty-one years; if the orphan is studying at a higher educational institution, he shall be entitled to draw the pension until he attains the age of twenty-four years (§ 144 *et seq.*).

*Survivor's pensions:* Grandchildren, relatives in the ascending line and brothers and sisters of the deceased person are entitled to a pension equal to 20 per cent. of the average wage of the deceased person, provided that the amount of the pension paid to the widow and to the children of the deceased person do not exceed  $66\frac{2}{3}$  per cent. of his average wage, which is the maximum amount fixed for a survivor's pension (§§ 148 and 149). The average monthly salary of the insured person shall be calculated on his weekly wage in employment during the last 52 weeks preceding the date of the accident. If the insured person did not work for 300 days during this period, his average daily salary, multiplied by 25, is used as the basis for calculation. The monthly salary of trainees, relatives of the employer by blood or marriage, prisoners, etc. who receive no remuneration or less than the full remuneration, is calculated on the basis of the average wage in the locality in question of persons in the same occupation as the insured person. The average wage shall in no case be lower than the wage of an unskilled worker which shall be determined annually and for each district by the regional labour inspector. If the beneficiary so requests, he shall receive a lump sum by way of capitalisation, assessed at 70 per cent. of the actuarial value of the monthly pension. This capitalisation is only allowed if it is certain that the capitalised pension will be judiciously utilised. The Accident Insurance Institution may take steps to ensure the proper use of the money paid by taking out a mortgage on the property purchased with the capitalised pension and may also reserve the right of supervision over it (§§ 139 and 152).

#### ARTICLE 6.

In case of incapacity, compensation shall be paid not later than as from the fifth day after the accident, whether it be payable by the employer, the accident insurance institution, or the sickness insurance institution concerned.

*Please state :*

- (a) *as from what day after the accident compensation is paid in the case of incapacity ;*
- (b) *by whom the compensation is payable : the employer, an accident insurance institution or a sickness insurance institution.*

*New Zealand.* — (a) No compensation is payable if the incapacity lasts less than three days. If, therefore, a worker is incapacitated for three days or more, compensation is payable from the date of incapacity (§ 5 of the Workers' Compensation Act, 1938).

(b) The employer is liable to pay compensation in accordance with the provisions of the Act. Usually the employer insures against his liability to pay compensation, but insurance is not compulsory (§ 5).

*Poland.* — The right to an accident pension shall arise on the date of the onset of incapacity for work in consequence of an industrial accident. The right to a survivor's pension shall arise on the date of the death of the injured person. Benefits are paid first under the sickness insurance fund and then under the accident insurance fund. Sick benefit is paid irrespective of the claim on the accident insurance fund (§§ 179 *et seq.*) of the Act of 1933).

#### ARTICLE 7.

In cases where the injury results in incapacity of such a nature that the injured workman must have the constant help of another person, additional compensation shall be provided.

*Please state under what conditions additional compensation is paid to workmen injured in such a way as to require the constant help of another person, and the amount of such additional compensation.*

*New Zealand.* — Compensation is based on the degree of incapacity, which is measured by the Court. An injured workman who required the constant help of another person would be regarded as totally incapacitated and would receive compensation accordingly.

*Poland.* — A bonus on the pension equal to  $33\frac{1}{3}$  per cent. of the average wage is paid to an injured person who is so helpless in consequence of an accident that he cannot dispense with the constant attendance and care of another person (§ 140 of the Act of 1933).

#### ARTICLE 8.

The national laws or regulations shall prescribe such measures of supervision and methods of review as are deemed necessary.

*Please indicate the legislative provisions dealing with measures of supervision and methods of review of compensation.*

*In particular, please state whether review may take place at any time or at specified intervals, and the time limit, if any, after which compensation is no longer subject to review.*

*New Zealand.* — Any order or agreement for a weekly payment of compensation may at any time and from time to time be reviewed by the Court of Arbitration in an action brought or application made for that purpose, and the payment may be ended, suspended, diminished or increased, or may be revived after any period of suspension, or may be commuted for a lump sum, or the order or agreement may be otherwise varied but so that the compensation awarded is in conformity with the provisions of the Act. An action or application for review may be brought or made by or against the worker entitled to compensation, and against or by the employer or other person liable to pay the compensation, or by the insurer. On any such review the order may be made retrospective. § 30 provides that the Court may set aside or vary an order which has been obtained by fraud or other improper means, or an order in which any person has been erroneously included or not included as a dependant of the deceased worker. An application under this section must be made within six months from the date of the order, except by leave of the judge of the Court.

In any action for the recovery of compensation payable to or on behalf of dependants in the case of death of a worker the Court of Arbitration may order that the amount shall be paid into Court and any such amount shall be invested or otherwise dealt with by the Court at its discretion for the benefit of the dependants. Any sum invested in accordance with this provision shall be paid to the public trustee who deals with all such monies and the income therefrom in accordance with the regulations and orders of the Court. (§§ 29, 30, 32 and 33 of the Workmen's Compensation Act).

*Poland.* — The degree of incapacity for work is established by specialists whose diagnosis is verified by doctors attached to the accident insurance institution and who decide as to the degree of incapacity for work and the amount of the pension. In estimating the degree of incapacity for work, the specialist must make use of the instructions contained in the booklet entitled "Determination of the degree of incapacity for work in consequence of an industrial accident". In cases where a material change occurs in the circumstances governing the assessment of benefit in respect of an industrial accident, a fresh assessment may be carried out. At the end of two years after the industrial accident, the amount of the pension shall not be altered *ex officio* at intervals of less than one year. (§§ 203 and 207 of the Act of 1933).

## ARTICLE 9.

Injured workmen shall be entitled to medical aid and to such surgical and pharmaceutical aid as is recognised to be necessary in consequence of accidents. The cost of such aid shall be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions.

*Please state :*

- (a) *the nature and duration of the medical, surgical and pharmaceutical aid to which injured workmen are entitled ;*
- (b) *from whom such aid is due.*

*New Zealand.* — The Workers' Compensation Act provides that in addition to the compensation payable under the Act a sum equal to the reasonable expenses incurred in respect of the medical or surgical attendance, including first aid, on the worker in respect of his injury, but not exceeding £1., shall be payable. On the other hand a sum equal to the reasonable expenses of the worker's medical or surgical attendance, including first aid, and of his funeral, is payable if the worker dies as a result of the accident, whether he leaves dependants or not. This sum is due in addition to compensation if any but shall not exceed £50 (§§ 4 and 5).

*Poland.* — An injured workman shall be entitled to (1) medical treatment ; (2) medicines and dressings, as well as curative and auxiliary treatment ; (3) auxiliary appliances for deformities and infirmities. This assistance, which is supplied by the sick insurance fund and is charged to the accident insurance fund, is granted for as long as it is required, without any limit as to time (§§ 134, 171 *et seq.* of the Act of 1933).

## ARTICLE 10.

Injured workmen shall be entitled to the supply and normal renewal, by the employer or insurer, of such artificial limbs and surgical appliances as are recognised to be necessary : provided that national laws or regulations may allow in exceptional circumstances the supply and renewal of such artificial limbs and appliances to be replaced by the award to the injured workman of a sum representing the probable cost of the supply and renewal of such appliances, this sum to be decided at the time when the amount of compensation is settled or revised.

National laws or regulation shall provide for such supervisory measures as are necessary, either to prevent abuses in connection with the renewal of appliances, or to ensure that the additional compensation is utilised for this purpose.

*Please state :*

- (a) *the conditions applying to the supply and renewal of such artificial limbs and surgical appliances as are recognised to be necessary for injured workers ;*
- (b) *the conditions under which the supply and renewal of such artificial limbs and appliances is replaced by the award of additional compensation in cash ;*
- (c) *the supervisory measures to prevent abuses and to ensure that the additional compensation is utilised for the proper purpose.*

*New Zealand.* — Loss of limb including permanent loss of the use of the limb is a so-called " schedule " injury ; the ratio of compensation payable for such injury to full compensation is determined by statute. An injured workman therefore receives this compensation whether or not artificial appliances may provide a remedy and questions of artificial limbs are thus removed from the responsibility of the employer.

*Poland.* — An injured workman shall be entitled to the supply, repair and renewal of artificial limbs and artificial parts which are recognised necessary as the result of an accident. If the injured workman continues to work he is entitled to the renewal of such appliances or parts. The arbitration courts or the Higher Insurance Office are competent to hear appeals against decisions regarding the supply of artificial limbs and surgical appliances (§§ 177 *et seq.* of the Act of 1933).

## ARTICLE 11.

The national laws or regulations shall make such provision as, having regard to national circumstances, is deemed most suitable for ensuring in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents, or, in case of death, to their dependants.

*Please state what provisions of national laws or regulations ensure the payment of compensation to injured workmen or their dependants in the event of insolvency of the employer or insurer.*

*New Zealand.* — When the worker is injured by an accident arising out of and in the course of his employment in or about any mine, building, factory or ship, the amount of compensation is a charge upon the employers estate or interest in that mine, building, factory or ship and in the plant, machinery and appliances in or about such mine etc. and in the land on which the mine etc. is situated. § 53 provides that a claim for compensation is provable in the bankruptcy or winding up of the person or corporation liable for the compensation. Such bankruptcy etc., however, shall not preclude the commencement or continuation of any proceedings in the Court of Arbitration or elsewhere in respect of that claim. Where compensation is payable in the form of weekly pensions the claim to be proved shall be for a lump sum agreed upon between the official assignee or the liquidator and the person entitled to recover the compensation, or assessed by the Court of Arbitration or a court having jurisdiction in the bankruptcy etc. All claims for compensation proved in the bankruptcy shall rank equally with wages under the Bankruptcy Act of 1908, which gives the third priority to claims for

wages. A similar preference is given in the winding up of a company registered under the Companies Act of 1933.

*Poland.* — Accident insurance is administered by a single public institution whose competence extends over the whole territory of the Republic. In order to ensure the regular payment of compensation, the total amount received in contributions during the year shall cover not only current expenses but shall constitute a reserve for the discharge of liabilities for any accidents which may occur during the year (§§ 17 (a) and 217 of the Act of 1933).

### III.

*Article 16 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Netherlands.* — In the Netherlands Indies a draft for statutory Accident Regulations was recently submitted to the National Council (*Volksraad*), but has not yet been discussed. In *Curaçao* the Accident Regulations, 1936, came into force on 1 July 1938.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*New Zealand.* — The Labour Department Amendment Act, 1936, No. 4, provides that the Workers' Compensation Act shall be administered by the Department of Labour, but there is very little call for administration as far as the Department itself is concerned, the only function being to give advice to the workers on application concerning the benefits which they are entitled to under the Act. The Department, however, provides the machinery of the Court of Arbitration. According to § 19 of the Workers' Compensation Act, all proceedings for the recovery of compensation or for the determination of any question as to the distribution of compensation among dependants, or for obtaining any other order in respect to compensation, shall be taken in the Court of Arbitration. Where the claim does not exceed £50, however, the action may, by agreement between the parties, be taken in the magistrate's court. Any agreement as to the payment of compensation or otherwise relating to compensation may be enforced in the Court of Arbitration.

*Poland.* — The application of the legislation and regulations on accident insurance is entrusted to the Social Insurance Institution which is a State institution managed by a governing body made up as follows : 50 per cent. of representatives of the insured persons, 25 per cent. of representatives of the employers and 25 per cent. of members appointed by the Minister of Social Welfare. A commissioner appointed by the Minister is responsible for carrying out the functions of the governing body. The supervisory commission of the Institution consists of two-thirds of representatives of the employers and one-third of representatives of the insured persons (§§ 55 *et seq.* of the Act of 1933). Disputes regarding the rights of injured workmen to compensation are within the jurisdiction of the arbitration boards set up under the courts of second instance. In the districts of Poznan and Pomerania and in Upper Silesia Higher Insurance Offices have been set up. The arbitration boards consist of a judge belonging to the permanent judicial service who acts as chairman, four assessors, two of whom are appointed by the Minister of Social Welfare, one representative of the employers and one representative of the insured persons. The decisions of the arbitration boards are without appeal. The Higher Insurance Office acts as an administrative board consisting of a chairman and two assessors, one for the employers and one for the insured persons. An appeal against the findings of the Higher Insurance Office is within the jurisdiction of the Social Insurance Court for the districts of Poznan and Pomerania, and for Upper Silesia, within the jurisdiction of the district insurance office. The Social Insurance Court acts as an administrative board

consisting of a chairman, two judges belonging to the permanent judicial service, one representative of the employers and one representative of the insured persons. The district insurance office, when called upon to give decisions, consists of a chairman, one member chosen by the district council, one judge belonging to the permanent judicial service, one representative of the employers and one representative of the insured persons. An injured workman or a member of his family may appeal, within two months the communication of the decision of the Social Insurance Institution, to the courts or to the district insurance office. The costs of the case are borne by the Social Insurance Institution.

## V.

*Please state whether decisions have been given by courts of law or other courts regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The Government appends to its report the texts of nine judicial decisions.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please give a general appreciation of the manner in which the Convention is applied in your country, including, for instance, particulars regarding the organisation and working of the system of accident insurance for workers (where such a system exists) and also such statistical information as is available on the following points:*

### 1. Scope of application:

*the total number of workmen, employees and apprentices employed by all enterprises, undertakings and establishments, excluding seamen, fishermen and agricultural workers;*  
*the number of such workmen, employees and apprentices covered by the general provisions regarding workmen's compensation;*  
*the number of persons covered by some special scheme in accordance with Article 3 (2) of the Convention.*

### 2. Benefits in cash:

*(a) total cost of benefits in cash;*  
*(b) average cost of benefits in cash per person covered by the legislation.*

### 3. Benefits in kind:

*(a) total cost of benefits in kind;*  
*(b) average cost of benefits in kind per person covered by the legislation.*

### 4. The number and nature of the accidents reported.

### 5. Cost of application:

*total cost of application of legislation on workmen's compensation for accidents or accident insurance with details as to the manner in which this cost is covered.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Belgium.* — The report states that no difficulty has been experienced with regard to the practical application of the Convention.

*Bulgaria.* — The report states that the number of employees covered by the legislation concerning workmen's compensation is 209,641. During the period covered, the total amount expended on benefits in cash was 17,715,900 leva, an average of 3,030 leva per worker, and on benefits in kind, 1,969,707 leva, an average of 334 leva per worker. There were reported in all 5,880 accidents, of which 146 proved fatal, 9 involved permanent incapacity and 69 partial incapacity up to 50 per cent., and 5,656 did not entail incapacity.

*Chile.* — The report gives the following information for 1937: (1) The total number of wage-earners, including workers, employees and apprentices, but excluding agricultural workers, seamen and fishermen was, 942,982; this number included 918,249 wage earners who were covered by the general provisions concerning workmen's compensation for industrial accidents and 24,733 employees of the State railways, for whom special provisions are in force, (2) (a) Benefits in cash amounted to 10,977,373 pesos, and the capitalised value of pensions granted to 5,489,199 pesos. (b) The average expenditure per injured worker was 297 pesos. (3) No data are available as to benefits in kind. (4) The number of accidents reported was 56,252. (5) Although insurance against industrial accidents is optional, practically all industrial, commercial, agricultural and other undertakings are insured against this risk. It is impossible to state the cost of the

application of this legislation, as the companies keep certain data private on account of their commercial character. No observations have been made by the employers' and workers' organisations concerned.

*Colombia.* — The report contains no fresh information under this point. See also introductory note.

*Cuba.* — The report states that the number of infractions of the legislation noted by the Labour Inspectorate during the period under review was 34; in 3 cases penalties were inflicted and 7 cases were dismissed, while 24 cases were still pending. The number of insured persons opting for payment of a lump sum on going abroad instead of a pension was 326, of whom 42 were foreigners. No observations on the practical application of the Convention were received from employers' or workers' organisations.

*Hungary.* — The report states that no particulars are available with regard to the number of wage-earning employees, salaried employees or apprentices employed in undertakings or in different industries. In 1937 the number of paid workers covered by the legislation concerning workmen's compensation for accidents was 926,916, of which 144,869 were domestic servants. No information is available with regard to persons covered by any special system under paragraph 2 of Article 3 of the Convention. The report contains the following information with regard to accident insurance in 1937; benefits in cash: 7,791,699 pengö (8.38 per insured person); benefits in kind: 657,322 pengö (0.71 per insured person). The number of accidents notified to the National Insurance Institute was 37,371. The expenses involved in instituting proceedings and the expenses of administration amounted to 1,297,194 pengö. Of this amount, 248,400 pengö was borne by the State as a contribution to the administrative charges and 1,049,194 pengö was met by the employers concerned. The employers' and workers' organisations have not made any observations with regard to the practical application of the Convention or of the relevant national legislation.

*Latvia.* — According to statistical data compiled by the Industrial Accidents Section of the Ministry of Social Welfare, the expenses of the Section during the period 1937/1938 amounted to 2,077,078.02 lats, while the number of victims of accidents registered in 1937 was 23,600 and in 1938 25,226.

*Luxemburg.* — According to the report of the Accident Insurance Association for 1937 the total number of accidents notified during the year was 15,701, 14,782 of which were compensated. The number of wage earners in regular employ-

ment was 44,925 and the number of accidents compensated was 331 per thousand insured persons. The number of fatal accidents was 29. The amount paid in cash benefits was 16,445,728 francs; the amount spent on curative treatment was 2,757,057 francs; and the cost of administration was 2,507,565 francs. The number of commercial employees voluntarily affiliated to the accident insurance system was 429. The Government has not received any observations from the employers' or workers' organisations concerned with regard to the practical application of the Convention or the national legislation implementing the Convention.

*Mexico.* — The report supplies statistics for 1937. Accidents were reported by 236 undertakings employing 441,783 persons. There were 27,542 accidents, of which 27,397 resulted in temporary incapacity, 108 in permanent incapacity and 37 in death. The total compensation paid was 2,424,822.19 pesos, distributed as follows: 2,182,765.21 pesos for temporary incapacity, 110,530.37 for permanent incapacity, and 131,526.61 for death.

*Netherlands.* — The annual report of the State Insurance Bank (*Rijksverzekeringsbank*) on accident insurance contains the following information: 1. In 1936, the number of full-time workers (i.e. those working 300 days a year) was 1,184,067. The number of undertakings covered by compulsory insurance on 31 December 1936 was 186,768. The total wages insured amounted to 1,257,684,106 florins. 2. The total cost of benefits in 1936 including benefits in kind was 13,404,832 florins. This includes, *inter alia*, the cost of temporary compensation (2,447,300 florins), provisional pensions (1,236,270 florins), pensions definitely fixed (5,196,018 florins), funeral benefit (34,399 florins), survivors' benefit (2,519,577 florins), etc. 3. The cost of medical and surgical treatment for the year 1936 was 1,896,534 florins. 4. According to the annual report on accident insurance the number of accidents which occurred in 1936 and for which benefits were granted was 149,682. This number does not however include the cases which were attended to by the medical service of the undertaking concerned as they are not reported to the Insurance Bank. Of the 149,682 accidents which occurred in 1936, medical and surgical treatment was given in 45,847 cases. In 96,993 cases the incapacity to work lasted for more than 2 days and less than 6 weeks. Temporary grants were given in these cases. The number of cases where the incapacity to work lasted for more than 6 weeks and for which a pension was given was 6,599. 273 cases were fatal. In 1936 the total administration costs were 3,867,474 florins including non-recoverable subscriptions. The share of the non-affiliated employers was 2,355,137

florins. The Government states that no cases of infringement of the relevant legislation have been recorded during the period under review, and that the employers' and workers' organisations have not submitted any observations with regard to the practical application of the Convention.

*New Zealand.* — No special inspection service is established, the relevant duties being assigned to inspectors of factories. These duties are generally of an advisory nature. Though insurance is not compulsory, employers as a rule insure against their liability for accidents to their workers. Recent statistics concerning the estimated number of workmen covered by the legislation do not cover the whole field, and reference is therefore made to the report on the 1926 census, the results of the 1936 census having not yet been compiled. More recent statistics, where comparable, are added. The number of persons employed in forestry and mining and quarrying was 7,562, the number employed in industrial production 121,636, in transport and communications, excluding water transport, 38,592, in commerce and finance 64,617, in public administration and liberal professions, excluding defence, 46,029, in domestic and personal service 40,133, and in other industries 27,976, the total number thus employed being 347,545, in addition to 49,400 persons employed in agriculture and pastoral occupations, and 971 in fishing and trapping. In 1936-1937, 93,832 wage earners were employed in factories. An annual publication is issued by the New Zealand Government, "The Report on the Insurance Statistics of the Dominion of New Zealand." For the year 1936, the premium income in connection with employers' liability insurance was £643,705. The amount of claims paid was £404,743. Statistics are collected by the Labour Department, and the Government Statistician, concerning compensation paid in regard to accidents occurring in factories in connection with scaffolding and building operations and to employees of the Public Works Department, Railway Department, and Post and Telegraph Department. These statistics are published in the annual Statistical Report on Prices, etc. For the year 1936, the total amount of compensation paid in respect of such accidents was £122,623.8s.0d. The average per person amounted to £14.4s. for factories, £23.3s.0d for scaffolding and building operations, etc., £14.8s.0d. for public works, £18.3s.0d. for railways, and £15.9s.0d. for post and telegraph employees. Accidents are only reported for persons employed in the above-named works and undertakings. In 1936, the number of accidents was 3,328 in factories, 284 in scaffolding and building operations, 2,163 in public works, 1,682 on railways, and 246 among post and telegraph employees, the total being 7,703. No exact

estimate can be made of the costs of application. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers concerned.

*Poland.* — The total number of employees, excluding agricultural workers, sailors and fishermen is approximately 3,400,000. The total number of paid workers covered by the general accident insurance scheme, excluding the above-mentioned employees, and employees covered by a special scheme, is about 2,175,000. During the period 1 October 1937 to 30 September 1938, the amount paid in benefits in kind, including benefits paid to agricultural workers, sailors and fishermen, was 42,813,000 zloty. During the same period 128,760 accidents were registered for the first time, in 83,356 of which the incapacity for work did not last for more than four weeks, and 1,572 of which were fatal. These figures also include agricultural workers, sailors and fishermen. The total amount estimated during 1937 for contributions under accident insurance was 57,100,000 zloty, 35,907,000 of which were paid by insured persons covered by the Convention. Contributions to accident insurance are borne solely by the employers and are paid at the same time as contributions to sickness insurance and to old-age, invalidity and death insurance. Contributions are calculated on the basis of the wages earned by the insured persons, the rate of the contribution varying, according to the accident risk involved, with each undertaking and occupation. The classification of undertakings and occupations by category and group of risk is carried out by means of the "Tariff of contributions to accident and occupational diseases insurance."

*Portugal.* — The report does not refer to this point.

*Sweden.* — In 1935, the last year for which statistics are available, the number of insured full-time workers (i.e. those working 300 days or 2,400 hours a year) was 1,682,365, including 136,752 State employees. The State Insurance Office, which includes the majority of insured persons — the remainder being insured with various mutual insurance companies — spent 13,500,619 crowns during the period covered by the report on benefits in kind. During the year 1935 the cost of benefits in kind was 11.61 crowns per full-time worker. The cost of medical benefit for the period covered by the report was 3,617,573 crowns. During the year 1935 this cost represented 3.25 crowns per full-time worker. It should be noted that these amounts do not include benefits paid by the State or by



employers who themselves assume the risks of insurance as regards industrial accidents for their employees. During the year 1 October 1937-30 September 1938, the State Insurance Office registered 183,892 cases of industrial accidents, including accidents to employees insured with mutual insurance companies. The cost of administration of the State Insurance Office during the same year was 2,424,863 crowns. These expenses and those of the Insurance Council are met partly by the State, partly by a supplementary payment of 5 per cent. on the net premiums paid by employers whose employees are insured with the Office, and partly by the mutual insurance companies by a payment of 3 per cent. of the total amount of premiums received by these companies.

*Uruguay.* — The report does not refer to this point. See also introductory note.

*Yugoslavia.* — The report states that for the year 1937, the total number of insured persons was 680,011. This total figure does not however include miners and transport workers, who are insured with their own Insurance Funds. The total number of accidents during 1937 was 23,223. 1,233 persons received medical treatment at a cost of 23,065.41 *dinars* a day. The number of pensions awarded in 1937 was as follows: 1,668 men, at a total value of 4,795,297 *dinars*, and 147 women, at a total value of 385,791 *dinars*. The number of family pensions in 1937 was as follows: 165 widows, at a total annual cost of 379,937 *dinars*; 346 orphans, at a total annual cost of 528,709 *dinars*; 5 parents, at a total annual cost of 9,894 *dinars*; 1 brothers' and sisters' pension at a total cost of 1,401 *dinars*. The expenses of the Accident Insurance Section for 1937 were as follows: benefits in cash, 53,564,556 *dinars* (78.77 per insured person); benefits in kind, 5,766,993 *dinars* (8.48); cost of enquiries and legal proceedings, 1,159,727 *dinars* (1.71); endowment of technical reserve, 32,371,467 *dinars* (47.60). The expenses of insurance were met by the following receipts: payments by employers, 92,776,723 *dinars* (136.43 per insured person); interest and other receipts, 121,905,882 *dinars* (32.31 per insured person).

# 18. Convention concerning workmen's compensation for occupational diseases.

This Convention came into force on 1 April 1927. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938 and from which annual reports under

Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Belgium . . . . .	3.10.1927	21.10.1938
Bulgaria . . . . .	5. 9.1929	2.12.1938
Chile . . . . .	31. 5.1933	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Czecho-Slovakia . .	19. 9.1932	16. 2.1939
Denmark . . . . .	18. 6.1934	21.11.1938
Finland . . . . .	17. 9.1927	5.11.1938
France . . . . .	13. 8.1931	12. 1.1939
Great Britain <sup>1</sup> . .	6.10.1926	
Hungary <sup>1</sup> . . . . .	19. 4.1928	
India . . . . .	30. 9.1927	16.12.1938
Ireland . . . . .	15.11.1927	14.12.1938
Italy . . . . .	22. 1.1934	
Japan . . . . .	8.10.1928	
Latvia . . . . .	29.11.1929	25. 1.1939
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Netherlands . . . .	1.11.1928	1.10.1938
Norway . . . . .	11. 6.1929	22.11.1938
Poland . . . . .	3.11.1937	28.12.1938
Portugal . . . . .	27. 3.1929	8.11.1938
Spain . . . . .	29. 9.1932	
Sweden . . . . .	15.10.1929	28.11.1938
Switzerland . . . .	16.11.1927	1.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>2</sup> . . . . .	30. 9.1927	30. 1.1939

The Government of *Columbia* refers to its previous reports in which it stated that as the Bill concerning workmens' compensation for accidents and occupational diseases which was submitted to Congress was found to be defective, it was decided to continue the study of the problem. A special Committee had been set up to examine the question of occupational

<sup>1</sup> See under *Convention No. 42 (revised)*.

<sup>2</sup> See the Introduction to the present volume, p. 4.



diseases which, in tropical countries, presents somewhat complex features.

The Government of *France* states in its report that, although there is nothing fresh to report regarding the application of existing legislation, the Act of 9 April 1898 concerning industrial accidents was amended by the Act of 1 July 1938. The new provisions will not come into force, however, until 1 January 1939. The Government points out that the new Act and the Regulations in course of preparation will result in considerable improvements with regard to benefits to the victims of industrial accidents. The most important of these improvements consist in an extension of the scope of the Act, a marked increase in the amount to be paid in benefits, and the enforcement of measures with a view to ensuring more comprehensive compensation (e.g. supply of artificial limbs).

The Government adds that the Public Administrative Regulations of 9 December 1938 make provision for (1) the amendment of the schedule appended to the Act of 25 October 1919 with regard to diseases caused by (a) tetrachlorethane; (b) benzene and its homologues (toluene, xylene, etc.); (c) white phosphorus; (d) trichloronaphthalene; (2) the extension of the legislative provisions so as to cover diseases due to (e) carbontetrachloride; (f) chlorinated derivatives of ethylene; (g) nitrated and chlorinated derivatives of benzene carbides; (h) dinitrophenol; (i) the aromatic amines; (j) coal pitch; (k) phosphorus sesquisulphide, as well as occupational anthrax apart from those cases considered as industrial accidents.

The Governments of *Great Britain, Hungary and Norway* having ratified *Convention No. 42 concerning workmen's compensation for occupational diseases (revised)*, which covers all the provisions of the present Convention, the information relating to the application of the latter in these three countries is summarised under *Convention No. 42 (Workmen's compensation, occupational diseases, revised)*.

The report of the Government of *Italy* has not been received.

The report of Government of *Japan* has not been received.

The report of the Government of *Spain* has not been received.

The Government of *Sweden* having denounced this Convention and ratified *Convention No. 42 (revised)*, the former Convention ceased to be applicable in Sweden as from 24 February 1938, the date on which the revised Convention came into force,

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Belgium.

Act of 24 July 1927 respecting compensation for injury caused by occupational diseases (L. S. 1927, Bel. 7).

Royal Order of 15 November 1927 respecting the organisation of the Welfare Fund for persons suffering from occupational diseases and the organisation of the Board of Directors and Technical Committee of the Fund.

Royal Order of 30 January 1928 giving a list of occupational diseases and the industries or occupations in which compensation is payable in respect of each of them (L. S. 1928, Bel. 1A).

Ministerial Order of 8 May 1928 defining the categories of workers or assimilated employees who are exposed to the risk of lead-poisoning in the various classes of undertakings subject to the Act (L. S. 1928, Bel. 1B).

Ministerial Order of 10 August 1928 defining the categories of workers or assimilated employees who are exposed to the risk of poisoning by mercury or infection by anthrax (L. S. 1928, Bel. 1C).

A number of Royal and Ministerial Orders which define particular points in connection with the application of the Act of 24 July 1927 and with procedure.

### Bulgaria.

Act of 6 March 1924 respecting social insurance (L. S. 1924, Bulg. 1), amended and supplemented, *inter alia*, by Legislative Decree of 5 January 1935 (L. S. 1935, Bulg. 1).

### Chile.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1).

Decree No. 581 of 21 April 1927 concerning occupational diseases (L. S. 1927, Chile 2).

### Colombia.

See introductory note.

*Cuba.*

Decree No. 2687 of 15 November 1933 to repeal and replace the Act of 12 June 1916 on industrial accidents (L. S. 1933, Cuba 3 A), amended by Decrees Nos. 3156 and 3341 of 16 and 30 December 1933 respectively (L. S. 1933, Cuba 3 B and C) and Legislative Decree No. 596 of 18 February 1936 (L. S. 1936, Cuba 1).

Decree No. 1049 of 22 April 1936 enumerating the industries or processes in which silicosis may occur.

Presidential Decree No. 223 of 31 January 1935 issuing Regulations under the Act concerning industrial accidents, amended by Presidential Decrees Nos. 1252 and 1653 of 6 May and 27 June 1936.

*Czecho-Slovakia.*

Act of 28 December 1887 concerning accident insurance, subsequently amended, in particular by Acts of 20 July 1894, 10 April 1919 and 12 August 1921.

Hungarian Act No. XIX of 1907 concerning sickness and accident insurance of employees in industrial and commercial occupations (B. B. Vol. II, 1907, p. 269), subsequently amended, in particular by Decrees of 23 September 1919 and 14 July 1922.

Hungarian Act No. XVI of 1900 concerning the insurance fund for agricultural workers, with subsequent amendments.

Act of 1 June 1932 concerning workmen's compensation for occupational diseases (L. S. 1932, Cz. 1).

*Denmark.*

Act of 20 May 1933 concerning insurance against the consequences of accidents (L. S. 1933, Den. 5), as amended by the Act of 13 April 1938 (L. S. 1938, Den. 6).

*Finland.*

Act of 12 April 1935 respecting the insurance of wage-earning employees against accidents (L. S. 1935, Fin. 1).

Order of 25 October 1935 on the application of the above Act.

Resolution of the Council of Ministers of 25 October 1935 concerning the application of the Act of 12 April 1935 to works undertaken by the State.

Act of 12 April 1935 concerning the right of civil servants and State employees to compensation for accidents.

Resolution of the Council of Ministers of 25 October 1935 concerning the application of the above Act.

Act of 12 April 1935 respecting compensation for certain occupational diseases and for inflammation consequent upon friction caused by implements (L. S. 1935, Fin. 2).

Order of 31 December 1935 for the administration of the above Act (L. S. 1935, Fin. 3), amended by the Order of 22 January 1937.

Various Orders relating to certain technical problems connected with the insurance of wage-earners against accidents.

*France.*

Act of 1 January 1931 to amend and supplement the Act of 25 October 1919 (L. S. 1920, Fr. 7) to extend to industrial diseases the Act of 9 April 1898 respecting industrial accidents (L. S. 1931, Fr. 1).

Decree of 12 July 1936 for the purpose of supplementing the tables appended to the Act of 25 October 1919 (L. S. 1936, Fr. 9).

Act of 15 July 1926 to extend the time limit fixed in the second paragraph of § 7 of the Act of 25 October 1919 (L. S. 1926, Fr. 7 B).

Decree of 31 December 1920 issuing public administrative regulations for the application of the Act of 25 October 1919.

Decree of 16 October 1935 respecting the compulsory notification of occupational diseases under § 12 of the Act of 25 October 1919 (L. S. 1935, Fr. 11).

Decree of 19 March 1925 extending to *Algeria* the provisions of the Decree of 31 December 1920.

See also introductory note.

*Great Britain.*

See introductory note.

*Hungary.*

See introductory note.

*India.*

Workmen's Compensation Act, 5 March 1923 (L. S. 1923, Ind. 1), amended by Acts No. 29 of 1926 (L. S. 1926, Ind. 3 A) and No. 5 of 1929 (L. S. 1929, Ind. 3), No. 15 of 9 September 1933 (L. S. 1933, Ind. 2) and No. 9 of 5 April 1938 (L. S. 1938, Ind. 2).

*Ireland.*

Workmen's Compensation Act, of 22 March 1934 (L. S. 1934, I. F. S. 1).

Industrial Diseases Order of 28 July 1934, pursuant to § 76 of the Workmen's Compensation Act, 1934 (L. S. 1934, I. F. S. 2).

*Latvia.*

Act of 1 June 1927 concerning the insurance of paid employees against accidents and occupational diseases (L. S. 1927, Lat. 1).

*Luxemburg.*

Act of 17 December 1925 respecting the Social Insurance Code (L. S. 1925, Lux. 2), as amended by the Act of 6 September 1933 (L. S. 1933, Lux. 3).

Grand Ducal Order of 30 July 1928 concerning the extension of compulsory insurance against accidents to occupational diseases (L. S. 1928, Lux. 1) and of 9 November 1928 issued under the Act of 17 December 1925.

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Act of 27 July 1938 increasing certain accident benefits.

*Netherlands.*

Act of 2 January 1901 respecting the statutory insurance of workers against the pecuniary consequences of accidents in specified industries (text as notified in the Decree of 28 June 1921 promulgating the Act as amended and supplemented (L. S. 1921 (Part II), Neth. 1) amended by the Acts of 2 July 1928 (L. S. 1928, Neth. 1 B), 7 February 1929 (L. S. 1929, Neth. 2 B) and 18 July 1930 (L. S. 1930, Neth. 3 A).

Act of 20 May 1922 to insure persons employed in agricultural occupations against the pecuniary consequences of accidents with which they meet in connection with their employment (L. S. 1922, Neth. 2) amended by the Acts of 21 March 1924, 13 May 1927, 2 July 1928, 7 February 1929 and 18 July 1930.

*Norway.*

See introductory note.

*Poland.*

- Act of 28 March 1933 on Social Insurance (L. S. 1933, Pol. 5) amended by Legislative Decree of 24 October 1934 (L. S. 1934, Pol. 4).
- Order of the Minister of Social Insurance dated 28 December 1933 concerning procedure relative to benefits accorded for cases of occupational diseases.
- Order of the Council of the Ministers dated 29 September 1937 concerning the extension of the schedule of occupational diseases subject to workmen's compensation for accidents and occupational diseases (L. S. 1937, Pol. 5).

*Portugal.*

- Act No. 1,942 of 27 July 1936 respecting the right to compensation for the consequences of industrial accidents or occupational diseases, amended by Legislative Decree No. 27,165 of 10 November 1936 (L. S. 1936, Por. 2 A and B).
- Legislative Decree No. 23,053 of 23 September 1933 to set up a National Labour and Provident Institution (L. S. 1933, Por. 8).
- Legislative Decree No. 24363 of 15 August 1934 to supersede Legislative Decree No. 24194 concerning the procedure and work of the Labour Courts (L. S. 1934, Por. 3).
- Legislative Decree No. 27,649 of 12 April 1937, issuing regulations relative to compensation for industrial accidents and occupational diseases provided for under Act No. 1942 of 27 July 1936 (L. S. 1936, Port. 2).

*Sweden.*

- Act of 14 June 1929 respecting insurance against occupational diseases (L. S. 1929, Swe. 1 A), amended by the Act of 12 September 1930 (L. S. 1930, Swe. 4 A) and the Act of 26 June 1936.
- Royal Notification of 22 November 1929 to issue special regulations under the Act of 14 June 1929 (L. S. 1929, Swe. 1 B), amended by the Royal Notifications of 7 November 1930 (L. S. 1930, Swe. 4 B), 13 March 1931 (L. S. 1931, Swe. 2) and 11 December 1936.
- See also introductory note.

*Switzerland.*

- Federal Act of 13 June 1911 respecting sickness and accident insurance (summary in B. B. Vol. VII, 1912, p. CXXXIV), amended and supplemented by the Federal Acts of 18 June 1915 and 9 October 1920 (L. S. 1920, Switz. 7).
- Orders No. I of 25 March 1916, No. I bis of 20 August 1920 (L. S. 1920, Switz. 8), No. I ter of 8 December 1922, No. I quater of 8 November 1927 (L. S. 1927, Switz. 3 B) and No. I quinquies of 25 February 1936 respecting accident insurance.
- Order No. II of 3 December 1927 respecting accident insurance.
- Order No. III of 2 March 1928 respecting accident insurance (L. S. 1928, Switz. 1).
- Federal Decree of 28 March 1917 respecting the organisation of the Federal Insurance Court and the procedure to be followed before the Court.

*Uruguay.*

- Act of 26 November 1920 concerning occupational accidents (L. S. 1920, Ur. 1) amended by the Act of 11 January 1934 (L. S. 1934, Ur. 1).
- Decree of 9 September 1937.

*Yugoslavia.*

- Act of 14 May 1922 respecting workers' insurance (L. S. 1922, S.C.S. 2).
- Regulations of the Miners' Insurance Fund for workmen and staff (and their families and relations) employed in the undertakings covered by the Mines Act and issued by the Order of 27 June 1921 of the Minister of Mines and Forests respecting the organisation of employment in mines, put into force under § 32 of the Finance Act of August-November 1925.
- Order of the Minister of Transport and Communications of 30 May 1922 respecting the sickness and accident insurance of staff employed in the State transport and communications services.
- Order of the Minister of Social Affairs and Public Health, No. 4445 of 22 April 1929, assimilating diseases due to anthrax infection to industrial accidents.

\* \* \*

*Burma.*

- Workmen's Compensation Act of 1923 (L. S. 1923, Ind. 1) amended by the Workmen's Compensation Acts of 1926 (L. S. 1926, Ind. 3 A), No. 5 of 1929 (L. S. 1929, Ind. 3), 9 September 1933 (L. S. 1933, Ind. 2) and 1937 which applied to Burma as part of India on 31 March 1937, continues in force.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to provide that compensation shall be payable to workmen incapacitated by occupational diseases, or, in case of death from such diseases, to their dependants, in accordance with the general principles of the national legislation relating to compensation for industrial accidents.

The rates of such compensation shall be not less than those prescribed by the national legislation for injury resulting from industrial accidents. Subject to this provision, each Member, in determining in its national law or regulations the conditions under which compensation for the said diseases shall be payable, and in applying to the said diseases its legislation in regard to compensation for industrial accidents, may make such modifications and adaptations as it thinks expedient.

*Please give*

- (i) a brief account of the general principles of the national legislation in your country relating to compensation for industrial accidents ;
- (ii) information regarding the rates of compensation prescribed by national legislation for injury resulting from industrial accidents; and
- (iii) information regarding the conditions under which compensation for occupational diseases is payable, and the modifications and adaptations thought expedient in applying the legislation in regard to compensation for industrial accidents to the said diseases,

*Belgium.* — ... (ii) and (iii) ... The report again points out that revision of the Act on compensation for occupational diseases, with a view to bringing it into agreement with the consolidated Act on workmen's compensation as regards the amount of compensation to be granted, has not yet been taken up for consideration by Parliament.

*France.* — See introductory note.

*Luxemburg.* — The report states that the general principles laid down in the amendments to the legislation relating to the application of *Convention No. 17 (Workmen's compensation, accidents)*, are also applicable to compensation for occupational diseases.

*Poland.* — (i), (ii) and (iii). The principles adopted relative to compensation for occupational diseases are similar to those governing compensation for industrial accidents. An insured person who contracts an occupational disease, as well as the members of his family is entitled to the same benefits as the victim of an industrial accident and the members of his family. See under *Convention No. 17 (Workmen's compensation, accidents)*, Points I and II.

\* \* \*

*Burma.* — The report states that the Workmen's Compensation Act makes provision for the payment of benefits for occupational diseases (§ 3 (2)). Its scope was extended to cover as completely as possible workers in organised industries, whether their occupations are hazardous or not. Compensation is afforded in the case of death, permanent disability or temporary disability (§ 4). In the case of occupational disease, with the exception of anthrax, in order to qualify for the right to claim compensation the worker must have been continuously employed by the employer for not less than six months. The Governor may supplement the schedule of occupational diseases appended to the Act (schedule 3). The schedule appended to the Act includes, *inter alia*, lead poisoning or its sequelæ and mercury poisoning and its sequelæ. As regards anthrax infection, § 3 (2) of the Workmen's Compensation Act provides that if a workman employed in any employment involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax, contracts this disease, the disease shall be deemed to be an injury by accident, and unless the employer proves the contrary the accident shall be deemed to have arisen out of and in course of the employment,

## ARTICLE 2.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to consider as occupational diseases those diseases and poisonings produced by the substances set forth in the Schedule appended hereto, when such diseases or such poisonings affect workers engaged in the trades or industries placed opposite in the said Schedule, and result from occupation in an undertaking covered by the said national legislation.

## SCHEDULE.

### List of diseases and toxic substances.

Poisoning by lead, its alloys or compounds and their sequelæ.

Poisoning by mercury, its amalgams and compounds and their sequelæ.

Anthrax infection.

### List of corresponding industries and processes.

Handling of ore containing lead, including fine shot in zinc factories.  
Casting of old zinc and lead in ingots.  
Manufacture of articles made of cast lead or of lead alloys.  
Employment in the polygraphic industries.  
Manufacture of lead compounds.  
Manufacture and repair of electric accumulators.  
Preparation and use of enamels containing lead.  
Polishing by means of lead files or putty powder with a lead content.  
All painting operations involving the preparation and manipulation of coating substances, cements or colouring substances containing lead pigments.

Handling of mercury ore.  
Manufacture of mercury compounds.  
Manufacture of measuring and laboratory apparatus.  
Preparation of raw material for the hat-making industry.  
Hot gilding.  
Use of mercury pumps in the manufacture of incandescent lamps.  
Manufacture of fulminate of mercury primers.

Work in connection with animals infected with anthrax.  
Handling of animal carcasses or parts of such carcasses, including hides, hoofs and horns.  
Loading and unloading or transport of merchandise.

*Poland.* — Under the national legislation the following are considered as occupational diseases: poisoning by lead, its alloys or compounds, in undertakings or establishments where the employees are exposed to the effects of the said substances; poisoning by mercury, its amalgams and compounds, in undertakings where the employees are exposed to the effects of the said substances; anthrax infection in undertakings where the employees handle diseased animals or infected objects (§ 138 (1) of the Act of 28 March 1933); silicosis with or without pulmonary tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death, in the mining, mineral and metal-

lurgical industries, the manufacture of machines, the iron and steel industry, undertakings engaged in stone-cutting, and in all undertakings and establishments engaged in polishing work; poisoning by phosphorus or its compounds, arsenic or its compounds, carbon bisulphide, benzene or its homologues and their derivatives, and by the halogen derivatives of hydrocarbons of the aliphatic series in undertakings and establishments where the employees are exposed to the effects of these substances; pathological manifestations due to (a) radium and other radioactive substances, (b) X-rays, in undertakings and establishments where the employees are exposed to the effects of these substances or rays; primary epitheliomatous cancer of the skin in undertakings, establishments and workplaces where the employees handle or use tar, pitch, bitumen, mineral oil, paraffin, or the compounds, or residues of these substances.

### III.

*Article 7 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — In Morocco the only occupational disease so far established is lead poisoning. Its incidence is rare in consequence of the enforcement of the Dahir of 9 May 1931 regulating the importation, sale and use of white lead. There are, however, lead mines and the question is being examined as to the advisability of adopting legislation providing workmen's compensation for occupational diseases.

*Netherlands.* — In Curaçao, the Accident Regulations of 1936, came into force on 1 July 1938.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislative and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced.*

*Poland.* — Compensation for occupational diseases comes within the workmen's compensation scheme. The administration of the Acts and Orders relative thereto is entrusted to the Institute for Social Insurance and other organisations responsible for workmen's compensation for accidents. See under *Convention No. 17 (Workmen's compensation, accidents)*, Point IV).

\* \* \*

*Burma.* — The Workmen's Compensation Act and Rules made thereunder are administered by the Government through Commissioners appointed under § 20 of the Act. § 30 of the Act provides for appeals against the decisions of the Commissioners. It is compulsory for every person employing workmen in certain specified trades to furnish annually a return showing the number of accidents for which compensation has been paid during the year and the amount of such compensation.

### V.

*Please state whether decisions have been given by courts of law or other courts regarding the application of the Convention. If so, please supply the text of such decisions.*

*Belgium.* — The report states that during the period 1 October 1937 to 30 September 1938, 9 appeals against decisions given by the Welfare Fund were submitted to Justice of the Peace. Only three of these appeals were in connection with a disease covered by the Convention, namely, lead poisoning (one case of permanent disablement and two deaths). No decision has yet been given with regard to these three cases.

*Chile.* — The report states that legal decisions concerning the application of the Convention are rare, since the occupational diseases specified in the legislation are not of frequent occurrence.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, information concerning the processes carried on in your country which give rise to the diseases mentioned in the Schedule, with an indication of the extent to which they are carried on, the number of workers employed in the industries and processes concerned, and the number of cases of such diseases which have been reported, the sums paid by way of compensation as benefits in cash and kind respectively, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

**Belgium.** — The report of the Welfare Fund for persons suffering from occupational diseases, for the year 1937 indicates that in the course of the period under review 165 cases of disease were dealt with. The number of cases compensated was 78, 38 of which were lead poisoning, 9 anthrax infection and 1 of mercury poisoning. The cost of compensation for the diseases in question was 507,867.45 francs. The report adds that no observations have been received from organisations of employers or workers concerned with regard to the practical application of the Convention or of the national legislation which implements it.

**Bulgaria.** — The number of cases of occupational diseases reported for the year 1937 was 33. The amounts paid in compensation amounted to 145,378 levas for cash benefits and 1,298 levas for benefits in kind. The Government refers to its previous reports in which it stated that no observations have been made by the employers' and workers' organisations with regard to the practical application of the provisions of the Convention or of the national legislation dealing with the matter.

**Chile.** — The report states that, owing to the infrequency of cases of the occupational diseases in question, no statistical information of any value is available. In the course of last year 79 cases of occupational disease occurred as shown by the information supplied by the inspection services. Compensation of these cases was satisfactorily settled. No observations were made by either employers' or workers'

organisations with regard to the practical application of the provisions of the Convention or of the legislation which implements the Convention.

**Colombia.** — See introductory note.

**Cuba.** — The Government attaches to its report statistics for various insurance companies which show that no claims for benefits regarding occupational diseases were made during the period 1 October 1937 to 30 September 1938.

**Denmark.** — The report states that during the period from 1 October 1936 to 30 September 1937, 18 cases of occupational diseases were notified and compensated, involving a total expenditure of 62,043 crowns, distributed as follows: fatal cases: 42,988 crowns; funeral allowances 720 crowns; lump-sum indemnity: 5,749 crowns; daily benefits 10,906 crowns; medical treatment 1,328; pensions: 342 crowns. On the other hand, for 24 cases of occupational diseases notified during the period prior to 1 October 1936 the benefits paid amounted to 41,803 crowns distributed as follows: fatal cases: 18,678 crowns; funeral expenses: 180 crowns; lump-sum payment: 3,083 crowns; pensions: 15,204 crowns; daily benefits: 4,414 crowns; medical treatment: 244 crowns. The total expenditure for occupational diseases therefore amounted during the period in question to 103,846 crowns. For the type of processes liable to cause occupational poisoning, the number of workers engaged in the industrial undertakings carrying on these processes and the number of cases of disease recorded, see former reports and information contained in the reports of the general factory inspectorate for 1936 and 1937 relative to medical factory inspection. The report adds that no observations have been made by employers' and workers' organisations concerned.

**Finland.** — The report states that according to information provided by insurance companies and by the State Accident Insurance Office there were during the period under review, 243 cases of occupational disease. Temporary compensation in the form of medical care and daily benefit (either or both) was accorded in 127 cases. Three complaints were lodged with the Insurance Council in regard to Awards made, and 45 cases were submitted to it for investigation. None of these cases was in connection with occupational diseases covered by the Convention.

**France.** — The Government attaches to its report a copy of the report on the application during the year 1936 of the Act of 25 October 1919 as amended by the Act of 1 January 1931. This report contains detailed statistics relating to cases of lead

poisoning and mercury poisoning. As regards anthrax infection social statistical returns of cases of anthrax notified, under workmen's compensation legislation will be drawn up and forwarded to the Office. The employers' and workers' organisations have not made any observations during the period under review concerning the practical application of the Convention or of the national legislation implementing it.

*Great Britain.* — See introductory note.

*Hungary.* — See introductory note.

*India.* — Statistical information is given in the workmen's compensation statistics for the year 1936 and the Note on the working of the Indian Workmen's Compensation Act, 1923. The statistics for 1937 are being compiled and will be forwarded as soon as they are ready. For the available information regarding the number of workers employed in the industries and processes concerned reference is made to the "Statistics of Factories", a copy of which is supplied annually to the International Labour Office. In 1937 six cases (1 in *Bihar* and 5 in *Delhi*) of occupational diseases were reported and compensation amounting to 4,664 rupees was paid. A case of alleged lead poisoning in *Bengal*, which was instituted in 1936 resulted in an award of compensation. Two other cases of the same nature were instituted but were undecided at the end of the year. The report adds that the Government of India has not received any observations from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Ireland.* — The Government attaches to its report an appendix providing occupational disease statistics for 1937. There were 9 cases of disability, 5 of which were continued from previous years and 4 of which occurred in the period under review. The cost of compensation for these cases amounted to £426, of which £366 was in respect of the cases continued from previous years and £60 in respect of those occurring during the period under review. As regards the nature of the diseases involved, the cases were distributed as follows: lead poisoning, 3; epitheliomatous cancer, or ulceration of the skin, 2; dermatitis, 4. In addition, the report states that two non-fatal cases occurred in agriculture, one of lead poisoning, in respect of which £7 was paid by way of compensation, and one of dermatitis, in respect of which £6 was paid.

*Latvia.* — The report states that in 1937 there were 9 cases of lead poisoning among working painters, and during the

period 1 January-30 September 1938 there were 12. No other cases of occupational diseases covered by the Convention were reported.

*Luxemburg.* — The report of the Luxemburg Accident Insurance Association for 1937, to which the Government refers, states that there were only two cases of lead poisoning which were not accorded compensation on the grounds that diagnosis was not confirmed. No other cases of occupational disease covered by the Convention have been reported. The Government has not received any observations from the organisations concerned with regard to the practical application of the Convention or of the national legislation which implements the Convention.

*Netherlands.* — The Government refers to its previous report in which it stated that no cases of infringement of the relevant legislation were reported during the period under review, and no observations were received from employers' or workers' organisations with regard to the application of the Convention.

*Norway.* — See introductory note.

*Poland.* — The report states that during the period between 1 January 1934 and 30 August 1938 199 cases of occupational disease were compensated, 196 of these being lead poisoning (6 fatal cases), 2 anthrax infection (both fatal), and 1 case of pathological trouble due to X-rays. The majority of cases of lead poisoning occurred in the iron and steel industry (132) and the printing trade (15). The cost of compensation in the above-mentioned cases on 31 August 1938 amounted to 264,932.80 *zlotys* for benefits in cash and in kind, and 594,317.85 *zlotys* for benefits of a « technical » order. The Government adds that it is impossible to provide exact data for the period 1 October 1937 to 30 September 1938 by reason of the fact that in Poland occupational diseases are assimilated to industrial accidents, and that in consequence there is no special scheme for occupational diseases and no special record of payment of benefits for such cases.

*Portugal.* — The report does not refer to this point.

*Sweden.* — See introductory note.

*Switzerland.* — The Office of Medical Statistics of the Swiss National Accident Insurance Fund registered the following cases between 1 October 1937 and 30 September 1938: *Lead poisoning*: 37 cases (including 1 of invalidity and two fatal). These 37 cases cost: (a) unemployment benefits frs. 11,625; (b) medical expenses 12,909; (c) invalidity pensions (capital value) 7,119; (d) allowances to dependants (capital value) 36,202, or a total of frs. 67,855. *Mercury poisoning*:

8 cases (including 2 of invalidity and one fatal). These 8 cases cost: (a) unemployment allowance frs. 6,728; (b) medical expenses 8,024; (c) invalidity pensions (capital value) 32,706; (d) allowances to dependants (capital value) 9,986, or a total of frs. 57,444. *Anthrax infection*: 1 case, for which the cost in compensation was: (a) unemployment benefit frs. 996; (b) medical expenses 1,244, or a total of frs. 2,240. During the period under review Federal authorities have received no proposals, complaints or observations with regard to the practical application of the Convention. The Federal Council's report to Parliament on its activities in 1937 in the chapter relating to the Department of Public Economy gives an account of the application of the Acts enforcing the Convention in Switzerland. The annual report of the Swiss National Accident Insurance Fund likewise contains information on this subject.

*Uruguay*. — The Government states in its report that it is unable to supply statistical data regarding the practical application of the relevant legislation, as this does not exist. The report adds that according to information given by the State Insurance Bank the application of the Act of 26 November 1920 has been of importance only as regards anthrax infection; only two cases of lead poisoning were brought to the notice of the clinic of the Insurance Bank during the period January 1934 to 15 September 1938.

*Yugoslavia*. — The report states that during 1937 there were 2 cases of lead poisoning. No pension was paid in respect of either of these cases.

\* \* \*

*Burma*. — The report states that during the year 1937 no cases of compensation for disablement due to occupational disease were reported in Burma. Statistics for the period 1 January to 30 September 1938 are not yet available. The Government of Burma have not received any observations from employers' or workers' organisations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

#### 19. Convention concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents.

This Convention came into force on 8 September 1926. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution

of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Belgium . . . . .	3.10.1927	21.10.1938
Bulgaria . . . . .	5. 9.1929	2.12.1938
Chile . . . . .	8.10.1931	2. 2.1939
China . . . . .	27. 4.1934	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	6. 8.1928	17.11.1938
Czecho-Slovakia . .	8. 2.1927	16. 2.1939
Denmark . . . . .	31. 3.1928	21.11.1938
Estonia . . . . .	14. 4.1930	11.10.1938
Finland . . . . .	17. 9.1927	5.11.1938
France . . . . .	4. 4.1928	12. 1.1939
Great Britain . . .	6.10.1926	28.12.1938
Greece . . . . .	30. 5.1936	21. 3.1939
Hungary . . . . .	19. 4.1928	14.11.1938
India . . . . .	30. 9.1927	16.12.1938
Ireland . . . . .	5. 7.1930	8.11.1938
Italy . . . . .	15. 3.1928	
Japan . . . . .	8.10.1928	
Latvia . . . . .	29. 5.1928	25. 1.1939
Lithuania . . . . .	28. 9.1934	7.11.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	12. 5.1934	26.11.1938
Netherlands . . . .	13. 9.1927	1.10.1938
Norway . . . . .	11. 6.1929	22.11.1938
Poland . . . . .	28. 2.1928	8.12.1938
Portugal . . . . .	27. 3.1929	8.11.1938
Spain . . . . .	22. 2.1929	
Sweden . . . . .	8. 9.1926	28.11.1938
Switzerland . . . . .	1. 2.1929	1.11.1938
Union of South Africa	30. 3.1926	14.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	1. 4.1927	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	30. 9.1927	30. 1.1939

The Government of *Colombia* refers to its previous reports in which it stated that in practice, national and foreign workers received equal treatment as

<sup>1</sup> See the Introduction to the present volume, p. 4.



regards workmen's compensation for accidents, in view of the fact that the Constitution of the Republic, in theory, provided for reciprocity of treatment, that is to say, foreigners in Colombia had the same rights as were granted in their respective countries to Colombian nationals. Moreover the law concerning workmen's compensation for accidents, and particularly Acts No. 57 of 1915 and No. 133 of 1931, made no distinction between national and foreign workers. The Government added that when this legislation was amended the provisions of the Convention would be included in the new Act.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The report of the Government of *Spain* has not been received.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Belgium.*

Royal Order of 28 September 1931 concerning the Act respecting compensation for injuries resulting from industrial accidents (Consolidated Acts of 24 December 1903, 3 August 1926, 15 May 1929, 30 December 1929 and 18 June 1930) (L. S. 1931, Belg. 9).

#### *Bulgaria.*

Act of 6 March 1924 respecting social insurance (L. S. 1924, Bulg. 1) amended and supplemented by the Legislative Decree of 5 January 1935 (L. S. 1935, Bulg. 1), and 26 August 1937.

#### *Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5405 of 8 February 1934 (L. S. 1934, Chile 1 A).

Chapter III of Legislative Decree No. 379 of 18 March 1925 relating to industrial accidents (L. S. 1925, Chile 4).

Decree No. 238 of 31 March 1925 to issue regulations in application of the preceding Legislative Decree, amended by Decree No. 1239 of 22 July 1930.

Decree No. 217 of 30 April 1926 to approve the regulations respecting industrial hygiene and safety (L. S. 1926, Chile 2).

Decree No. 903 of 8 June 1927 relating to unclassified partial incapacity.

Decree No. 581 of 21 April 1927 concerning occupational diseases (L. S. 1927, Chile 2).

#### *China.*

Factory Act of 30 December 1929 as amended by the consolidated text of 30 December 1932 (L. S. 1932, Chin. 2).

Mines Act of 25 June 1936.

#### *Colombia.*

See introductory note.

#### *Cuba.*

Decree No. 2687 of 15 November 1933 to repeal and replace the Act of 12 June 1916 (L. S. 1933, Cuba 3 A), amended by Decrees Nos. 3156 and 3341 of 16 and 30 December 1933 respectively (L. S. 1933, Cuba 3 B and C).

Presidential Decree No. 223 of 31 January 1935 issuing Regulations under the Act concerning industrial accidents, amended by Decrees Nos. 1252 and 1653 of 6 May and 27 June 1936.

Various Orders relating to the above legislation.

#### *Czecho-Slovakia.*

Act of 28 December 1887, No. 1 of the Imperial Code of 1888, respecting workers' accident insurance, with the subsequent amending Acts, applicable to the Province of Bohemia and the Moravian-Silesian Province.

Hungarian Act No. XIX of 1907 respecting accident and sickness insurance for workers in industry and commerce (B. B. Vol. II, 1907, p. 269), as amended by subsequent Acts in force for the territories of Slovakia and Sub-Carpathia.

Hungarian Act No. XVI of 1900 respecting accident insurance for agricultural workers and servants, as amended by subsequent Acts in force for the territories of Slovakia and Sub-Carpathia.

Legislative principles issued by the Czecho-slovak Republic to supplement the basic legislation mentioned above.

#### *Denmark.*

Act of 20 May 1933 respecting insurance against the consequences of accidents (L. S. 1933, Den. 5), superseding the Act of 6 July 1916 and its amending Acts.

Act of 22 December 1927 to ratify the Convention.

Royal Order of 27 April 1928 to promulgate ratification of the Convention.

Decree of 19 October 1937 to extend the provisions of the Act of 20 May 1933 respecting survivors' claims under accident insurance to British subjects domiciled in Canada in the Provinces of Nova Scotia, Ontario, Manitoba, Saskatchewan, the Yukon, New Brunswick, British Columbia and Alberta.

Act of 13 April 1938 to amend the Act of 20 May 1933 respecting insurance against the consequences of accidents.

#### *Estonia.*

Industrial Labour Code (Collection of Russian Laws, Vol. XI, Part 2, 1913 edition), Chapter IV, concerning the insurance of workers against accidents.

Order issued by the Government of the Republic on 2 July 1930, extending the provisions of the above-mentioned Chapter IV to the nationals of foreign States.

Act of 7 December 1934 to amend and supplement the Industrial Labour Code (L. S. 1934, Est. 7).

Legislative Decree of 5 February 1936 respecting the insurance of agricultural workers against accidents (L. S. 1936, Est. 1).

*Finland.*

Act of 12 April 1935 respecting the insurance of wage-earning employees against accidents (L. S. 1935, Fin. 1) amended by the Act of 14 December 1935.

Order of 25 October 1935 concerning the application of the Act respecting the insurance of wage-earning employees against accidents.

Resolution of the Council of Ministers of 25 October 1935 concerning the application of the Act of 12 April 1935 to works undertaken by the State.

Act of 12 April 1935 concerning the right of civil servants and other employees of the State to compensation for accidents.

Resolution of the Council of Ministers of 25 October 1935 respecting the application of the above Act.

Act of 12 April 1935 respecting compensation for certain occupational diseases and for inflammation consequent upon friction caused by implements (L. S. 1935, Fin. 2).

Order of 31 December 1935 for the administration of the above Act (L. S. 1935, Fin. 3), amended by the Order of 22 January 1937.

Various Orders relating to certain technical problems connected with the insurance against accidents of salaried employees.

*France.*

Act of 30 March 1928 for the ratification of the Draft Convention concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents.

Decree of 16 May 1928 promulgating the Convention.

Act of 2 May 1933 to make the accident insurance corporations responsible for the cost of the vocational retraining of persons disabled in industry who are entitled to a pension on account of their injuries or infirmities under the terms of the Social Insurance Code in force in the departments of the Upper and Lower Rhine and of the Moselle.

Publication in the *Official Journal* of the French Republic of the names of countries which have ratified the Convention and the date of its coming into force in respect of their nationals (i.e. the date of registration of ratification by the different States at the Secretariat of the League of Nations).

*Great Britain.*

Workmen's Compensation Act 1925 (L. S. 1925, G. B. 3) and 1926 (L. S. 1926, G. B. 10).

Workmen's Compensation (Transfer of Funds) Act, 1927 (L. S. 1927, G. B. 2 A).

Workmen's Compensation (Silicosis and Asbestosis) Act, 1930 (L. S. 1930, G. B. 7).

Workmen's Compensation Act, 1931, amending § 9 (4) of the Workmen's Compensation Act of 1925 (L. S. 1931, G. B. 4).

Workmen's Compensation Act (Northern Ireland) 1931.

Workmen's Compensation (Coal Mines) Act 1934 (L. S. 1934, G. B. 2).

The Adoption of Children (Workmen's Compensation) Act 1934.

Workmen's compensation (Amendment) Act, 1938.

Various Orders, Regulations, and Schemes concerning Workmen's Compensation dating from 1909 to 1935.

*Greece.*

Royal Decree of 24 July 1920 respecting the codification of the Acts respecting liability for payment of compensation to wage-earning or salaried employees who are victims of accidents (L. S. 1923, Gre. 1, appendix), amended in particular by the Legislative Decree of 20 January 1923 (L. S. 1923, Gre. 1).

Decree of 23 March 1925 to consolidate in a single text the laws concerning assistance to persons who are victims of accidents in mining and metallurgical undertakings and their families (L. S. 1925, Gre. 6) amended subsequently.

Act No. 6298 of 24 September 1934 respecting social insurance (L. S. 1934, Gre. 7).

Legislative Decree of 30 October 1935 to ratify the Convention.

Act No. 649 of 1937 respecting liability for payment of compensation to victims of accidents in public works undertakings.

Ministerial Decree No. 10,703 to approve the Regulations respecting the method of affiliation to insurance and the recovery of contributions by the Social Insurance Institution.

Order No. 28,290/1938 regulating the position foreigners temporarily residing in Greece.

*Hungary.*

Act XXXI of 1928, incorporating the Convention in Hungarian legislation.

Act XXI of 1927, concerning compulsory sickness and accident insurance (L. S. 1927, Hung. 1), as amended by Orders No. 9090 of 29 December 1931 (L. S. 1931, Hung. 5), No. 9600 of 15 December 1932 (L. S. 1932, Hung. 4), No. 6000 of 2 June 1933 (L. S. 1933, Hung. 4), No. 6500 of 21 June 1935 (L. S. 1935, Hung. 2) and No. 1250 of 6 March 1936 (L. S. 1936, Hung. 4), and Orders issued under Act XXXI of 1928 containing provisions relating to the application of the Convention to industry, commerce, mines and communications.

Act XVI of 1900 relating to agricultural workers subject to compulsory accident insurance, and the regulations having force of law which amend and supplement the Act.

Order No. 2830/1932 of the Council of Ministers, dated 10 May 1932, to lay down the conditions as to claims arising out of certain industrial accidents (L. S. 1932, Hung. 5).

*India.*

Workmen's Compensation Act of 5 March 1923 (L. S. 1923, Ind. 1), amended by Acts No. 29 of 1926 (L. S. 1926, Ind. 3 A) and No. 5 of 1929 (L. S. 1929, Ind. 3), and No. 15 of 1933 (L. S. 1933, Ind. 2) and No. 7 of 1937.

Workmen's Compensation (Transfer of Funds) Regulations of 13 March 1935.

Notifications Nos. L-1821 of 28 and 29 January 1937, extending the list of occupational diseases in respect of which compensation is payable.

Notification No. L-3002 of 27 March 1937, extending the scope of the Workmen's Compensation Act to persons employed in the handling or transport of goods in warehouses.

*Ireland.*

Act. No. 9 of 22 March 1934 to consolidate and amend the law relating to compensation to workmen for injuries suffered in the course of their employment (L. S. 1934, I.F.S. 1).

Workmen's Compensation Act, 1934 (Industrial Diseases) Order of 28 July 1934, pursuant to section 76 of the above Act (L. S. 1934, I.F.S. 2).

*Latvia.*

Act of 1 June 1927 respecting the insurance of wage earners against industrial accidents and occupational diseases (L. S. 1927, Lat. 1).

*Lithuania.*

Act of 30 April 1936 concerning insurance against occupational accidents (L. S. 1936, Lith. 3).

*Luxemburg.*

Act of 17 December 1925 respecting the Social Insurance Code (L. S. 1925, Lux. 2), as amended by Act of 6 September 1933 (L. S. 1933, Lux. 3).

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Mexico.*

Political Constitution of the United States of Mexico of 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

The Government states that the ratification of the Convention and its promulgation by the President of the Republic have the legal effect of converting its provisions into a constitutional Act, in accordance with the provisions of § 133 of the Political Constitution.

*Netherlands.*

Act of 2 January 1901 respecting the statutory insurance of workers against the pecuniary consequences of accidents in specified industries, text published in the Decree of 28 June 1921 promulgating the Act, as amended and supplemented (L. S. 1921, Part II, Neth. 1), amended by the Acts of 2 July 1928 (L. S. 1928, Neth. 1 B), 7 February 1929 (L. S. 1929, Neth. 2 B), 18 July 1930 (L. S. 1930, Neth. 3 A) and 14 July 1936 (L. S. 1936, Neth. 1).

Act of 29 November 1907 promulgating the treaty concluded on 27 August 1907 between Germany and the Netherlands respecting accident insurance.

Decree of 18 May 1915 promulgating the treaty concluded on 30 May 1914 between Germany and the Netherlands supplementing the treaty of 27 August 1907.

Decrees of 4 July 1922, 22 May 1926 and 16 April 1928 promulgating the treaties concluded with Belgium, Norway and Denmark respecting accident insurance.

Act of 3 December 1937 approving the Treaty concluded on 27 January 1937 between the Netherlands and Switzerland respecting insurance against industrial accidents (L. S. 1937, Int. 7).

Decree of 16 February 1938 promulgating the Treaty concluded on 27 January 1937 between the Netherlands and Switzerland respecting insurance against industrial accidents.

*Norway.*

Act of 24 June 1931 respecting the accident insurance of industrial employees, etc. (L. S. 1931, Nor. 3), superseding the Act of 13 August 1915, and its supplementary and amending Acts.

*Poland.*

Act of 6 July 1923, to extend the legal provisions respecting workmen's compensation for industrial accidents, invalidity, old age, death and unemployment, to the nationals of other States (L. S. 1923, Pol. 3 A).

Act of 28 March 1933 concerning social insurance (L. S. 1933, Pol. 5), superseding the previous Acts which dealt with the questions regulated by it, amended by the Order of the President of the Republic of 24 March 1934 (L. S. 1934, Pol. 4).

*Portugal.*

Act No. 1942 of 27 July 1936 respecting the right to compensation for injury resulting from industrial accidents or occupational diseases (L. S. 1936, Por. 2).

Decree No. 27,649 of 12 April 1937 issuing regulations concerning compensation for industrial accidents and occupational diseases under Act No. 1942 of 27 July 1936 (L. S. 1936, Port. 2).

Legislative Decree No. 23,053 of 23 September 1933 to set up a National Labour and Provident Institution (L. S. 1933, Por. 8).

Legislative Decree No. 24,363 of 15 August 1934 to supersede Legislative Decree No. 24,194 concerning the procedure and work of the labour courts (L. S. 1934, Por. 3).

*Sweden.*

Act of 17 June 1916 respecting insurance against industrial accidents (B. B. Vol. XI, 1916, p. 267), amended by the Acts of 14 June 1917, 26 April 1918, 19 June 1919, 18 June 1920, 15 June 1922 (L. S. 1922, Swe. 2), 18 June 1926 (L. S. 1926, Swe. 5), 24 May 1928 (L. S. 1928, Swe. 1), 14 June 1933 (L. S. 1933, Swe. 1), 26 June 1936 (L. S. 1936, Swe. 5) and 11 June 1937.

Declaration of 12 February 1919 between Sweden, Denmark and Norway establishing reciprocity as regards workmen's compensation for accidents (French text in B. B. Vol. XVIII, 1919, p. 69.).

Agreement of 11 September 1923 with Finland establishing reciprocity as regards workmen's compensation for accidents (L. S. 1923, Int. 3).

Royal Notification of 22 October 1937 respecting the application, in certain cases, of the accident insurance laws of Sweden, Denmark, Finland, Iceland and Norway (Convention concluded at Oslo on 3 March 1937 (L. S. 1937, Int. 5)).

Royal Notification of 31 March 1938.

Various Decrees granting exemption from certain provisions of the Act of 17 June 1916, as amended, to the nationals of the countries which have ratified the Convention.

*Switzerland.*

Federal Act of 13 June 1911 respecting sickness and accident insurance (summary in B. B., Vol. VII, 1912, p. CXXXIV), amended and supplemented by the Federal Acts of 18 June 1915 and 9 October 1920 (L. S. 1920, Switz. 7).

Orders No. I of 25 March 1916, No. I *bis* of 20 August 1920 (L. S. 1920, Switz. 8), No. I *ter* of 8 December 1922, No. I *quater* of 8 November 1927 (L. S. 1927, Switz. 3 B) and No. I *quinquies* of 25 February 1936 respecting accident insurance.

Order No. II of 3 December 1917 respecting accident insurance.

Order No. III of 2 March 1928 respecting accident insurance (L. S. 1928, Switz. 1).

Federal Order of 28 March 1917 respecting the organisation of the Federal Insurance Court and the procedure to be followed before it.

Federal Order of 9 June 1927 ratifying the Convention.

*Union of South Africa.*

Workmen's Compensation (Consolidation) Act No. 59 of 1934 (L. S. 1934, S. A. 1).

Act No. 38 of 24 June 1936 amending the Workmen's Compensation Act (L. S. 1936, S. A. 2).

*Uruguay.*

Act of 26 November 1920 respecting occupational accidents (L. S. 1920, Ur. 1).

*Yugoslavia.*

Act of 14 May 1922 respecting workers' insurance (L. S. 1922, S. C. S. 2).

Regulations of the Miners' Insurance Fund for workers and salaried employees employed in the undertakings covered by the Mines Act, issued by the Order of 16 February 1933 (L. S. 1933, Yug. 1).

Order of the Minister of Transport and Communications of 30 May 1922 respecting the sickness and accident insurance of staff employed in the State transport and communications services.

\* \* \*

Burma.

Workmen's Compensation Act, 1923, as amended by the Workmen's Compensation (Amendment) Acts of 1926, 1929, 1933 and 1937, which applied to British Burma as part of India on 31 March 1937 and continues in force in Burma.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

### ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to grant to the nationals of any other Member which shall have ratified the Convention, who suffer personal injury due to industrial accidents happening in its territory, or to their dependants, the same treatment in respect of workmen's compensation as it grants to its own nationals.

This equality of treatment shall be guaranteed to foreign workers and their dependants without any conditions as to residence. With regard to the payments which a Member or its nationals would have to make outside that Member's territory in the application of this principle, the measures to be adopted shall be regulated, if necessary, by special arrangements between the Members concerned.

*Please indicate the legislative or other provisions relating to the payment of compensation to persons injured in industrial accidents or their dependants, if they reside outside the country from which compensation is due:*

- (a) *in the case of national workers and their dependants;*
- (b) *in the case of foreign workers and their dependants.*

*Please give information regarding any special arrangements which may have been made with other Members concerned, forwarding copies of the texts.*

*Denmark.* — The Government points out that the Decree of 19 October 1937 extends the provisions of the Act 20 May 1933 respecting survivors' claims under accident insurance to British subjects domiciled in Canada in the Provinces of Nova Scotia, Ontario, Manitoba, Saskatchewan, the Yukon, Quebec, New Brunswick, British Columbia and Alberta.

*France.* — See under *Convention No. 18. (Occupational diseases)*, introductory note.

*India.* — The report states that Rules were issued in 1938 for the transfer of compensation to Burma.

*Poland.* — The Government points out in its report that on 27 April 1937 an agreement concerning social insurance, including accident insurance, was concluded between Poland and the Free City of

Danzig. This agreement came into force on 1 May 1938.

\* \* \*

*Burma.* — Every person who falls within the definition of "workman" as given in the Act of 1933 is entitled to compensation irrespective of nationality and without any condition as to residence. Rules were issued in 1935 and 1938 providing for the transfer of compensation to any part of His Majesty's Dominion or any other country.

### ARTICLE 2.

Special agreements may be made between the Members concerned to provide that compensation for industrial accidents happening to workers whilst temporarily or intermittently employed in the territory of one Member on behalf of an undertaking situated in the territory of another Member shall be governed by the laws and regulations of the latter Member.

*Please give information regarding any special agreements that may have been made under this Article, forwarding copies of the texts.*

*Denmark.* — The report states that in 1937 an agreement was concluded between Denmark, Finland, Iceland, Norway and Sweden.

*France.* — The report states that the negotiations referred to in last year's report for the conclusion of an agreement between France and the Netherlands have not yet resulted in any definite agreement.

*Sweden.* — The report states that an agreement was concluded in 1937 between Sweden, Denmark, Finland, Iceland and Norway.

\* \* \*

*Burma.* — The report states that no agreements of the nature referred to in this Article have been made.

### ARTICLE 3.

The Members which ratify this Convention and which do not already possess a system, whether by insurance or otherwise, of workmen's compensation for industrial accidents agree to institute such a system within a period of three years from the date of their ratification.

*Please state whether legislative provision has already been made in your country for workmen's compensation for industrial accidents, and, if not, what measures have been taken to give effect to this Article.*

\* \* \*

*Burma.* — Legal provision was in existence prior to the date of ratification by India, of which Burma was then a part.

## ARTICLE 4.

The Members which ratify this Convention further undertake to afford each other mutual assistance with a view to facilitating the application of the Convention and the execution of their respective laws and regulations on workmen's compensation and to inform the International Labour Office, which shall inform the other Members concerned, of any modifications in the laws and regulations in force on workmen's compensation.

*Please furnish information with regard to any modifications in the laws and regulations in force on workmen's compensation and their application, forwarding copies of the texts.*

*Denmark.* — The Government attaches to its report the text of the Act of 13 April 1938 amending the Act of 20 May 1933.

*Great Britain.* — The report states that the Workmen's Compensation Act of 1938 amends the sections of the Act of 1925 which deal with persons engaged in plying for hire with any vehicle or vessel the use of which is obtained under a contract of bailment and for purposes connected therewith.

*Islands and Trengganu* no distinction is made between foreign and national workers. In the *Falkland* and *Leeward Islands* provision made for the transfer of funds to beneficiaries residing elsewhere applies only to British territories. In *Jamaica* a workman ceasing to reside in the island ceases to be entitled to receive periodical payments for temporary incapacity, and in the case of permanent incapacity the payments are replaced by a lump sum, this provision applying to both foreign and national workers. In *Trengganu*, if a workman receiving a half-monthly payment wishes to reside in another country, the other party may agree to continue the payments, but in default of agreement the Commissioner determines what lump sum shall be payable in lieu of such payments. In the *Colony of Aden*, formerly under the administration of the Government of India, the legislation which was reported by the Government of India as giving effect to the provisions of the Convention is still in force.

*Netherlands.* — In *Curaçao*, the Accident Regulations, 1936, came into force on 1 July 1938.

## III.

*Article 9 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain* — See under Convention No. 12, *Workmen's Compensation (Agriculture)*. Under the legislation adopted in the *Falkland Islands*, *Jamaica*, *Leeward*

## IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

\* \* \*

*Burma.* — The Workmen's Compensation Act and the rules made thereunder are administered by Government Commissioners appointed under the Act.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the approximate number of foreign workers in the national territory, their nationality, their occupational distribution, the number and nature of the accidents reported in the case of foreign workers, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Belgium.* — No observations have been made by employers' or workers' organisations with regard to the practical application of the Convention.

*Bulgaria.* — The report states that the number of foreign workers in Bulgaria is 4,328, of whom 1,798 are Russians, 606 Yugoslavs, 480 Armenians, 419 Germans, 306 Czechs, 240 Hungarians, 178 Italians, 50 Rumanians, 45 French, 43 Poles, 32 Swiss, 26 Greeks, 22 Spanish, 22 Turks, 11 Belgians, 10 Estonians, 9 British, 7 Albanians, 6 Dutch, 5 U.S. Citizens, 4 Chinese, 4 Finnish, 2 Persians, 1 Dane, 1 Norwegian, 1 Swede. Classified according to occupations, there were among these foreigners 3,493 workers, 572 technical experts, 171 administrative managers and 92 technical managers. The Government refers to its previous report in which it stated that no observations have been made by employers' or workers' organisations with regard to the practical application of the Convention or of the national legislation which implements it.

*Chile.* — The report states that the approximate number of foreign workers in Chilean territory is 32,998. Of this number, 2,537 salaried employees and 5,332 workers were employed in industry, 7,246 salaried employees and 1,335 workers in commerce, and 481 salaried employees and 2,741 workers in agriculture. The number of industrial accidents suffered by foreign workers was 562. The employers' and workers' organisations concerned have not made any observations with regard to the practical application of the legislation which implements the Convention.

*China.* — The report states that no observations have been received from the

employers' and workers' organisations concerned.

*Colombia.* — See introductory note.

*Cuba.* — The Government states that the legislation makes no distinction between national and foreign workers. The employers' and workers' organisations have not made any observations with regard to the practical application of the Convention or the relevant national legislation.

*Denmark.* — The report states that no observations have been received from organisations of employers or workers concerned.

*Estonia.* — No observations have been received from employers' or workers' organisations concerned with regard to the practical application of the national legislation which implements the Convention.

*Finland.* — The report states that according to information supplied by the insurance companies and the State Accident Office there were, during the period covered, 245 industrial accidents in which the victims were foreigners. Of this number 228 cases gave rise to the grant of daily benefits, and 3 cases to the grant of a life-annuity while 4 cases are still pending. Classified according to their nationality, the victims included 193 Russians, 13 Estonians, 8 Swedes, 6 Norwegians, 6 Germans, 3 Poles, 3 British, 2 Danes, 2 U.S. Citizens, 1 Canadian, 1 Australian, 1 Swiss, 1 Latvian, 1 Italian, 1 Austrian, 1 Czech, 1 Yugoslav, and 1 holder of a Nansen passport.

*France.* — With regard to the number of foreign workers in France, the report states that on 30 September 1937 this was approximately 1,150,000.

*Great Britain.* — The report states that no observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers. See also under *Convention No. 4 (Night work, women)*, Point VI.

*Greece.* — The report does not refer to this point.

*Hungary.* — No observations have been received from employers' or workers' organisations with regard to the practical application of the Convention and of the national legislation which implements it.

*India.* — The Government of India has not received from the organisations of employers or workers any observations

regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Ireland.* — The report states that it is not possible to supply useful particulars under this heading. No observations have been received from organisations of employers or workers.

*Latvia.* — The report states that the Social Insurance Section of the Ministry of Social Welfare has no statistical information available regarding the practical application of the Convention.

*Lithuania.* — The report states that the number of foreign workers insured against industrial accidents under the Act of 1936 was 223. During the period covered by the report there were 6 industrial accidents, 3 of which resulted in partial incapacity, and 3 in varying degrees of total incapacity. No observations have been received from the employers' and workers' organisations.

*Luxemburg.* — The report of the Luxemburg Accident Insurance Association for 1937, to which the report of the Government refers, contains the following information: out of a total of 60 persons in receipt of life annuities who were paid a lump sum during 1937, 3 were foreigners; out of a total of 15,701 accidents reported during 1937, 3,255 (20.74 %) occurred to foreigners. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the Convention or to the national legislation which implements the Convention.

*Mexico.* — No observations have been received from employers' or workers' organisations.

*Netherlands.* — The statistics do not distinguish between national and foreign workers and it is therefore impossible to give the required information. The Government is not aware of any observations made by organisations of employers or workers.

*Norway.* — The Government has not received from the organisations of employers or workers any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Poland.* — The report does not refer to this point.

*Portugal.* — The report does not contain any fresh information in this connection.

*Sweden.* — The Government refers to its report for last year in which it pointed out that the Convention is satisfactorily applied and that no complaints regarding the application of the Convention have been made by the industrial organisations.

*Switzerland.* — The report states that the Convention is fully observed in Switzerland. As regards foreigners subject to compulsory insurance, it is impossible to furnish the particulars requested because the National Fund, owing to the system of insurance established by legislation, has no means of knowing the composition of its membership. It is, however, possible to gain some idea of it from the proportion between the fatal accidents which have occurred in the case of Swiss citizens and those in the case of foreigners. Out of a total of 248 survivors' pensions granted from 1 October 1937 to 30 September 1938 on account of industrial accidents, 225 related to accidents to Swiss citizens, and 23 to foreigners, i.e. about 9.27 per cent. The nationalities of the 23 fatally injured foreign workers were as follows: Austrian, 1; Danish, 1; French, 2; German, 7; Italian, 12. The report adds that, during the period under received, the Federal authorities have not received any suggestions, complaints, or observations with regard to the application of the Convention and of the legislative provisions which implement it.

*Union of South Africa.* — The report states that there were three fatal accidents in which the victims were foreigners with dependants residing in Germany, the Netherlands and Yugoslavia, and one accident involving total incapacity in which the victim is now residing in England. The Government adds that no observations have been received regarding the practical fulfilment of the conditions prescribed by the Convention.

*Uruguay.* — The report does not contain any fresh information under this point.

*Yugoslavia.* — The number of foreign workers is not calculated by the Central Workers' Insurance Institution, since they are treated in the same way as national workers.

\* \* \*

*Burma.* — The report states that no statistics are available regarding foreign workers in Burma. For information regarding the application of the relevant legislation the Government refers to the Report for the year 1937 on the working of the Workmen's Compensation Act, 1923, in Burma. The Government of Burma have not received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

## 20. Convention concerning night work in bakeries.

This Convention came into force on 26 May 1928. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938 and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period :

COUNTRIES	Date of registration of ratification	Reports received
Bulgaria . . . . .	5. 9. 1929	2. 12. 1938 20. 3. 1939
Chile . . . . .	31. 5. 1933	2. 2. 1939
Colombia . . . . .	20. 6. 1933	10. 3. 1939
Cuba . . . . .	6. 8. 1928	17. 11. 1938
Estonia . . . . .	23. 12. 1929	11. 10. 1938
Finland . . . . .	26. 5. 1928	5. 11. 1938
Ireland . . . . .	15. 3. 1937	17. 1. 1939
Luxemburg . . . . .	16. 4. 1928	20. 1. 1939
Spain . . . . .	29. 8. 1932	
Uruguay . . . . .	6. 6. 1933	6. 2. 1939

The Government of *Colombia* refers to its previous reports in which it stated that its main object in ratifying this Convention had been to demonstrate its spirit of international co-operation in the study of labour problems. It added that it desired to have at hand a formal text which could be incorporated in the positive law of the country when economic conditions permit, but that in view of the economic and industrial situation the immediate application of the Convention could not be considered. At the same time the Government stated that the provisions of the Convention would be put into force in due time.

The report of the Government of *Spain* has not been received.

### I

*Please give a list of the legislation and administrative regulations, etc. which apply the provisions of the Convention. Where this has not already been done, please forward copies of the legislation, etc. to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Bulgaria.

Order of 11 November 1931 concerning conditions of employment in bakeries (Ukase No. 32) (L. S. 1931, Bulg. 3).

Legislative Decree of 2 February 1937 to supplement § 18 of the Act respecting hygiene and safety in employment and Legislative Decree of 15 December 1937 to amend paragraph 7 of this article (L. S. 1937, Bulg. 2).

### Chile.

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5405 of 8 February 1934 (L. S. 1934, Chile 1 A).

Decree No. 356 of 30 March 1932 to approve the Regulations for the employment of operative bakers (L. S. 1932, Chile 4 A).

Decree No. 13 of 24 June 1932 to provide for the appointment of operative bakers and bakers' roundsmen for the purpose of supervising the observance of the Act respecting the abolition of night work in bakeries (L. S. 1932, Chile 4 B).

### Colombia.

See introductory note.

### Cuba.

Act of 2 June 1928 concerning the prohibition of night work in bakeries (L. S. 1928, Cuba 1 A).

Decree No. 2,133 of 27 December 1928 : Regulations concerning night work in bakeries (L. S. 1928, Cuba 1 B).

### Estonia.

Act of 2 December 1936 to prohibit night work in bakeries (L. S. 1936, Est. 6).

Order of 15 December 1936 to fix the hours during which work in bakeries is prohibited and the exceptions permitted thereto (L. S. 1936, Est. 6).

### Finland.

Act of 20 January 1928 respecting employment in bakeries (L. S. 1928, Fin. 1 A).

Act of 27 November 1917 respecting the eight-hour working day as amended by the Act of 14 August 1918 (B. B. Vol. XIII, 1918, pp. 36 and 39).

Order of 18 August 1917 respecting work in industrial and certain other establishments (B. B. Vol. XIII, 1918, p. 35).

Order of 11 May 1928 respecting the coming into force of the Convention concerning night work in bakeries.

Act of 4 March 1927 respecting industrial inspection (L. S. 1927, Fin. 1 A).

Resolution of the Council of State of 4 March 1927 concerning the administration of the above Act.



*Ireland.*

Night work (bakeries) Act of 14 August 1936 (L. S. 1936, Ir. 3).

Order of 9 January 1937 bringing the above Act into operation on 1 February 1937.

Night Work (Bakeries) (Exceptional work for a limited period) Orders, Nos. 5, 6 and 7, 1937 and No. 8, 1938.

Night Work (Bakeries) (Exceptional work for limited periods) Regulations, 1938.

*Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919 to 1927).

Order of 30 March 1932 respecting the application of certain Conventions adopted by the International Labour Conference during its first ten Sessions (L. S. 1932, Lux. 1).

Order of 9 July 1938 concerning night work in bakeries.

*Uruguay.*

Act No. 5,646 of 19 March 1918 to prohibit night work in bakeries, pastry-cooks, etc., between 9 p.m. and 5 a.m.

Act No. 7,293 of 15 October 1920 to supplement Act No. 5,646 of 19 March 1918.

Decree of 20 January 1921 issuing Regulations in pursuance of Acts No. 5,646 of 19 March 1918 and No. 7,293 of 15 October 1920.

## II.

*Please indicate in detail for each of the following Articles of the Convention, the provisions of the above-mentioned legislation and administrative regulations, etc. or other measures, under which each Article is applied.*

## ARTICLE 1.

Subject to the exceptions hereinafter provided, the making of bread, pastry or other flour confectionery during the night is forbidden.

This prohibition applies to the work of all persons, including proprietors as well as workers, engaged in the making of such products; but it does not apply to the making of such products by members of the same household for their own consumption.

This Convention has no application to the wholesale manufacture of biscuits. Each Member may, after consultation with the employers' and workers' organisations concerned, determine what products are to be included in the term "biscuits" for the purpose of this Convention.

*In addition, if advantage has been taken of the exception provided for in the last paragraph of this Article, please indicate what definition, if any, of the term "biscuits" has been adopted and what method was employed for consultation with the employers' and workers' organisations concerned.*

*Bulgaria.* — The sole section of Legislative Decree of 15 December 1937 amending paragraph 7 of § 18 of the Act concerning hygiene and safety in employment provides that night work shall be prohibited in all bakeries producing bread, pastry, rolls, flour confectionery and other similar wares made with flour, whether they employ hired labour or not.

## ARTICLE 2.

For the purpose of this Convention, the term "night" signifies a period of at least seven consecutive hours. The beginning and end of this period shall be fixed by the competent authority in each country after consultation with the organisations of employers and workers concerned, and the period shall include the interval between eleven o'clock in the evening and five o'clock in the morning. When it is required by the climate or season, or when it is agreed between the employers and workers' organisations concerned, the interval between ten o'clock in the evening and four o'clock in the morning may be substituted for the interval between eleven o'clock in the evening and five o'clock in the morning.

*In addition, please state*

- (1) *what method was employed to consult the employers' and workers' organisations concerned for the purpose of fixing the beginning and end of the night period indicating, as far as possible, also the hours so fixed;*
- (2) *whether, in the circumstances specified in the last sentence of this Article, the interval between 10 o'clock in the evening and 4 o'clock in the morning has been substituted for the interval between 11 o'clock in the evening and 5 o'clock in the morning, and, if so, for which one of the three reasons provided for in the Article.*

*Bulgaria.* — Under the Decree of 15 December 1937 "night" shall mean the period from 10 p.m. to 5 a.m.

*Cuba.* — The report states that by § 1 of Decree No. 2133 of 27 December 1928 the interval between 9 p.m. and 4 a.m. was substituted for the interval between 10 p.m. and 5 a.m., in order better to meet the general interests. The employers' and workers' organisations were consulted orally about the Decree fixing these hours, the text of which was submitted to and approved by them.

*Luxemburg.* — In pursuance of an agreement concluded on 3 May 1938 between representatives of master bakers and their assistants § 1 of the Ministerial Decree of 9 July 1938 provides that work may begin at 4 a.m. in bakeries the proprietors of which have sent a written notice to this effect to the Labour Inspection Service. The work must however stop at 9 p.m. The normal nightly rest period of 10 p.m. to 5 a.m. may be restored at any time by means of a further notice from the proprietors to the Labour Inspection Service.

## ARTICLE 3.

After consultation with the employers' and the workers' organisations concerned, the competent authority in each country may make the following exceptions to the provisions of Article 1:

- (a) The permanent exceptions necessary for the execution of preparatory or complementary work as far as it must necessarily be carried on outside the normal hours of work, provided that no more than the strictly necessary number of workers and that no young persons under the age of eighteen years shall be employed in such work;

(b) The permanent exceptions necessary for requirements arising from the particular circumstances of the baking industry in tropical countries :

(c) The permanent exceptions necessary for the arrangement of the weekly rest ;

(d) The temporary exceptions necessary to enable establishments to deal with unusual pressure of work or national necessities.

*In addition, if advantage has been taken of the exceptions provided for in this Article, please state what method was employed for consulting the employers' and workers' organisations concerned and give full particulars with regard to the permanent and temporary exceptions permitted under paragraphs (a), (b), (c) and (d), forwarding texts of the regulations, orders, etc., which may have been issued for this purpose.*

*In particular, please indicate what work is regarded as "preparatory or complementary" for the purposes of the application of paragraph (a).*

*Bulgaria.* — The report states that the Decree of 15 December 1937 lays down that exceptions shall be allowed only in extraordinary circumstances and in cases of unusual pressure of work and for preparatory or complementary work which cannot be carried out during the normal hours of work.

*Ireland.* — (a), (b), (c), (d) ... By regulations made under § 5 of the Night Work (Bakeries) Act, 1936, all processes of manufacture in all bakeries have been excepted from the application of the Act in order to deal with unusual pressure of work at festival seasons.

*Luxemburg.* — § 3 of the Ministerial Decree of 9 July 1938 provides that on the days preceding public holidays work may begin in all bakeries at 3 a.m. without any previous notice or authorisation. § 4 provides that if a reasonable request is made to the Government temporary special exceptions may be granted by Ministerial Decree to employers in order to enable them to deal with unusual pressure of work. § 5 lays down that when advantage is taken of the above-mentioned exceptions the interval between 9 p.m. and 4 a.m. shall be substituted for the interval between 10 p.m. and 5 a.m. in the case of young persons under 16 years of age.

#### ARTICLE 4.

Exceptions may also be made to the provisions of Article 1 in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking.

*Please state whether your legislation, etc. imposes any conditions subject to which employers are allowed to take advantage of this exception.*

The reports supplied do not contain any fresh information on this point.

### III.

*Article 10 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate in respect of each of your colonies, protectorates or possessions the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add in so far as they have not already been communicated to the International Labour Office all relevant legislative texts, reports, etc.*

The reports supplied do not contain any fresh information in this connection.

### IV.

*Article 5 of the Convention is as follows :*

Each Member which ratifies this Convention shall take appropriate measures to ensure that the prohibition prescribed in Article 1 is effectively enforced, and shall enable the employers, the workers, and their respective organisations to co-operate in such measures, in conformity with the Recommendation adopted by the International Labour Conference at its Fifth Session (1928).

*Please state with particular reference to this Article to what authority or authorities the application of the legislation and administrative regulations, etc. mentioned under I and II is entrusted and by what method application is supervised and enforced, indicating the means by which the employers, the workers and their respective organisations are enabled to co-operate in the measures of application. In particular, please supply information on the organisation and working of inspection.*

*Cuba.* — The application of the legislation is entrusted to the Department of Labour and its local offices and also to the municipal authorities and chiefs of police. Offences are dealt with by the magistrates' courts, the maximum penalties being a fine of 30 pesos and thirty days' imprisonment.

*Luxemburg.* — The Ministerial Decree of 9 July 1938 provides under § 2 that

employers who take advantage of the special working period of 4 a.m. to 9 p.m. shall post a notice to that effect in a conspicuous place in the works. The Labour Inspection Service shall forward the notices it receives from the employers to the Commandant of the Army and the Director of the local Government police.

## V.

*Please state whether decisions have been given by courts of law or other courts with regard to the application of the Convention. If so, please, supply the text of such decisions.*

*Chile.* — The report states that the Labour Courts have given numerous decisions applying the provisions of Chilean legislation which relate to the Convention, and that the labour inspectors exercise constant supervision on their visits with a view to ensuring strict conformity. As an appendix to the report are attached six relevant decisions involving fines for various breaches of the regulations.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services and, if such statistics are available, information regarding the number of workers covered by the relevant legislation, the exceptions allowed under Articles 3 and 4 of the Convention and the number of workers affected by such exceptions, the number and nature of the contraventions reported; etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Bulgaria.* — The report states that no observations have been received from employers' or workers' organisations with regard to the practical application of the provisions of the Convention or of

the national law implementing the Convention.

*Chile.* — According to the reports of the General Labour Inspectorate, as time goes on, and with the growing collaboration of the workers (who formerly often agreed with their employers to evade the law), the regulations are being observed. The report also points out that the employers conclude mutual agreements to avoid competition from those bakeries which, by infringing the law, are able to supply new bread earlier in the morning, thus complying with a traditional requirement of the population. The question raised by the employers' organisations of amending the legislation owing to the people's habit of eating new bread early in the morning is still pending. The number of workers covered by the relevant legal provisions is 12,345; 554 breaches of the Act were noted.

*Colombia.* — See introductory note.

*Cuba.* — From information furnished by the Director of the National Labour Inspection Service and the police and annexed to the report, it appears that summonses were issued in 24 cases. Of these, 13 cases were dismissed, and in 7 cases the offences were proved and fines amounting to 23 pesos were inflicted; 4 cases were still pending.

*Estonia.* — The report states that the number of undertakings in which night work in bakeries was carried on at the end of 1937 was 423. These undertakings employed 1,058 workers. During that year 408 breaches were reported. The labour inspectors instituted proceedings in 179 cases and in 229 cases a warning was issued to the heads of the undertakings concerned. The Government has not received any observations from the employers' and workers' organisations concerned with regard to the practical application of the legislation implementing the Convention.

*Finland.* — The report states that in 1937 the number of bakeries subject to inspection was 1,695 employing 5,924 workers, including 3,871 women. The number of visits of inspection made during the year was 2,340, 86 of which were made at night. Proceedings were taken in 83 cases of infringement. The employers' and workers' organisations concerned have not made any observations with regard to the application of the Convention or of the national legislation implementing the Convention.

*Ireland.* — The report states that statistics of the number of workers affected by the exceptions allowed under Article 3 are not available. The reports from the

inspection services indicate that the provisions of the legislation are being observed. During the period 1 February 1937 to 31 December 1937 (the latest period for which statistics are available), 2,628 check inspections were made in 797 establishments. Proceedings were taken in five cases for minor breaches. No observations regarding the fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received

from organisations of employers or workers.

*Luxemburg.* — The Government states that the Labour Inspectorate mentions no breaches during the period under review and adds that 250 master bakers desired to take advantage of the special working period of 4 a.m. to 9 p.m.

*Uruguay.* — The report does not refer to this point.

## EIGHTH SESSION (GENEVA, 1926).

**21. Convention concerning the simplification of the inspection of emigrants on board ship.**

This Convention came into force on 29 December 1927. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938 and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Albania . . . . .	17. 3.1932	6. 4.1939
Australia . . . . .	18. 4.1931	14. 2.1939
Belgium . . . . .	15. 2.1928	21.10.1938
Bulgaria . . . . .	29.11.1929	2.12.1938
Colombia . . . . .	20. 6.1933	10. 3.1939
Czecho-Slovakia . .	25. 5.1928	16. 2.1939
Finland . . . . .	5. 4.1929	5.11.1938
Hungary . . . . .	3. 2.1931	4. 1.1939
India . . . . .	14. 1.1928	16.12.1938
Ireland . . . . .	5. 7.1930	4.11.1938
Japan . . . . .	8.10.1928	
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Mexico . . . . .	9. 3.1938	26.11.1938
Netherlands . . . .	13. 9.1927	1.10.1938
New Zealand . . . .	29. 3.1938	7. 2.1939
Uruguay . . . . .	6. 6.1933	6. 2.1939
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	14. 1.1928	30. 1.1939

The *Albanian* Government states in its report that the drafting of an Act to apply the Convention has not been contemplated because, so far, no movement of emigrants has been noted at Albanian ports.

<sup>1</sup> See the Introduction to the present volume, p. 4.

The Government of *Australia* refers to its previous reports in which it stated that it has not been found necessary to adopt legislation or issue administrative regulations for the application of the provisions of the Convention.

The Government of *Bulgaria* refers to its previous reports, which stated that no special legislative measures had as yet been adopted for the application of the Convention. By letter of 16 March 1933, however, the Government announced that the Convention was fully applied by the Emigration Act.

The Government of *Colombia* refers to its previous reports in which it stated that this Convention was ratified mainly with the object of showing the Government's spirit of international solidarity as regards the problems involved, and of having a formal text which, if occasion arose, could be incorporated in the positive law of the country. In these reports it pointed out that in present circumstances, effect has not been given of the Convention for reasons of convenience, and in order to avoid complicating the legislation concerning emigrants on board ship, adding that Act No. 48 of 1920 concerning immigration and the status of aliens contains the existing provisions on the subject.

The Government of *Finland* refers to its previous reports in which it stated that it had not been found necessary to draft special legislation for the application of the Convention, as there were no ships in Finland of the kind to which the Convention referred. The Convention had nevertheless been put into force by an Order dated 1 March 1929.

The Government of *India* refers to its previous reports in which it stated that no official system exists in India for the inspection of emigrants during the voyage. It pointed out that the Indian Emigration Act, 1922, as amended by Acts No. XXVII of 1927 and No. XVI of 1932 empowers the Governor-General in Council to make rules for the appointment of inspectors for this purpose, should circumstances require such action. The Government adds that "the application of the Convention has not been made effective in the absence

of circumstances which would justify its adoption."

The report of the *Irish* Government states that there are no regulations in force regarding inspectors on board emigrant ships. The regulations governing emigrant ships are those laid down in the Merchant Shipping Act, 1894, amended by the Merchant Shipping Act of 1906. They provide for an effective inspection of emigrants before the departure of the ship. Consolidated merchant shipping legislation is in course of preparation and, by the ratification of the Convention, the Government has undertaken that the provisions regarding emigrant ships in this new legislation will not be out of harmony with the Convention.

The report of the Government of *Japan* has not been received.

The Government of *Luxemburg* states that it is not practicable to apply this Convention, since the country possesses neither seaboard, seaports, nor sea-going vessels.

The Government of *Mexico* states that as the matter dealt with by the Convention is entirely new for Mexico the methods to be adopted to give effect to its provisions are under consideration by the Ministry of the Interior and the Ministry of Transport.

The Government of the *Netherlands* states that the Emigration Act of 31 December 1936 and an Act amending the Shipping Act came into force on 1 September 1937. The former prescribes the measures to be taken for the supervision of emigrants before embarkation, while the latter prescribes those to be observed as from the moment of embarkation. Together, these ensure the application of the provisions of the Convention.

The Government of *New Zealand* states that there are no statutes bearing directly on this Convention. Any migrant to New Zealand, other than nationals of Great Britain or its dependencies, must obtain a permit from the controlling authority in New Zealand before entry. Inspection on board ship is the same for migrants possessing permits as for other persons entering New Zealand and is carried out at the port of arrival. The Convention is applicable in respect of migrants who, as nationals of the Imperial (Great Britain) Government, have received assisted passages to New Zealand pursuant to an Agreement existing between the two Governments. The Immigration Department which exists as a branch of the Department of Labour supervised arrangements when passages were being granted pursuant to the Agreement under the Empire Settlement Act. At the present time operations under the

scheme are practically in abeyance. The report adds that the Government subscribes to the view that official inspection on board an immigration vessel for the protection of immigrants shall be undertaken by not more than one Government. Immigration is controlled by the Customs Department. Emigration of New Zealand nationals does not occur. In view of the position outlined, legislation at this juncture is not considered necessary.

The Government of *Uruguay* states that it has nothing to add to its last report in which it stated that Uruguay has no mercantile marine engaged in the transport of emigrants, and in any case there are no emigrants. The movement of workers is entirely an immigration movement, there being very few citizens of Uruguay going to other countries to work who could be classified as emigrants. The provisions of this Convention are therefore a matter rather for the countries of origin of the workers who come to Uruguay and it is those countries that must deal with the conditions under which the emigrants travel.

\* \* \*

The Government of *Burma* states in its report that no official system exists in Burma for the inspection of emigrants during the voyage. It points out that the Indian Emigration Act 1922, as amended by Acts No. XXVII of 1927 and No. XVI of 1932, empowers the Governor to make rules for the appointment of inspectors for this purpose, should circumstances require such action. The Government adds that "the application of the Convention has not been made effective in the absence of circumstances which would justify its adoption".

# I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc. to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Albania.*

See introductory note.

*Australia.*

See introductory note.

*Belgium.*

Royal Order of 25 February 1924 regulating the transport of emigrants, as amended by Royal Order of 15 December 1927.

*Bulgaria.*

Emigration Act of 1908.

*Colombia.*

See introductory note.

*Czecho-Slovakia.*

Act No. 71 of 15 February 1922 respecting emigration (L. S. 1922, Cz. 1).

Order No. 170 of 8 June 1922 respecting the enforcement of the Act of 15 February 1922.

*Finland.*

See introductory note.

*Hungary.*

Act No. II of 1909 concerning emigration.

Act No. VII of 1931 to ratify the Convention.

*India.*

Indian Emigration Act, 1922 (L. S. 1922, Ind. 2), as amended by Acts No. XXVII of 1927 (L. S. 1927, Ind. 1), No. XVI of 1932 (L. S. 1932, Ind. 1) and No. XXI of 1938.

*Ireland.*

See introductory note.

*Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

*Mexico.*

See introductory note.

*Netherlands.*

Emigration Act of 31 December 1936.

Shipping Amendment Act of 31 December 1936.

Resolution of 17 December 1932 providing for the application of the Shipping Act.

See also introductory note.

*New Zealand.*

See introductory note.

*Uruguay.*

See introductory note.

\* \* \*

*Burma.*

Indian Emigration Act 1922 (L. S. 1922, Ind. 2), as amended by Acts No. XXVII of 1927 (L. S. 1927, Ind. 1) and No. XVI of 1932 (L. S. 1932, Ind. 1).

See also introductory note.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purposes of application of this Convention the terms "emigrant vessel" and "emigrant" shall be defined for each country by the competent authority in that country.

*Please indicate the definitions of the terms "emigrant vessel" and "emigrant" which have been adopted.*

*Netherlands.* — The term "emigrant" is defined by the Emigration Act of 31 December 1936 and by a Royal Order of 11 May 1937. The term "emigrant vessel" is defined as a "vessel about to set out on a voyage and having on board emigrants embarked in the Netherlands".

*New Zealand.* — The report states that no definition has been adopted relative to the terms "emigrant vessel" and "emigrant".

\* \* \*

*Burma.* — See introductory note.

## ARTICLE 2.

Each Member which ratifies this Convention undertakes to accept the principle that, save as hereinafter provided, the official inspection carried out on board an emigrant vessel for the protection of emigrants shall be undertaken by not more than one Government.

Nothing in this Article shall prevent another Government from occasionally and at their own expense placing a representative on board to accompany their nationals carried as emigrants in the capacity of observer, and on condition that he shall not encroach upon the duties of the official inspector.

*If the question arises, please state whether advantage has been taken of the possibility allowed by the second paragraph of this Article of placing observers on board emigrant vessels carrying your nationals, and if so, under what conditions.*

*Netherlands.* — So far as the Netherlands Government is aware, there has been no case of the placing of an "observer" on board a Netherlands emigrant vessel.

*New Zealand.* — The report states that until immigration on a large scale is resumed the provisions of Articles 2 to 7 inclusive are not applicable. Full consideration will be given to embodying the conditions in any future arrangement.

\* \* \*

*Burma.* — See introductory note.

## ARTICLE 3.

If an official inspector of emigrants is placed on board an emigrant vessel he shall be appointed as a general rule by the Government of the country whose flag the vessel flies. Such inspector may, however, be appointed by another Government in virtue of an agreement between the Government of the country whose flag the vessel flies and one or more other Governments whose nationals are carried as emigrants on board the vessel.

*Please state (a) whether your country has an official emigrant inspection system, and (b) whether any agreements have been made with other Governments respecting the appointment of official inspectors.*

*Netherlands.* — Emigrant vessels are subject to permanent supervision as provided in § 10 (1) of the Shipping Act.

*New Zealand.* — See under ARTICLE 2.

\* \* \*

*Burma.* — See introductory note.

## ARTICLE 4.

The practical experience and the necessary professional and moral qualifications required of an official inspector shall be determined by the Government responsible for his appointment.

An official inspector may not be in any way either directly or indirectly connected with or dependent upon the shipowner or shipping company.

Nothing in this Article shall prevent a Government from appointing the ship's doctor as official inspector by way of exception and in case of absolute necessity.

*Please state whether provision has been made for the appointment of ship's doctors as official inspectors in the conditions provided for in the third paragraph of this Article.*

*Netherlands.* — The report states that the necessity for placing an inspector on board has not yet been considered to have arisen.

*New Zealand.* — See under ARTICLE 2.

\* \* \*

*Burma.* — See introductory note.

## ARTICLE 5.

The official inspector shall ensure the observance of the rights which emigrants possess under the laws of the country whose flag the vessel flies, or such other law as is applicable, or under international agreements, or the terms of their contracts of transportation.

The Government of the country whose flag the vessel flies shall communicate to the official inspector, irrespective of his nationality, the text of any laws or regulations affecting the condition of emigrants which may be in force, and of any international agreements or any contracts relating to the matter which have been communicated to such Government.

*Netherlands.* — See under ARTICLE 4.

*New Zealand.* — See under ARTICLE 2.

\* \* \*

*Burma.* — See introductory note.

## ARTICLE 6.

The authority of the master on board the vessel is not limited by this Convention. The official inspector shall in no way encroach upon the master's authority on board, and shall concern himself solely with ensuring the enforcement of the laws, regulations, agreements, or contracts directly concerning the protection and welfare of the emigrants on board.

*Netherlands.* — See under ARTICLE 4.

*New Zealand.* — See under ARTICLE 2.

\* \* \*

*Burma.* — See introductory note.

## ARTICLE 7.

Within eight days after the arrival of the vessel at its port of destination the official inspector shall make a report to the Government of the country whose flag the vessel flies, which Government shall transmit a copy of the report to the other Governments concerned, where such Governments have previously requested that this shall be done.

A copy of this report shall be transmitted to the master of the vessel by the official inspector.

*Netherlands.* — See under ARTICLE 4.

*New Zealand.* — See under ARTICLE 2.

\* \* \*

*Burma.* — See introductory note.

## III.

*Article 12 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*



*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Netherlands.* — In the Netherlands Indies, the Emigration Regulations for Surinam were recently revised by the *Indische Staatsblad* No. 389 of 1938. In Curaçao a Service for Social Affairs was set up on 15 March 1938 and is re-examining the Convention.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Netherlands.* — Under the Shipping Act, the enforcement of the legislation in operation is entrusted to the Shipping Inspectorate.

\* \* \*

*Burma.* — The Emigration Act and the rules framed thereunder are administered by the Governor through the Protector of Emigrants appointed under § 3 of the Act. The Act also empowers the Governor to appoint agents in foreign countries for the purpose of safeguarding the interests of emigrants. No such agents have yet been appointed.

#### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information regarding the number of persons carried as emigrants on ships flying the flag of your country (distinguishing between your own nationals and the nationals of other countries) and the number of your nationals carried as emigrants on ships flying the flags of other countries, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Albania.* — See introductory note.

*Australia.* — See introductory note.

*Belgium.* — The Government states that there was a certain decline in the migration through the port of Antwerp in 1937. The supervision of the emigrants, who seldom numbered more than about 50 in any one group, was entrusted to the ships' doctors, for the most part Belgian citizens. The reports furnished regularly by these doctors make no criticism of the treatment of the emigrants on board ship. The Government adds that no observations have been made by employers or workers' organisations.

*Bulgaria.* — The Government refers to its previous report in which it stated that no observations have been received from employers' or workers' organisations with regard to the practical application of the Convention or of the national legislation which implements it. See also introductory note.

*Colombia.* — See introductory note.

*Finland.* — The Government supplies the following statistics. The number of emigrants amounted to 573 in 1935, to 711 in 1936, and to 1,536 in 1937, these three years showing an increase over 1934 when the numbers were lowest, being only 402. Emigration has been increasingly directed towards Sweden, to which country 253 persons were transferred in 1935, 392 in 1936, and 912 in 1937. Other countries

for which emigrants departed were the United States of America (258), Canada (93) and Australia (82). As regards occupations, most of the emigrants were domestic servants (427) and agricultural workers (382). The majority of those who went to Sweden were female domestic servants.

*Hungary.* — In 1937, 1,484 Hungarian nationals were carried overseas as emigrants. During the first six months of 1938 the number was 725.

*India.* — The number of emigrants who went to Ceylon and British Malaya during the year 1937 was: Ceylon 51,427 and British Malaya 54,849. During the year 1938 their number up to 31 July was: Ceylon 26,621 and British Malaya 4,443. The increase in the number of Indian emigrants to British Malaya during 1937 was due to the rubber quota having been increased to 90 per cent. for the last two quarters of that year, while the reduction in 1938 has been due to the stoppage of assisted emigration to that country from 15 June 1938.

*Ireland.* — During the year 1937 the number of emigrants of Irish nationality was 1,228. The report adds that no obser-

vations have been received from organisations of employers or workers.

*Luxemburg.* — See introductory note.

*Mexico.* — See introductory note.

*Netherlands.* — See introductory note.

*New Zealand.* — No observations have been received from employer's and worker's organisations. The annual numbers of recipients of assisted passages from the year 1926-27 to 1937-38 inclusive were as follows: 11,239; 3,822; 1,968; 1,790; 1,233; 290; 56; 4; 1; nil; 11; 10.

*Uruguay.* — See introductory note.

\* \* \*

*Burma.* — Emigrant traffic from Burma is extremely limited. Emigration from Burma, as defined in § 21 (c) of the Emigration Act, for the purpose of unskilled work, is not lawful as yet, except to India. For the purpose of skilled work, the ports of Rangoon and Moulmein are the only ports in Burma from which emigration is allowed under § 15 of the Emigration Act. During the period under report, no emigrants left Burma.

## NINTH SESSION (GENEVA, 1926).

**22. Convention concerning seamen's articles of agreement.**

This Convention came into force on 4 April 1928. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937-30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Australia . . . . .	1. 4. 1935	21. 11. 1938
Belgium . . . . .	3. 10. 1927	21. 10. 1938
Bulgaria . . . . .	29. 11. 1929	2. 12. 1938
Canada . . . . .	30. 6. 1938	1. 3. 1939
Chile . . . . .	18. 10. 1935	2. 2. 1939
China . . . . .	2. 12. 1936	8. 2. 1939
Colombia . . . . .	20. 6. 1933	10. 3. 1939
Cuba . . . . .	7. 7. 1928	17. 11. 1938
Estonia . . . . .	10. 5. 1929	11. 10. 1938
France . . . . .	4. 4. 1928	12. 1. 1939
Great Britain . . .	14. 6. 1929	5. 11. 1938
India . . . . .	31. 10. 1932	16. 12. 1938
Ireland . . . . .	5. 7. 1930	4. 11. 1938
Italy . . . . .	10. 10. 1929	
Luxemburg . . . . .	16. 4. 1928	20. 1. 1939
Mexico . . . . .	12. 5. 1934	26. 11. 1938
Netherlands . . .	15. 12. 1937	1. 10. 1938
New Zealand . . .	15. 12. 1937	9. 1. 1939
Poland . . . . .	8. 8. 1931	8. 12. 1938
Spain . . . . .	23. 2. 1931	
Uruguay . . . . .	6. 6. 1933	6. 2. 1939
Yugoslavia . . . .	30. 9. 1929	19. 11. 1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	31. 10. 1932	30. 1. 1939

<sup>1</sup> See the Introduction to the present volume, p. 4.

The Government of *Canada* states in its report, which covers the three month's period from 1 July to 30 September 1938, that the Convention forms part of the Canada Shipping Act 1934, and that its provisions appear to be implemented particularly by Part III of the Act and are being observed by owners, masters and seamen of Canadian vessels engaged in maritime navigation. No difficulty, legal or otherwise, or judicial decisions regarding the application of the provisions of the Convention were reported during the period concerned. Observance of the provisions of the Convention is supervised by shipping masters at the sea ports. No observations or representations have been received by the Department of Transport, Ottawa, from organisations of employers or workers regarding the fulfilment of the conditions of the Convention or the application of the national law relating thereto.

The *Chinese* Government refers to its previous report in which it stated that in accordance with Article I, this Convention does not apply to vessels engaged in the coasting trade. As no sea-going vessels registered in the Ministry of Communications have engaged in other trades than the coasting trade, the Convention has therefore temporarily no practical application in the Republic of China.

In its report for this year the Government of *Colombia* refers to its previous report in which it stated that effect had not been given to the Convention because national economic conditions did not, then, require its embodiment in the statutory law of the country. The Government also pointed out that Colombia ratified this Convention in a desire to facilitate the growth of international solidarity as regards the study of labour problems, and to embody the principles of the Convention in its doctrine with a view to adapting the provisions of the Convention to national conditions by means of legislation, should occasion arise.

The report of the Government of *Italy* has not been received.

The Government of *Luxemburg* states that the Convention has no practical application in the Grand Duchy.

The *Mexican* Government states in its report that the basic principles of the national legislation are in conformity with those of the Convention, which, in virtue of § 133 of the Constitution have the force of a constitutional Act from the moment of their promulgation by the President of the Republic. While no recent change has been introduced into Mexican legislation the Government intends to bring this legislation into more complete harmony with Article 5, 13 and 14 of the Convention. The Government adds that it has not yet been possible to supply the texts of regulations respecting the list of crew carried on board and the conditions of service on board, called for under Articles 7 and 8 of the Convention, but that these will be forwarded to the Office within a short time.

The report of the Government of *Spain* has not been received.

In a communication dated 31 May 1937, the Minister of Industry and Labour of *Uruguay* stated that he had found that the Uruguayan mercantile fleet, though engaged almost exclusively in the home trade, included one vessel engaging in distant trade, and that the Administration was negotiating the acquisition of several tank vessels. In its report on the application of the Convention for the period 1 October 1936-30 September 1937, the Government pointed out that for this Convention, among others to which full effect had not yet been given by legislative action, Parliament was continuing the examination of the Bills submitted to it with a view to adding to national legislation the provisions which ratification had rendered necessary.

# I.

*Please give a list of the legislation and administrative regulations, etc. which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc. to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

## Australia.

The Navigation Act, 1912-1935 (L. S. 1934, Austral. 10).

The Navigation (Master and Seamen) Regulations S. R. 1924, No. 199 amended in particular in 1925, 1927 and 1929.

## Belgium.

Act of 5 June 1928 relating to seamen's articles of agreement (L. S. 1928, Bel. 5 A).

## Bulgaria.

Act of 1908 concerning maritime trade.

Regulations of 8 August 1923 concerning the crews of commercial vessels of the Bulgarian Navigation Company.

Act of 7 March 1931 respecting merchant shipping (L. S. 1931, Bulg. 1).

## Canada.

Canada Shipping Act (L. S. 1934, Can. 7).

## Chile.

Legislative Decree No. 178 of 13 May 1931 ratifying the Labour Code (L. S. 1931, Chile 1), amended by Act No. 5405 of 8 February 1934 (L. S. 1934, Chile 1).

Decree No. 399 of 5 May 1934 consolidating the Shipping Decrees which govern the conditions of employment in seafaring and occupations connected therewith in ports (L. S. 1934, Chile 3).

Commercial Code, Third Book, § 823, § 889, § 900 and § 933.

Shipping Act of 24 June 1878.

## China.

See introductory note.

## Colombia.

See introductory note.

## Cuba.

Commercial Code of 22 August 1885 (§§ 634-648).

Legislative Decree No. 659 of 6 November 1934 [concerning seamen's articles of agreement] (L. S. 1934, Cuba 12 A).

Act No. 40 of 22 March 1935 [concerning annual leave with pay] (L. S. 1935, Cuba 4).

## Estonia.

Seamen's Institute Act of 31 January 1928 (L. S. 1928, Est. 1-A);

Seamen's Act of 22 March 1928 (L. S. 1928, Est. 1-B);

Order of 24 May 1928 relating to the Seamen's Institute Act;

Order of 12 June 1928 relating to the Seamen's Act.

## France.

Act of 13 December 1926 to issue a Seamen's Code (L. S. 1926, Fr. 13).

## Great Britain.

Merchant Shipping Acts of 1894 and 1906<sup>1</sup>.

## India.

Indian Merchant Shipping Act, 1923 (L. S. 1923, Ind. 4).

Indian Merchant Shipping (Amendment) Act, 1931 (L. S. 1931, Ind. 1).

General Clauses Act, 1897.

Indian Contract Act, 1872.

## Ireland.

Merchant Shipping Acts of 1894 and 1906<sup>1</sup>.

<sup>1</sup> International Labour Office, Studies and Reports, Series P, No. 1, pp. 2 and 56 (extracts).

*Luxemburg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).  
See also introductory note.

*Mexico.*

§ 133 of the Constitution of 1917.  
Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).  
Act of 10 September 1932 concerning public lines of communication (L. S. 1932, Mex. 3).  
Decree of the President of the Republic of 2 July 1935 promulgating the Convention (*Diario Oficial*, Vol. XCI, No. 32, 6 August 1935).  
See under *Convention No. 17 Workmen's compensation, accidents*, point I, the information supplied by Mexico.  
See also introductory note.

*Netherlands.*

Act of 14 June 1930 to issue new legislative provisions respecting agreements for masters and seamen (in force 1 October 1937) and amending, *inter alia*, Chaps. 3 and 4 of the Second Book of the Commercial Code (L. S. 1930, Neth. 1).  
Seamen's Decree ("Schepelingenbesluit") of 15 May 1937 (L. S. 1937, Neth. 4), to issue public administrative regulations under certain sections of the Commercial Code as revised by the Act of 14 June 1930.  
Decree of 10 September 1937 to appoint public officials for supervising the engagement of seamen, with powers to issue seamen's discharge books (*Staatsblad*, 1937, No. 287).  
Decree of 13 September 1937 to issue a standard form of the ship's articles, in compliance with § 6 of the Seamen's Decree (*Staatsblad*, 1937, No. 288).  
Civil Code containing provisions relating to contracts of employment, in as far as the Commercial Code as amended does not expressly provide otherwise.

*New Zealand.*

Shipping and Seamen Act, 1908, as subsequently amended<sup>1</sup>.

*Poland.*

Seamen's Code of 2 June 1902 (B. B. Vol. I, 1902, German), as amended by the Act of 17 March 1933 (L. S. 1933, Pol. 4).  
Act of 28 May 1920 concerning Polish merchant shipping, amended by Decree of the President of the Republic of 6 March 1928.  
Instruction of 28 November 1929 concerning the conditions of work of Seamen;  
Instruction of 18 October 1932 respecting the termination of articles of agreement and the notice to be given thereto.  
Collective agreement of 6 July 1937 respecting the Conditions of work in Merchant Shipping.

*Uruguay.*

Chapters III and VI of Book III of the Commercial Code.  
See also introductory note.

*Yugoslavia.*

Order of 29 March 1935 respecting conditions of employment on board seagoing vessels of the Kingdom of Yugoslavia (L. S. 1935, Yug. 2).  
Regulations of 7 August 1937 respecting the issue of seamen's work books.

\* \* \*

*Burma.*

Indian Merchant Shipping Act, 1923 (as subsequently amended).  
The General Clauses Act, 1897.  
Indian Contract Act, 1872.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

This Convention shall apply to all seagoing vessels registered in the country of any Member ratifying this Convention, and to the owners, masters and seamen of such vessels.

It shall not apply to :

ships of war,  
Government vessels not engaged in trade,  
vessels engaged in the coasting trade,  
pleasure yachts,  
Indian country craft,  
fishing vessels,

vessels of less than 100 tons gross registered tonnage or 300 cubic metres, nor to vessels engaged in the home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention.

*In addition, please indicate the tonnage limit, if any, in respect of vessels engaged in the home trade prescribed by national law for the special regulation of this trade at the date of the passing of the Convention.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*New Zealand.* — The provisions concerning the subject matters of the Convention contained in the Shipping and Seamen Act, 1908, as subsequently amended apply *inter alia* to seagoing ships registered in New Zealand, with the following exceptions provided for in the 1908 Act :

Ships belonging to His Majesty, or ships belonging to the Government of New Zealand (except, as regards the latter, in so far as any specific provisions of the Act may be applied to them by Order of the Governor in Council) (§ 2 (3)); ships under 25 tons exclusively employed in trading between different ports on the coasts of New Zealand (§ 41 (1)); pleasure yachts under 50 tons (§ 166); and fishing boats employed exclusively in fishing on the coasts of New Zealand (§ 167). The provisions in question apply to home trade ships, excluding small coasting ships as referred to above.

*Netherlands.* — The relevant national legislation applies to any seagoing vessel,

<sup>1</sup> For extracts of the Act as amended up to 1913, see International Labour Office, *Studies and Reports*, Series P, No. 1, pp. 854 *et seq.*

irrespective of its description on nature (§ 309 and 310, revised Commercial Code). A public register is kept for the registration of national vessels of at least 20 cubic metres gross (§ 314), except ships belonging to the State or any public body and intended for the public service (§ 319, b). No exemptions are provided for coasting trade vessels, pleasure yachts, deep sea fishing vessels or "home trade" vessels. On the other hand, crews of coastwise fishing vessels are subject exclusively to the relevant provisions of the Civil Code (§ 452, revised Commercial Code).

*Uruguay.* — According to information previously supplied by the Government, the mercantile fleet is almost exclusively engaged in the home trade.

\* \* \*

*Burma.* — The report states that the Acts implementing the Convention continue their existing provisions in force in British Burma. (See *Summary of Annual Reports*, 1934, the information supplied by India).

## ARTICLE 2.

For the purpose of this Convention the following expressions have the meanings hereby assigned to them, viz.:

(a) The term "vessel" includes any ship or boat of any nature whatsoever, whether publicly or privately owned, ordinarily engaged in maritime navigation.

(b) The term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government.

(c) The term "master" includes every person having command and charge of a vessel except pilots.

(d) The term "home trade vessel" means a vessel engaged in trade between a country and the ports of a neighbouring country within geographical limits determined by the national law.

*In addition, please indicate the geographical limits determined by the national law for the purposes of paragraph (d) of this Article.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Netherlands.* — (a) See under ARTICLE 1.

(b) The national legislation applies to all persons who have entered into an agreement with the shipowner to perform seamen's work and are entered on the ships' articles (§ 396 and 406, revised Commercial Code). The term "seamen" (schepelingen) does not include the master. Further, persons in the service of the State or a province, commune, waterways authority (waterschap) or any other public body are not subject to legislation on contracts

of employment, unless the Government or such other public authority declares it applicable thereto (§ 1637 Z, Civil Code, as amended by Act of 14 June 1930).

(c) The master has the command of the vessel (§ 341, Commercial Code) and the term "master" does not include a pilot (§ 344).

(d) The national provisions in articles of agreement do not make any distinction between "home trade" and maritime navigation in general.

*New Zealand.* — The Act of 1908 (§ 4) lays down the following definitions:

"Ship": every description of vessel engaged in navigation not propelled by oars;

"Seaman": any person employed or engaged in any capacity on board any ship (except masters, pilots and duly indentured apprentices);

"Master": any person (except a pilot) having command or charge of any ship;

"Home trade ship": any ship employed in trading or going between any ports or places in New Zealand, or . . . . . going to sea from any port or place in New Zealand and returning to New Zealand without going more than 50 miles from the coast, provided that certain specified islands are deemed to be places out of New Zealand (§ 2).

As the report points out, home trade ships in New Zealand are confined to New Zealand itself and the waters surrounding it, and do not extend to any neighbouring country.

*Uruguay.* — The term "master" is defined in § 1074 of the Commercial Code as the person required to command and take charge of the vessel in exchange for an agreed wage or an agreed share in the profits.

\* \* \*

*Burma.* — See under ARTICLE 1.

## ARTICLE 3.

Articles of agreement shall be signed both by the shipowner or his representative and by the seaman. Reasonable facilities to examine the articles of agreement before they are signed shall be given to the seaman and also to his adviser.

The seaman shall sign the agreement under conditions which shall be prescribed by national law in order to ensure adequate supervision by the competent public authority.

The foregoing provisions shall be deemed to have been fulfilled if the competent authority certifies that the provisions of the agreement have been laid before it in writing and have been confirmed both by the shipowner or his representative and by the seaman.

National law shall make adequate provision to ensure that the seaman has understood the agreement.

The agreement shall not contain anything which is contrary to the provisions of national law or of this Convention.

National law shall prescribe such further formalities and safeguards in respect of the completion of the agreement as may be considered necessary for the protection of the interests of the shipowner and of the seaman.

*In addition, please indicate the provisions of the national legislation under which the different paragraphs of this Article are applied and give full information regarding the additional formalities and safeguards mentioned in the last paragraph of the Article, forwarding all relevant legislative texts, etc.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Netherlands.* — Individual agreements between the shipowner and the seaman shall be concluded in writing and signed by both parties, and the seamen shall sign in person (Commercial Code, § 398). They shall be submitted to the superintendent of shipping registration when the ship's articles are drawn up and the superintendent shall satisfy himself that the terms of the agreements are understood by the seamen and make an entry in the ship's articles to that effect. Thereupon copies of the agreements duly attested shall be appended to the ship's articles and the latter shall be signed by or in the name of the shipowner, by the master and the seamen (§§ 451 and 451 a).

Collective agreements which serve as the basis of individual agreements must also be submitted to the superintendent and annexed to the ship's articles (§ 451 a, last paragraph), and any clauses in the ship's articles which are contrary or supplementary to an individual agreement concluded with a seaman shall be considered void (§ 451, last paragraph).

It is also a condition that no person can be signed on, unless holding an official discharge book ("monsterboekje") as well as a medical certificate attesting physical fitness for work on board, eyesight and hearing (§§ 451 b, 451 c and 451 d.).

Parties to the agreement are not at liberty to make stipulations contrary to certain provisions enumerated in § 450 c (e.g. the rules of §§ 398 to 401 that the agreement be made in writing and must contain full particulars on certain specified points). The same section also indicates the legal provisions from which parties may not depart to the disadvantage of the seaman. Further, § 402 states that rules of service drawn up by the shipowner shall be binding on the seamen, provided their contents are not contrary to the agreement.

Detailed prescriptions concerning the formalities and safeguards in respect of the completion of the ship's articles and the individual agreements of the seamen are set out in §§ 5 to 16 of the Seamen's Decree. The superintendent is required, in particular, to check, complete or correct the various entries in the discharge books

before handing them to the master for safe keeping (§ 10). It is also specified, that the engagement of seamen joining the ship after the completion of the ship's articles is subject to all the usual formalities, except that no new articles need be drawn up, and that seamen shipped in the course of the voyage must be duly entered in the ship's articles at the next port of call (§ 14).

*New Zealand.* — Under the Act of 1908 (§ 41), the master is required to enter into an agreement ("agreement with the crew") in accordance with the Act with any seaman whom he carries to sea as a member of his crew from any port in New Zealand; and non-compliance with this requirement is an offence punishable with a fine. §§ 41-50 of the Act lay down detailed rules concerning the conclusion of the agreements. Agreements made in New Zealand must be entered into in the presence of a Superintendent of Mercantile Marine; be signed by the master before the seaman signs; and be signed by each seaman in the presence of the Superintendent. The Superintendent must cause the agreement to be read over and explained to each seaman, or otherwise ascertain that he understands it before he signs, and must attest each signature. When the crew is first engaged, the agreement must be signed in duplicate, one copy being retained by the Superintendent. Where a substitute is engaged to replace a seaman whose services for any unforeseen cause are lost within 24 hours of the ship putting to sea, the above procedure is to be applied if practicable; otherwise, the master is required, before the ship puts to sea if practicable, and if not as soon afterwards as possible, to cause the agreement to be read over and explained to the substitute, who is thereupon to sign it in the presence of a witness attesting his signature. In the case of home trade ships, the master may engage single seamen during the currency of the agreement, but the engagement must be reported to the Superintendent in the first place of arrival after the engagement and be ratified by him; if he considers it necessary to do so, he shall see that the agreement is read and explained to the seaman. The agreement must be in a form approved by the Minister. The particulars to be stated in it are laid down in detail (see under ARTICLE 6), and it is to be so framed as to admit of such stipulations at the will of the parties as are not contrary to the law. Under § 77, moreover, of the Act of 1908, every stipulation in any agreement inconsistent with any provision of the Act is void. In the case of seamen engaged abroad (otherwise than in the U.K.) for a ship registered in New Zealand, the provisions relating to agreements made in New Zealand apply subject to certain modifications. These modifications specify the authorities before whom the engagement is to be made (a Superintendent or Customs Officer in a British Possession, and a

British Consular Officer in other cases), the necessity of procuring sanction to the engagement if made before a Consular Officer, and the endorsements to be made on the agreement showing that it was signed in the presence of the authority, that it was made in accordance with the Act or the Imperial Merchant Shipping Act, and, also in the case of a Consular Officer, that the engagement has his sanction. Non-compliance by the master with these rules is an offence punishable with a fine.

\* \* \*

*Uruguay.* — In conformity with § 1076 of the Commercial Code, the master, in agreement with the shipowner or charterer, must engage the officers and members of the crew; the articles thus concluded require the master to give the officers and members of the crew the benefit of the rights conferred on them by the articles or by the law (§ 1159 (1)). The articles may be drawn up in writing. Nevertheless, failing any other document, the ship's roll or register must be allowed as evidence, failing proof to the contrary, regarding the stipulations of the articles. (§ 1159, (2)). If the entries in the account correspond to the entries in the roll, the accounts shall constitute absolute proof in case of any dispute which may arise regarding the stipulations of the articles (§ 1162).

The mutual obligations of the master and the officers and the members of the crew begin to apply when each person appends his signature to the roll (§ 1163 (1)).

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 4.

Adequate measures shall be taken in accordance with national law for ensuring that the agreement shall not contain any stipulation by which the parties purport to contract in advance to depart from the ordinary rules as to jurisdiction over the agreement.

This Article shall not be interpreted as excluding a reference to arbitration.

*Canada.* — See introductory note.

*China.* — See introductory note.

*Netherlands.* — § 450, c. of the Commercial Code provides that the agreements shall not contain any stipulations by which the parties contract to depart from the legal provisions concerning jurisdiction in the case of disputes arising out of the agreement, without prejudice to the possibility of binding themselves to submit disputes to arbitrators for their award.

*New Zealand.* — The report refers in respect to this Article to §§ 77 and 88 of

the Act of 1908, the provisions of which, it is stated, are considered to be adequate. Under § 77 a seaman may not by any agreement forfeit his lien on the ship, or be deprived of any remedy for the recovery of his wages to which he would be otherwise entitled, or abandon his right to wages in case of the loss of the ship, or abandon any right in the nature of salvage; and every stipulation in any agreement inconsistent with any provision of the Act is void. Under § 88 any court before which a proceeding is instituted, in relation to any dispute between the owner or master and a seaman or apprentice arising out of their respective duties or incidental to their relation as such, is empowered, if having regard to all the circumstances it thinks it just to do so, to rescind any contract between the parties, including a contract of apprenticeship, upon such terms as the court thinks just.

*Uruguay.* — The Commercial Code contains no provision corresponding to this article of the Convention. § 1193 provides only that members of the crew have a preferential right with regard to the recovery of their wages. Further, § 1191 provides that actions may not be taken against the vessel or the master before the end of the voyage.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 5.

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.

The document shall not contain any statement as to the quality of the seamen's work or as to his wages.

*Please forward to the International Labour Office with this report a copy of the document mentioned in this Article and indicate the provisions of the national legislation relating to the particulars to be recorded and the manner in which such particulars are to be entered in it.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Cuba.* — § 3 of Legislative Decree No. 659 lays down that one copy of the agreement shall be delivered to the seaman, while § 16 of the same Decree lays down that on the termination of the agreement the seaman is entitled to have a special mention made therein regarding the cause of his discharge. At the request of either party the competent public authority shall countersign the entry in question.

*Mexico.* — See introductory note.



*Netherlands.* — The discharge book referred to under Article 3 is the official document intended to record the seamen's employment on board. Under the Decree of 10 September 1937 to appoint public officials for supervising the engagement of seamen, the authorities empowered to issue discharge books are the Chief Inspector of Shipping, the water communications officials (waterschouts) of Amsterdam, Rotterdam and IJmuiden, the Police Commissioner at Flushing and the Mayor of Delfzijl. Under Chapter III of the Seamen's Decree of 1937, the discharge book is to be in a form prescribed by the Chief Shipping Inspector (§ 17, (4) of the Decree); to contain the name, date and place of birth, nationality, address and civil status of the seaman and a photograph; to be signed by the seaman and specify the various certificates, if any, obtained during service at sea (§ 18); and to have the following particulars concerning the seaman's service entered in it (by the superintendent): name of ship, date of signing on and number of ship's articles, capacity in which the seaman is engaged, duration of the employment or number of voyages covered by the agreement, and name, etc. of the superintendent, and (by the master) date and place of termination of agreement. The master or the seaman may request that the entries thus made and signed by the master shall be attested by the superintendent before whom the discharge takes place (§ 25, 1-3). Further, § 451, f. of the Commercial Code and § 25, (4) of the Decree lay down that discharge books shall not contain any reference to wages or to the conduct of the seaman.

*New Zealand.* — Under § 56 of the Act of 1908, the master is required to sign and give to each seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Minister, specifying his rating, the period of his service and the time and place of this discharge. Non-compliance with this requirement is an offence punishable with a fine. Where a seaman is discharged before a Superintendent (and this is obligatory in case of discharge in New Zealand), the master is required under the same section to make and sign, in a form approved by the Minister, a report of the conduct, character and qualifications of the seaman discharged, or may state in the form that he declines to give any opinion upon such particulars or upon any of them; and the Superintendent is required, *if the seaman desires*, to give to him or endorse on his certificate of discharge a copy of such report ("report of character"). The report states that in actual practice the certificate of discharge is the only form used, and that the report of character is endorsed on this unless the seaman requests that the endorsement be not made.

*Uruguay.* — Under § 1161 of the Commercial Code, the master is required to hand to each member of the crew, who so requests, a signed statement of the character of the agreement and the wages stipulated.

*Yugoslavia.* — Under §§ 3 and 4 of the Regulations of 7 August 1937 the seaman's work-book, which must be issued by the harbour master's office, is regarded as an authentic record of service on board a vessel. § 15 of these Regulations lays down that an entry shall be made in the work-book, which shall be countersigned by the master every time a seaman is engaged or discharged. This entry shall be duly attested by the harbour master or consular authority of Yugoslavia. Under § 20 of the above Regulations, no statement shall be made in the work-book regarding the work of the seaman in question, or the amount of his pay.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 6.

The agreement may be made either for a definite period or for a voyage or, if permitted by national law, for an indefinite period.

The agreement shall state clearly the respective rights and obligations of each of the parties.

It shall in all cases contain the following particulars:

- (1) The surname and other names of the seaman, the date of his birth or his age, and his birthplace;
- (2) The place at which and date on which the agreement was completed;
- (3) The name of the vessel or vessels on board which the seaman undertakes to serve;
- (4) The number of the crew of the vessel, if required by national law;
- (5) The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (6) The capacity in which the seaman is to be employed;
- (7) If possible, the place and date at which the seaman is required to report on board for service;
- (8) The scale of provisions to be supplied to the seaman, unless some alternative system is provided for by national law;
- (9) The amount of his wages;
- (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 ship-owner 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 ;

(12) Any other particulars which national law may require.

*If the national law of your country permits the concluding of an agreement for an indefinite period, please indicate the conditions which shall entitle either party to rescind it as well as the required period of notice for rescission (No. 10 (c)).*

*Please indicate the nature of the particulars required by national law under No. 12.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Netherlands.* — § 399 of the Commercial Code provides that agreements may be concluded either for a definite period or by the voyage or for an indefinite period.

§ 400 specifies the following particulars to be entered in the agreement: (1) the surname and other names of the seaman, the date of his birth or his age, and his birthplace (if these facts are not known, an entry to this effect is to be made in the agreement, § 401); (2) the place at which and the date on which the agreement was concluded; (3) the name of the vessel on board which the seaman undertakes to serve (the name of the vessel may be replaced by a statement that the seaman is to serve on board a vessel or vessels to be specified by the shipowner, § 401); (4) the voyage or voyages to be undertaken, if this has already been decided; (5) the capacity in which the seaman is to be employed; (6) if possible, the date and place of the commencement of the service (in default of such provisions, the service shall be deemed to begin with the conclusion of the agreement, § 404); (7) the provisions respecting the seaman's right to annual leave after one year's consecutive service with the same shipowner; (8) the termination of the employment, viz. (a) if the agreement is for a definite period, the date on which the employment ends, and a reference to § 431 (providing that the employment is to end at the first port of call in cases where the period of employment expires during a voyage); (b) if the agreement is concluded by the voyage, the port at which the employment ends, and a reference to § 432 (providing that the seaman, after 1 ½ years' service, is entitled to give notice to terminate the employment at any subsequent port of call. If this is a Dutch port, reference must also be made to the shipowner's right, under § 433, to terminate the employment at any port from which the Dutch port can be reached within 24 hours otherwise than by air or, if the port is not mentioned, at any port abroad from which Amsterdam or Rotterdam can be reached within 24 hours); (c) If the agreement is made for an indefinite period it is to contain a reference to § 434, which specifies the conditions entitling either party to rescind the agree-

ment, and the period of notice to be given. This period of notice is the same for both parties (see also under ARTICLE 9).

Under § 413, the agreement shall fix the amount of cash wages or state how this amount is to be fixed.

As regards the question of the provisions to be supplied to the seamen, Netherlands legislation does not lay down a scale of provisions, but contains general rules as to quality, quantity and variety, storage, supervision, etc. (§§ 407 and 409 of the Commercial Code and §§ 36-43 of the Seamen's Decree).

The report also states that the ship's articles must contain provisions of the Act of 1919 concerning accidents at sea, and the provisions respecting the minimum age of trimmers and stokers.

*New Zealand.* — The following provisions are laid down by the Act of 1908 (§§ 41-43) with reference to the subject matters of this Article. In the case of foreign-going or inter-colonial ships, the agreement with the crew may be made for a voyage, or, if the voyages average less than six months in duration, may extend over two or more voyages ("running agreements"), but not beyond six months or the first arrival at the final port of destination in New Zealand after that date, or the completion of the discharge of cargo consequent on such arrival: the master and the crew may agree as to what port shall be the final port of discharge in New Zealand (§ 42 (f) and (g), as amended 1913). In the case of home trade ships of over 25 tons, the agreement may not extend beyond six months or the other limits just mentioned (§ 43 (c), amended 1913). There is no provision in the New Zealand law for agreements for an indefinite period. Agreements must be in a form approved by the Minister and be dated at the time of the first signature thereof (§ 41 (3)). They must contain the following particulars (§ 41 (4)): (a) either the nature, and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period thereof, and the places or parts of the world, if any, to which the voyage or engagement is not to extend; (b) the number and description of the crew, specifying how many are engaged as A. Bs., ordinary seamen, and boys; (c) the time at which each seaman is to be on board or to begin work; (d) the capacity in which each seaman is to serve; (e) the amount of wages of each seaman; (f) a scale of the provisions to be furnished to each seaman; (g) any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishment for misconduct which have been approved by the Minister and which the parties agree to adopt; and (h) the freeboard when loaded.

The provision for annual leave with pay is not made in the national law but by industrial agreements or awards, and these latter are incorporated in and form part

of the articles of agreement. It is further provided that the agreement is to be so framed as to admit of such stipulations at the will of the parties as are not contrary to law (§41 (4) and (5)).

*Uruguay.* — The Commercial Code leaves the parties free to conclude articles of agreement either for an indefinite or for a definite period or for the duration of the voyage. Nevertheless failing any entry on the roll or other document indicating the period, the engagement is deemed to have been concluded for the voyage out and for the voyage back to the port at which the roll was drawn up (§ 1160).

The master's principal obligations are defined in § 1159, (2), and those of the other members of the crew in § 1164.

Under § 1095, the roll, which must be drawn up at the port at which the crew is embarked, must contain the following information :

(1) The name of the vessel and the names of the master, the officers and the members of the crew, with a statement of each person's age, condition, nationality, domicile and capacity on board ;

(2) the vessel's port of departure and destination ;

(3) the wages stipulated and whether they are fixed, for the voyage, or by the month, at a specified sum, or as a proportion of the freight, or on a share basis ;

(4) the advances paid or to be paid on account of wages ;

(5) the signature of the master and of each officer and member of the crew able to sign his name.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 7.

If national law provides that a list of crew shall be carried on board it shall specify that the agreement shall either be recorded in or annexed to the list of crew.

*Canada.* — See introductory note.

*China.* — See introductory note.

*Mexico.* — See introductory note.

*Netherlands.* — § 451a of the Commercial Code and § 8, (4), of the Seamen's Decree require copies of the individual agreement attested by the Superintendent to be annexed to the ship's articles. See also under ARTICLE 3.

*New Zealand.* — National law does not provide for a list of the crew to be posted on board, but under § 46 of the Act of 1908 the master is required, at the commence-

ment of every engagement, to cause a legible copy of the agreement with the crew, omitting signatures, to be posted up in some part of the ship accessible to the crew. Omission to comply with this requirement is punishable with a fine.

*Uruguay.* — § 1094 of the Commercial Code requires the master to keep a ship's roll on board. This roll must mention the stipulations of the agreements (§ 1095) (see under ARTICLE 6) and must be admitted as evidence thereof failing proof to the contrary (§ 1159).

\* \* \*

*Burma.* — See under ARTICLE 1.

#### 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.

*Canada.* — See introductory note.

*China.* — See introductory note.

*Mexico.* — See introductory note.

*Netherlands.* — Under §§ 347, 398 and 402 of the Commercial Code agreements, in order to be valid, are to be concluded in writing and signed by the seaman in person, and any rules drawn up by the shipowner respecting service on board are binding on the seaman, provided that a Dutch copy thereof is posted in the day quarters of the crew, and that the rules are not contrary to the agreement into which the seaman has entered. See also under ARTICLES 3 and 7.

*New Zealand.* — See under ARTICLE 7.

*Uruguay.* — The Commercial Code contains no provision corresponding to this article of the Convention.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 9.

An agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given, which shall not be less than twenty-four hours.

Notice shall be given in writing ; national law shall provide such manner of giving notice as is best calculated to preclude any subsequent dispute between the parties on this point.

National law shall determine the exceptional circumstances in which notice even when duly given shall not terminate the agreement.

*In addition, please give full information regarding the nature of the exceptional circumstances as determined by national law in application of the last paragraph of this Article.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Cuba.* — § 636 of the Commercial Code lays down that if the agreement is concluded for an indefinite period members of the crew shall not be discharged, unless just cause exists, before the return of the vessel to its port of registry. § 637 of the Commercial Code lays down that once the vessel has put to sea the master shall not leave any member of the crew behind, either ashore or at sea, unless he has been guilty of misconduct, in which case the master is bound to hand the seaman over to the competent authority at the vessel's first port of call.

*Netherlands.* — Under § 434 of the Commercial Code, an employment entered into for an indefinite period may be terminated by either party in any port of loading and discharge subject to notice given with due observance of the time limits fixed by the agreement. If no longer notice is fixed, the period of notice shall be 24 hours. Notice is to be given in writing.

The report states that Dutch legislation does not contain any provisions determining the exceptional circumstances in which notice, even when duly given, shall not terminate the agreement.

*New Zealand.* — The national law does not provide for agreements for an indefinite period (see under ARTICLE 6). Nor is any provision made for notice for terminating an engagement to be given in writing, and the report states that experience in New Zealand has shown this to be unnecessary. Under § 75 of the Act of 1908 as amended in 1913, for all seamen engaged in New Zealand the engagement may be determined in New Zealand at any time after the ship's arrival at the final port of discharge in New Zealand, consequent on the completion of a round voyage, by 24 hours previous notice on either side; and the master and the crew may agree as to what port shall be the final port of discharge in New Zealand.

*Uruguay.* — The Commercial Code contains no provision corresponding to this Article of the Convention.

\* \* \*

*Burma.* — See under ARTICLE 1.

## ARTICLE 10.

An agreement entered into for a voyage, for a definite period, or for an indefinite period shall be duly terminated by:

- (a) mutual consent of the parties;
- (b) death of the seaman;
- (c) loss or total unseaworthiness of the vessel;
- (d) any other cause that may be provided in national law or in this Convention.

*In addition, if advantage has been taken of paragraph (d) of this Article, please give full information regarding the relevant provisions in national law, forwarding legislative texts, etc.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Netherlands.* — Under Dutch legislation, agreements shall be terminated:

- (a) by mutual consent of the parties (§ 1639 of the Civil Code);
- (b) on the death of the seaman (§ 1639, j, of the Civil Code);
- (c) in case of the loss of the vessel, provided the seaman has undertaken to serve exclusively on board a specified vessel (§ 440, para. 2, of the Commercial Code);
- (d) if the seamen are engaged by the voyage and the voyage is not begun, or is suspended after having been begun, either in consequence of a decision of the authorities, or for reasons of *force majeure*, or through any action of the shipowner—subject, in the last-mentioned case, to compensation being paid to the seamen (§§ 440, para. 1, and 442 of the Commercial Code).

Further, § 1639, o. of the Civil Code provides that either party may terminate the agreement, without previous notice, and without the consent of the other party, if he pays the other party compensation as specified by the Code but, under § 435 of the Commercial Code, this mode of terminating the agreement shall be permissible only when the ship is in port.

See also under ARTICLE 6, Point 8, and under ARTICLES 11 and 12.

*New Zealand.* — Agreements are terminated, under the ordinary law, by the mutual consent of the parties or the death of the seaman, and under the Act of 1908 (§ 79 (2)), by the wreck or loss of the vessel. They are also terminated if the seaman is left on shore abroad in consequence of his unfitness or inability to proceed on the voyage, or if the ship is laid up by the owner (Shipping and Seamen Act, 1908 § 79 (2) as amended in 1909), or if the seaman is left on shore in New Zealand by reason of illness or accident in the service of the ship incapacitating him from performing his duties (Shipping and Seamen Act, 1911, § 4).

*Uruguay.* — In virtue of general legal principles, any contract may be terminated by mutual consent of the parties, failing express statutory provision to the contrary. The Uruguayan Commercial Code contains no provision prohibiting the termination of articles of agreement by mutual consent.

§ 1189, which provides that the heirs of a seaman who dies during a voyage at sea are entitled to receive his wages up till the day of his death, implicitly permit the termination of articles of agreement on the death of the seaman.

§§ 1175 ((2), para. 5) and 1176 (§ 5) provide for automatic termination of the articles of agreement in case of loss or unseaworthiness of the vessel.

Under § 1175 (§ 2, paras. 1, 2, 3 and 4), the articles are also terminated in the following cases of force majeure: (1) declaration of war, or prohibition of trade with the country of destination of the vessel; (2) blockade of the port of destination or occurrence of an epidemic in such port; (3) prohibition of acceptance in such port of the goods carried; (4) stopping of or an embargo on the vessel, if the security is not accepted or if none can be given.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 11.

National law shall determine the circumstances in which the owner or master may immediately discharge a seaman.

*Please give full information concerning the nature of the circumstances as determined by national law in application of this Article.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Cuba.* — According to § 637 of the Commercial Code, a master may not dismiss a member of the crew without just cause during the period of this agreement. The following are deemed to be just causes: (1) misconduct likely to cause a disturbance on board; (2) repeated insubordination, breaches of discipline or failure to report for duty; (3) continued incompetence or negligence in the performance of duty; (4) continued drunkenness; (5) any injury or disease which incapacitates a seaman for the duties entrusted to him, unless the said injury or disease is not caused by his own act, (6) desertion.

*Netherlands.* — Under §§ 1639, o. and 1639, p. of the Civil Code and § 436 of the Commercial Code, the shipowner is entitled to discharge a seaman immediately for urgent reasons, i.e. any conduct or act of the seaman of such a character that the

shipowner cannot reasonably be expected to continue the employment. The said sections specify, *inter alia*, the following urgent reasons for immediately discharging a seaman:

(1) if he deceived the shipowner at the time of the conclusion of the agreement by producing false or forged certificates, or wilfully gave him false information respecting the manner in which he left his previous employment; (2) if he, to a serious extent, lacks the capacity or skill required for the work he has agreed to perform; (3) if he is habitually drunk or is guilty of disorderly behaviour in other respects, in spite of warnings; (4) if he is found guilty of theft embezzlement, deceit or other misdemeanours, rendering him unworthy of the shipowner's trust; (5) if he induces or seeks to induce the shipowner, any member of the shipowner's family or his fellow seamen to act in a manner contrary to law and morality; (6) if he wilfully or rashly, in spite of warnings, injures the shipowner's property or exposes it to serious danger; (7) if he wilfully or rashly, in spite of warnings, exposes himself or others to serious danger; (8) if he discloses information touching the shipowner's business which he should keep secret; (9) if he obstinately refuses to fulfil the reasonable commands or instructions given him by or on behalf of the shipowner; (10) if he grossly neglects in any other respects the duties imposed upon him by the agreement; (11) if, by his wilful or rash behaviour, he becomes unable to perform the agreed work; (12) if he assaults, grossly insults or seriously threatens the master or any person on board the vessel, or procures or endeavours to procure such person to commit any action contrary to the law or to morality; (13) if after the beginning of the employment he fails to sign on before the superintendent at the time fixed by the shipowner or if, after signing on, he fails to report on board the vessel; (14) if he is deprived either temporarily or permanently of the right to serve on board a vessel in the capacity in which he has undertaken to serve; (15) if he without the knowledge of the shipowner or the master has brought smuggled goods on board or takes charge of such goods on board.

*New Zealand.* — The report states that the circumstances in which the owner or master may immediately discharge a seaman are not determined by the national law but by the Industrial Awards or Agreements governing seamen's conditions of employment. Under the Seamen's Award of February 1937 (subordinate deck and engine-room personnel) intoxication incapacitating a seaman from performing his duties and conviction for theft of ship's stores or cargo are grounds for summary dismissal. Further, a seaman may be discharged or claim his discharge at the

port where he first joined the ship, or if such port is not within the voyage of the ship, at one of the six principal ports of New Zealand, after he has made a voyage in the ship, provided not less than 24 hours' notice is given before the ship sails. Somewhat similar provisions are contained in the Award of 1937 for catering staff. The Masters' and Deck Officers' Agreement of 1937 provides that after six months' service the employee's service can be terminated only by one month's notice on either side, but the employer may pay one month's salary in lieu of notice.

*Uruguay.* — Under § 1166 of the Commercial Code seamen may not be discharged after engagement except for the following good reasons :

(1) An offence of any sort causing disturbance of order on board ; repeated insubordination ; breach of discipline or failure to perform the duties required of the seaman in question ;

(2) habitual drunkenness ;

(3) professional incapacity in respect of the duty for which the seaman in question was engaged ;

(4) any circumstance rendering the seaman in question unable to perform his duties on board except sickness, injury or infirmity contracted in the course of service on the vessel.

Under § 1096 ((4), para. 8)), all discharges must be entered, with their reasons, in the log.

\* \* \*

*Burma.* — See under ARTICLE 1.

## ARTICLE 12.

National law shall also determine the circumstances in which the seaman may demand his immediate discharge.

*Please give full information concerning the nature of the circumstances as determined by national law in application of this Article.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Cuba.* — § 647 of the Commercial Code lays down that officers and other members of the crew shall be entitled to terminate their agreement for the following reasons:— 1) if before the voyage is begun, the master announces a change in destination or if the country to which the vessel is bound is in the zone of hostilities at sea ; 2) if an epidemic occurs or is officially declared in the port of destination ; 3) if there is a change of master or owner of the vessel.

In addition, § 638 of the Commercial Code lays down that the agreement shall be considered to be terminated if, after it has been signed, the voyage is postponed at the wish of the shipowner or charterer ;

or if the latter decide that the vessel's destination shall be other than that stipulated in the agreement.

*Netherlands.* — §§ 1639, o. and 1639, q. of the Civil Code and §§ 437 of the Commercial Code authorise seamen to demand their immediate discharge for urgent reasons, i.e., circumstances of such a character that the seamen cannot reasonably be required to continue the employment. The said sections specify, *inter alia*, the following urgent reasons for claiming immediate discharge : (1) if the shipowner misuses, grossly insults or seriously threatens the seaman or any member of his family ; (2) if he induces or seeks to induce the seaman or any member of his family to act in a manner contrary to law or morality ; (3) if he fails to pay the wages at the agreed time ; (4) if he grossly neglects in any other manner the duties laid upon him by the agreement ; (5) if he orders the seaman, in spite of his refusal, to perform work with another shipowner, unless the nature of the engagement involves the performance of such work ; (6) if the continuance of the employment involves serious danger, which was not apparent at the time when the agreement was concluded, to the seaman's life, health, morality or good name ; (7) if the seaman, through sickness or some other cause not due to his fault, becomes unable to perform the agreed work ; (8) if the shipowner gives him orders which are contrary to the agreement or to duties imposed by law upon the seaman ; (9) if the shipowner specifies as the vessel's destination a port in a country involved in a naval war, or a blockaded port, unless the agreement expressly provides for this and is concluded after the outbreak of war or after the proclamation of the blockade ; (10) in the case mentioned in § 367<sup>1</sup> when the shipowner gives orders to proceed to an enemy port ; (11) if the shipowner uses the vessel or allows it to be used for the slave trade, piracy, criminal privateering or the conveyance of goods the importation of which into the country of destination is prohibited ; (12) if the shipowner intends the vessel for contraband traffic, unless the agreement expressly provides for this and is concluded after the outbreak of war ; (13) if the seaman is in danger of being ill-treated by the master or any person on board ; (14) if the condition of the accommodation on board becomes such that it is injurious to the health of the crew ; (15) if the rations to which the seaman is entitled are not issued to him at all or are not issued in proper condition, or if the shipowner acts contrary to the provisions of the second

<sup>1</sup> This section refers to cases where a vessel runs into a neutral port to await orders from the shipowner on finding that its country is at war,

paragraph of § 407;<sup>1</sup> (16) if the vessel loses the right to fly the Dutch flag; (17) if the agreement is entered into for a specified voyage or voyages and the shipowner sends the vessel on other voyages.

*New Zealand.* — The report states that there is no provision in the national law under which a seaman may demand his immediate discharge, but in actual practice the position is met by discharge by mutual consent if the seaman has good and sufficient reason for requiring it. See also under ARTICLE 11.

*Uruguay.* — Under § 1169 of the Commercial Code, officers and members of the crew may terminate their engagements before the vessel leaves port in the following circumstances:

(1) If the master changes the destination of the vessel; (2) if after conclusion of the agreement the State enters a naval war or it becomes certain that an epidemic of plague has been declared in the port of destination; (3) absence of escort in case of provision in the articles for navigation under escort; (4) death or discharge of the master; (5) change of vessel.

Further, § 1171 (1) authorises members of the crew to terminate their engagements, failing express provision to the contrary in the articles of agreement, if the master, after having the cargo unloaded at a port of call, chartered the vessel for destination other than that provided in the articles.

Lastly, § 1191 expressly empowers seamen to terminate their engagements if they have been subject to ill-treatment on board, or if the master has not supplied them with the provisions to which they are entitled.

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 13.

If a seaman shows to the satisfaction of the shipowner or his agent that he can obtain command of a vessel or an appointment as mate or engineer or to any other post of a higher grade than he actually holds, or that any other circumstance has arisen since his engagement which renders it essential to his interests that he should be permitted to take his discharge, he may claim his discharge, provided that without increased expense to the shipowner and to the satisfaction of the shipowner or his agent he furnishes a competent and reliable man in his place.

In such case, the seaman shall be entitled to his wages up to the time of his leaving his employment.

*Canada.* — See introductory note.

<sup>1</sup> This section provides that the owner shall not contract with the master or any other seaman for the supply of rations or the delivery of food and drink.

*China.* — See introductory note.

*Cuba.* — § 635 of the Commercial Code states that a seaman shall be entitled to terminate his engagement in order to transfer to another vessel provided he has obtained permission in writing from the master of the vessel.

*Mexico.* — See introductory note.

*Netherlands.* — § 1639. w. of the Civil Code states that either party is entitled at any time to apply to a judge to rescind the agreement in the case of changes in the personal or economic position of one of the parties, or in the conditions of work, which make it reasonable and expedient to terminate the employment, either immediately or in short time.

In addition, it is provided by § 439 of the Commercial Code that if a seaman can obtain a higher post he may apply to a cantonal judge (in the Netherlands) or to a Dutch diplomatic or consular officer or another competent authority (abroad) to be released from his employment, provided that he shall arrange for a suitable substitute to replace him without extra expense to the shipowner.

*New Zealand.* — See under ARTICLE 12.

*Uruguay.* — The Uruguayan Commercial Code does not give a seaman the right to claim his discharge on proof that he can obtain on another vessel a post of a higher grade than that which he actually holds. His leaving the vessel depends upon the consent of the master. Should this be given, however, the seaman is entitled to his wages up to date, as are seamen discharged for good reason (§ 1166).

\* \* \*

*Burma.* — See under ARTICLE 1.

#### ARTICLE 14.

Whatever the reason for the termination or rescission of the agreement, an entry shall be made in the document issued to the seaman in accordance with Article 5 and in the list of crew showing that he has been discharged, and such entry shall, at the request of either party, be endorsed by the competent public authority.

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.

*Canada.* — See introductory note.

*China.* — See introductory note.

*Mexico.* — See introductory note.

*Netherlands.* — Under § 451, e. of the Commercial Code and § 25, (3), and § 26

of the Seamen's Decree, the master, before rendering the discharge book to the seaman, shall enter in the book the date on which and the place at which the service ended. At the request of the master or the seaman, this entry shall be attested by the superintendent before whom the seaman is discharged.

§ 15 of the Seamen's Decree provides that an entry of the discharge shall be made in the ship's articles and shall, if requested, be attested by the superintendent.

Under § 1638 *aa.* of the Civil Code and § 397 of the Commercial Code, seamen are entitled to demand from the master a certificate as to the nature of the work performed, the duration of the employment, and—on special application—the quality of the seaman's work and the reason for terminating the employment, if such reasons are given by the ship-owner.

*New Zealand.* — The report states that in respect of any seaman who terminates his service with the ship an entry is made in the agreement giving the reason for the termination, and in the official log of the ship, and except in the case of a deserter the necessary certificate of discharge is given to him. The certificate of discharge referred to under Article 5 must specify the time and place of discharge (Act of 1908, § 56). National law does not provide for the carrying of a list of crew (see under ARTICLE 7), but under § 153 of the Act the master is required to enter in the official log the name of any seaman or apprentice who ceases to be a member of the crew, with the place, time, manner, and cause thereof. Under the same section he must also enter in the log a statement of the conduct, character, and qualifications of each his crew, or a statement that he declines to give an opinion. For the provisions concerning the certificate of character see under ARTICLE 5.

*Uruguay.* — Under § 1096 ((4), para. 8)) of the Commercial Code, all discharges of officers and members of the crew must be entered with their reasons in the log.

Moreover, § 1161 requires the master to hand to each seaman who so requests a signed statement of the character of the agreement and the wages stipulated.

*Yugoslavia.* — §§ 15-20 of the Regulations of 7 August 1937 respecting seamen's workbooks repeat and set out in detail the provisions of § 70 of the Decree of 29 March 1935, which states that the master shall enter every termination of employment in the seaman's workbook and shall issue to the seaman, on his application, a testimonial regarding the quality of his service.

\* \* \*

*Burma.* — See under ARTICLE 1.

### III.

*Article 20 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate in respect of each of your colonies, protectorates and possessions the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add in so far as they have not already been communicated to the International Labour Office all relevant legislative texts, reports, etc.*

*France.* — By Decree of 30 August 1936, the provisions of the Maritime Labour Code were extended to the Colony of *Saint-Pierre and Miquelon*.

*Great Britain.* — In the Colony of *Aden*, formerly under the administration of the Government of India, the legislation which was reported by the Government of India as giving effect to the provisions of the Convention is still in force.

*Netherlands.* — In the *Netherlands Indies*, the Convention is applied in amended form under Chapters 3 and 4 of Book II of the Commercial Code, as formulated in Order No. 214 of 1934, which came into force on 1 April 1938. The amendments result from the special conditions of shipping in the Netherlands Indies. The supervision of the observance of the Convention is carried out by the harbour masters. In the case of *Surinam*, reference is made in the report to previous statements giving reasons for the non-application of the Conventions to the Colony. In *Curaçao*, a Service for Social Affairs was set up on 15 March 1938, and is examining the Convention.



## IV.

*Article 15 of the Convention is as follows :*

National law shall provide the measures to ensure compliance with the terms of the present Convention.

*Please state with reference to this Article to what authority or authorities the application of the legislative and administrative regulations, etc. mentioned under I and II is entrusted and by what method application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Canada.* — See introductory note.

*China.* — See introductory note.

*Netherlands.* — Supervision of the provisions of the Convention is entrusted to the following authorities :

Engagement of seamen : to the water communications officials (waterschouts) and to the other superintendents of shipping registration mentioned in Sects. 1-4 of the Seamen's Decree, viz : in the Netherlands, the chief inspector of shipping and, in the ports where there are no water communications officials, the police commissioner, the mayor or his substitute ; in the Netherlands Indies, Surinam and Curaçao, the officials specially designated for this purpose ; and abroad, the highest consular officer of the place or his substitute ; issue of seamen's discharge books : to the chief inspector of shipping and the other persons referred to under ARTICLE 5 above ; application of the provisions respecting seamen's food : to the shipping inspectors. In the case of questions concerning retention of discharge books or disputes as to the contents of these books, the Shipping Council has certain functions to perform. The shipping inspectorate and the Shipping Council are under the orders of the Minister of Public Works. For the rest, disputes concerning the application of the provisions concerning seamen's articles of agreement are dealt with by the civil judicial authorities.

*New Zealand.* — The Marine Department, under the control of the Minister of Marine, is the authority entrusted with the application and administration of the national law and regulations. It has officers in each of the ports of the Dominions to carry out all administration ; and these officers are in constant contact with employers and employees in the course of their duties, in order to ensure that the laws and regulations are complied with and the interests of all parties protected.

*Poland.* — The report states that a shipping inspector, entrusted with the supervision of the application of Maritime Conventions ratified by Poland, has been attached to the Maritime Office at Gdynia.

\* \* \*

*Burma.* — The application of the law, administrative regulations, etc., is entrusted to the shipping masters at the ports of recruitment, who supervise their enforcement at the time of signing on.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Belgium.* — A decision was given by the Maritime probiviral court with regard to the termination of a seaman's agreement. (§ 92 of the Act of 5 June 1928 states that if the agreement has been entered into for an indefinite period the parties shall not be entitled to terminate it unless due notice thereof has been given to the other party. In the case of a vessel engaged in the coasting trade such notice shall be given not less than twenty-four hours previously).

*Chile.* — The Government states in its report that the Labour Courts constantly give decisions applying the provisions of Chilean legislation which relate to the Convention. The Government does not possess the texts of such awards.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection and registration services, and, if such statistics are available, information concerning the number of seamen signed on during the year under review, the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Australia.* — The report states that during the year ended 30 June 1938, the number of individual seamen signed on in Australia was 12,936 and the total number of engagements during this period was 34,928. No observations on the Convention have been received from employers or employees.

*Belgium.* — The report states that, during 1937, 16,068 seamen were signed on for service under the Belgian flag; of these 702 were of foreign nationality. No observations were made by the organisations of employers or workers concerned with regard to the practical application of the Convention.

*Bulgaria.* — The report states that no observations on the practical application of the Convention or of the legislation implementing the Convention have been received from employers' and workers' organisations.

*Canada.* — See introductory note.

*Chile.* — The Government states that the number of the crew of the Chilean merchant fleet is now 3,618, and the total number of persons protected by the relevant legislation is 5,418. No infringements have been reported. Neither the employers' nor the workers' organisations concerned have submitted observations concerning the practical enforcement of the provisions of the Convention or of those of the legislation which guarantee the Convention's application.

*China.* — See introductory note.

*Colombia.* — See introductory note.

*Cuba.* — The Government attaches to its report, copies of reports received from the inspection services regarding the number of seamen engaged and dismissed in 14 ports. These reports show that in 9 of these ports no engagements or dismissals were effected, while in the remaining five 567 seamen were engaged and 431 were dismissed. No contraventions were reported. The Government adds that no reports are available from the inspection services. Neither the employers' nor the workers' organisations concerned have submitted observations concerning the practical application of this Convention or the national legislation which implements it.

*Estonia.* — No difficulties in the application of the legislation were experienced and no cases of infraction came to the notice of the competent authorities. The Government has not received any observa-

tions from the employers' or workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*France.* — The report states that the Ministry for the Mercantile Marine has not been notified of any breaches of the provisions of the Code of Maritime Labour which relate to seamen's articles of agreement. The statistics of seamen drawn up on 1 July 1938 and attached to the report give detailed information as to the number of seamen to whom the legislation on seamen's articles of agreement is applicable. These statistics show that on the above date the French mercantile marine was made up as follows: 121,600 seamen (53,949 for the merchant fleet and 67,651 for the fishing fleet). The number of seamen attached to the merchant fleet included 50,710 French seamen, 1,933 colonials and 1,306 foreigners. The number of French seamen employed in various trades was as follows: foreign-going, trade, 22,702; extended home trade 20,489 limited home trade 7,691; pleasure boats, 458. The Mercantile Marine Department has not received any observations from the organisations of employers or workers concerned with regard to the practical fulfilment of the conditions of the Convention or the application of the provisions of the Seamen's Code relating to seamen's articles of agreement.

*Great Britain.* — The Government states in its report that statistics respecting the number of seamen engaged on British ships during the year are not available. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI. No observations have been received from the organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the law implementing the Convention.

*India.* — The report states that no observations regarding the fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from the organisations of employers or workers.

*Ireland.* — During the period covered by the report there were no contraventions of the law. 9,849 seamen signed on during the year ended 30 June 1938. No complaints or observations have been received from organisations of seamen or employers regarding the application of the relevant provisions.

*Luxemburg.* — See introductory note.

*Mexico.* — The Government states that no statistics exist, and that no observations have been received from employers' or workers' organisations. See also introductory note.

*Netherlands.* — The Government does not possess any data or figures of the kind mentioned under this point, and considers that their value would be very doubtful, having regard to the short time during which the Convention has been in force in the Netherlands. No observations concerning the application of the provisions of the Convention have been received from employers' or workers' organisations.

*New Zealand.* — The report states that, as the national law in operation at the date of ratification is, with one or two relatively minor exceptions, practically in harmony with the provisions of the Convention, it has not been necessary to enact any legislation to give effect to it. The Convention is applied and administered as set out above and there is no special organisation for registration and inspection. The annual report of the Department of Marine for the financial year ended 31 March 1938, to which the Government refers for general information on the operation of the Department, contains a return of the number of seamen engaged and discharged in New Zealand ports during this period, showing that there were 10,957 engagements (of which 5,679 were for ships engaged in foreign or inter-colonial trade) and 10,772 discharges (including 5,423 for foreign or inter-colonial trade ships).

*Poland.* — The report does not refer to this point.

*Uruguay.* — The report does not refer to this point. See introductory note.

*Yugoslavia.* — See under *Convention No. 7 (Minimum age, sea)*, Point VI.

\* \* \*

*Burma.* — The provisions of the Convention have been given statutory effect in the Indian Merchant Shipping Act, 1923, as subsequently amended. The Convention has been satisfactorily applied in Burma. No contraventions have been reported, and no observations regarding the fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

## 23. Convention concerning the repatriation of seamen.

This Convention came into force on 16 April 1928. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and from which annual reports under Article 22 of the Constitution of the International Labour Organisation were due in respect of the period 1 October 1937 - 30 September 1938 or of a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Belgium . . . . .	3.10.1927	2.12.1938
Bulgaria . . . . .	29.11.1929	2.12.1938
China . . . . .	2.12.1936	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	7. 7.1928	17.11.1938
Estonia . . . . .	9. 7.1928	11. 1.1939
France . . . . .	4. 3.1929	12. 1.1939 11. 1.1939
Ireland . . . . .	5. 7.1930	8.12.1938
Italy . . . . .	10.10.1929	
Luxemburg . . . . .	16. 4.1928	14. 1.1939
Mexico . . . . .	12. 5.1934	26.11.1938
Poland . . . . .	8. 8.1931	8.12.1938
Spain . . . . .	23. 2.1931	
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	30. 9.1929	23. 2.1939

The *Chinese* Government refers to its report for last year in which it stated that as Article 1 of the Convention does not apply to vessels engaged in the coasting trade, and as no sea-going vessels registered in the Ministry of Communications have engaged in trades other than the coasting trade, the Convention has temporarily no practical application in the Republic of China.

In its report for this year the Government of *Colombia* refers to its previous reports in which it stated that there were no undertakings engaged in maritime shipping, properly speaking, and that foreign trade was carried by foreign vessels.

The report of the Government of *Italy* has not been received.

The Government of *Luxemburg* states that the Convention has no practical application in the Grand Duchy.

In its first report (1935) on the application of the Convention, the *Mexican*

Government stated that in virtue of §133 of the Constitution, the treaties concluded by Mexico and duly ratified form, together with the Constitution and the legislation adopted on the basis of its provisions, a binding Statute for the Union. The Convention therefore can be invoked before the judicial and administrative authorities who must apply it in the same way as the national legislation. See also under *Convention No. 22 (Seamen's articles of agreement)*, introductory note.

In its report for this year, the Government states that no change has been made in the legislation governing the repatriation of seamen but that it has been proposed that the Department of State should undertake, either by means of legislation or Regulations, the establishment of more complete harmony between the national laws governing the repatriation of foreign seamen and the terms of the Convention.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* refers to its report for last year in which it stated that the Convention had not yet been fully implemented in national law but that Parliament still had under consideration Bills which had been submitted to it with a view to adding to national legislation the provisions which the ratification of this and other Conventions had rendered necessary.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Belgium.*

Act of 5 June 1928 relating to seamen's articles of agreement (L.S. 1928, Bel. 5 A).

#### *Bulgaria.*

Act of 1908 concerning maritime trade.

Regulations of 8 August 1923 concerning the crews of commercial vessels of the Bulgarian Navigation Company.

#### *China.*

See introductory note.

#### *Colombia.*

Maritime Commercial Code.

See also introductory note.

#### *Cuba.*

Commercial Code of 1885 (§§ 636 and 638).

Legislative Decree No. 660 of 6 November 1934 [concerning repatriation of seamen, etc.] (S. L. 1934, Cuba 12 B).

#### *Estonia.*

Seamen's Institute Act of 31 January 1928 (L. S. 1928, Est. 1 A).

Seamen's Act of 22 March 1928 (S. L. 1928, Est. 1 B).

#### *France.*

Act of 13 December 1926 to issue a Seamen's Code (L. S. 1926, Fr. 13).

#### *Ireland.*

Merchant Shipping Acts of 1894 and 1906 (International Labour Office, Studies and Reports, Series P, No. 1, pp. 2 and 56 (extracts)).

#### *Luxembourg.*

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

See also introductory note.

#### *Mexico.*

Political Constitution of the United States of Mexico, 1917.

Decree of the President of the Republic, dated 2 July 1935 promulgating the Convention (*Diario Oficial*, Vol. XCI, No. 33, 7 August 1935, pp. 523-531).

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

General Population Act of 24 August 1936 published in the *Diario Oficial* of 29 August 1936.

Act of 10 September 1932 respecting public lines of communication (L. S. 1932, Mex. 3).

Regulations concerning the flag and registration of national merchant ships (§ 40).

Consular regulations (Chapter relating to the mercantile marine).

See under *Convention No. 17 (Workmen's compensation, accidents)*, point I, the information supplied by Mexico.

See also introductory note.

#### *Poland.*

Seamen's Code (German) of 2 June 1902 (B.B. Vol. I, 1902, p. 379 (French ed.)), amended by the Act of 17 March 1933 (L.S. 1933, Pol. 4).

Act of 2 June 1902 concerning the obligation for merchant vessels to take on board seamen to be repatriated (B.B. Vol. I, 1902, p. 379 (French ed.)).

Act of 28 May 1920 concerning Polish merchant vessels, amended by Decree of the President of the Republic of 6 March 1928.

#### *Uruguay.*

Chap. iii, Book iii of the Commercial Code.

See also introductory note.

#### *Yugoslavia.*

Order of 29 March 1935 to regulate conditions of work on board Yugoslav vessels engaged in maritime navigation (L. S. 1935, Yug. 2).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

This Convention shall apply to all seagoing vessels registered in the country of any Member ratifying this Convention, and to the owners, masters and seamen of such vessels.

It shall not apply to :

ships of war,

Government vessels not engaged in trade,

vessels engaged in the coasting trade,

pleasure yachts,

Indian country craft,

fishing vessels,

vessels of less than 100 tons gross registered tonnage or 300 cubic metres, nor to vessels engaged in the home trade below the tonnage limit prescribed by national law for the special regulation of this trade at the date of the passing of this Convention.

*In addition, please indicate the tonnage limit, if any, in respect of vessels engaged in the home trade prescribed by national law for the special regulation of this trade at the date of the passing of the Convention.*

*China.* — See introductory note.

*Estonia.* — In virtue of §73 of the Seamen's Act of 1928 the provisions of the Act apply to all Estonian vessels except the following: (i) Government vessels used for defensive and administrative purposes; (ii) vessels of less than 60 cubic metres gross registered tonnage; and (iii) vessels on which members of the shipowner's family only are engaged. The term "home trade" does not exist in Estonian maritime law.

*Uruguay.* — According to the information previously supplied by the Government, it would appear that the Uruguayan mercantile marine is mainly engaged in the home trade.

## ARTICLE 2.

For the purpose of this Convention the following expressions have the meanings hereby assigned to them, viz :

(a) The term "vessel" includes any ship or boat of any nature whatsoever, whether publicly or privately owned, ordinarily engaged in maritime navigation.

(b) The term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles. It excludes masters, pilots, cadets and pupils on training ships and duly indentured apprentices, naval ratings, and other persons in the permanent service of a Government.

(c) The term "master" includes every person having command and charge of a vessel except pilots.

(d) The term "home trade vessel" means a vessel engaged in trade between a country and the ports of a neighbouring country within geographical limits determined by the national law.

*In addition please indicate the geographical limits determined by the national law for the purposes of paragraph (d) of this Article.*

*Estonia.* — The Seamen's Act of 1928 gives no special definition of the terms "vessel", "seaman" and "master", but the sense in which these terms are used in the Act corresponds with the scope of the Convention. As regards "vessel", for example, see under ARTICLE 1. As regards the term "seaman", it is clear from the Seamen's Act, and in particular §§ 70, 71 and 73, that the provisions of the Act respecting repatriation apply to all persons engaged by the shipowner or the master in any capacity (excepting that of master or pilot) on board any vessel covered by the Act. Further, § 44 of the Act refers to the "master" as the person exercising the highest authority on board. With regard to the term "home trade", see under ARTICLE 1.

*Uruguay.* — § 1074 of the Commercial Code defines the terms "master" as a person who is entrusted with the command and charge of a vessel in consideration for an agreed salary or a stipulated share of the profits.

## ARTICLE 3.

Any seaman who is landed during the term of his engagement or on its expiration shall be entitled to be taken back to his own country, or to the port at which he was engaged, or to the port at which the voyage commenced, as shall be determined by national law, which shall contain the provisions necessary for dealing with the matter, including provisions to determine who shall bear the charge of repatriation.

A seaman shall be deemed to have been duly repatriated if he has been provided with suitable employment on board a vessel proceeding to one of the destinations prescribed in accordance with the foregoing paragraph.

A seaman shall be deemed to have been repatriated if he is landed in the country to which he belongs, or at the port at which he was engaged or at a neighbouring port, or at the port at which the voyage commenced.

The conditions under which a foreign seaman engaged in a country other than his own has the right to be repatriated shall be as provided by national law or, in the absence of such legal provisions, in the articles of agreement. The provisions of the preceding paragraphs shall, however, apply to a seaman engaged in a port of his own country.

*In addition, with reference to the last paragraph of this Article, please give full particulars as to the provisions of national law or the practice regarding the rights to repatriation of a foreign seaman in the following cases :*

- (1) *when he is engaged in a country other than his own ;*
- (2) *when he is engaged in a port of his own country and is landed, whether during the term or on the expiration of the agreement,*
  - (a) *in the country to which the vessel belongs,*
  - (b) *in some other country.*

*Belgium.* — Under §85 of the Act of 5 June 1928, a seaman who has been put ashore shall be entitled to repatriation to the port of embarkation at the expense of the vessel.

*Estonia.* — The Seamen's Act of 1928 provides for the right of seamen to be repatriated in the following cases: (1) In case of *sickness or injury* not incurred intentionally or through misconduct or gross negligence or concealed at the time of engagement (§ 28 of the Act); (2) in case the articles of agreement are terminated abroad as a consequence of the *loss or foundering of the ship* (§ 41); (3) in case of *discharge abroad* for reasons not due to sickness or injury or to the following: incompetence, failure to join the ship before it sails, insubordination or assault on an officer or other person on board, repeated drunkenness on duty, embezzlement, theft or other serious offence, or lodging a complaint with foreign authorities in a place where there is an Estonian Consul (§ 34); (4) in case of material alteration of the voyage (§ 37). The place of repatriation is specified in each separate case, as follows: (a) in the case referred to under (1) above: the seaman's domicile in Estonia; (b) in the case mentioned under (2) above: the nearest Estonian port; (c) in the case under (3) above: the place of discharge specified in the agreement, or, if the agreement expires in an Estonian port because the seaman is Estonian and was engaged in Estonia, the nearest Estonian port; (d) in the case referred to under (4): the place where the seaman was engaged, if he leaves his employment before the beginning of the voyage, and otherwise the place where the agreement expires. Provisions determining who is to bear the costs of repatriation are laid down in each separate case (see under ARTICLE 4). When repatriated as a consequence of sickness or injury, or loss or foundering of the ship, §§ 28 and 41 of the Seamen's Act stipulate that the seaman must accept employment in a vessel bound for Estonia or to a place from which he can conveniently travel home, provided that his health permits and the rating, the rate of pay, and other conditions of employment are not below those of his former engagement.

As for the application of the repatriation provisions of the Seamen's Act to foreign seamen, foreign seamen have the same rights to repatriation as nationals in cases (3) and (4) mentioned above, without any distinction being made between foreign seamen engaged in their own country and those engaged in some other country. In cases (1) and (2), i.e. cases of sickness or injury and cases of loss of the vessel, the provisions concerning repatriation apply only to Estonian seamen. §42 of the Act stipulates, however, that the right to repatriation in these cases

may be extended to foreign seamen on the basis of reciprocity.

In practice, the question of repatriating foreign seamen does not arise in Estonia: the shipowners employ only Estonians because of their high standing as seamen, and of the large supply of men in the country. If by any chance foreign seamen were engaged and the need arose for repatriating them, the question would always be settled in complete conformity with the provisions of the Convention.

*France.* — The Government adds the following information to that already given in its previous reports:

§119 of the Seamen's Code provides that every foreign seaman put ashore by a French vessel shall be brought back to the port where he was signed on, in default of any stipulation to the contrary. This clause, however, is seldom applied with regard to the repatriation of foreign seamen. In the first place, the application of the Act of 12 July 1934, respecting, *inter alia*, the introduction of measures for the protection of the mercantile marine, has resulted in practically eliminating foreign labour on board French vessels and in reducing to a very small number the European seamen employed on board these vessels. In the second place, a Ministerial Instruction dated 18 January 1939 addressed to the superintendents of shipping registration entrusted with endorsing articles of agreement points out their responsibility for ensuring the application of the Convention, and in particular for ensuring that foreign seamen who are engaged in their own country and put ashore in France are repatriated either to the vessel's port of embarkation or to a port in their own country. In addition, African or Asiatic seamen in similar circumstances are repatriated under the police regulations for foreigners. The question of the repatriation of the above seamen, who are mostly Chinese, is determined by a provision in their collective articles of agreement which contains a clause regarding compulsory repatriation. As these articles of agreement have the force of law they are legally in conformity with the provisions of the Convention.

*Ireland.* — The provisions of the Merchant Shipping Act, 1906, and the regulations regarding repatriation are consistent with the principles of this Article. In the case of a foreign seaman discharged or left behind during the term of the agreement and found in distress, the Superintendent of a Mercantile Marine Office, or other proper officer, may provide for his return home. In the case of a foreign seaman engaged at a port outside Ireland and discharged at the termination of the agreement, the agreement usually contains a stipulation for repatriation mutually

arranged between the master and the seaman; otherwise the seaman is responsible for his own repatriation. A foreign seaman engaged in a country other than his own has a right to repatriation varying according to the circumstances of discharge. If the discharge is normal, the seaman has such right only if engaged at a port in Ireland and discharged at a foreign port not in his own country. If the discharge is owing to *bona fide* sickness or injury he has such right in practically all cases except when discharged in his own country. He has equally extensive rights in the eventuality of being accepted for relief under the Distressed Seamen Regulations. A foreign seaman engaged in his own country has no right to repatriation in the case of normal discharge but if he is discharged through *bona fide* sickness or injury or is accepted for relief as a distressed seaman he has the same rights as indicated in the preceding paragraph.

*Uruguay.* — § 1168 of the Commercial Code lays down that officers and other members of the crew who are discharged without sufficient reason shall be entitled to the payment of the expenses of their return journey to the port at which they were engaged. § 1187 grants the same right to seamen who fall sick or are injured or invalidated while in the service of the vessel. § 1173 lays down that if after leaving the port of engagement the voyage is cancelled owing to an action of the shipowner, the captain or the charterers, seamen engaged by the month shall receive the wages due to them till they reach the port of departure or the port of destination, whichever they may choose. Seamen engaged for the voyage only shall be paid as if the voyage had been concluded.

*Yugoslavia.* — In a letter dated 23 February 1939, the Government gives supplementary information to its report and states that the provisions regarding the repatriation of seamen are applied without distinction to foreign seamen whether they are engaged in home or in foreign ports, or are landed, during the term of their engagement, or on its expiration, in the country to which the vessel belongs or in any other country.

#### ARTICLE 4.

The expenses of repatriation shall not be a charge on the seaman if he has been left behind by reason of

- (a) injury sustained in the service of the vessel, or
- (b) shipwreck, or
- (c) illness not due to his own wilful act of default, or
- (d) discharge for any cause for which he cannot be held responsible.

*Estonia.* — Under the Seamen's Act the expenses of repatriation are not to be a charge on the seaman in any of the cases in which he is entitled to repatriation (see cases 1 to 4 under ARTICLE 3 above). In the case of loss or foundering of the vessel, the cost of repatriation is to be defrayed by the Treasury (§41 of the Seamen's Act): in all other cases the costs fall on the shipowner.

*Ireland.* — See under ARTICLE 3.

*Uruguay.* — §§ 1168, 1173 and 1187 of the Commercial Code lay down that the expenses of repatriation shall be paid by the shipowners: (a) in the event of the seaman being dismissed without sufficient reason. § 1166 includes as "sufficient reasons" the commission of an offence, repeated insubordination, repeated breaches of discipline, failure to perform the duties required of the seaman, habitual drunkenness, professional incapacity and any circumstance rendering the seaman unfit for his employment other than the exception provided under § 1187; (b) in the event of the cancellation of the voyage by the master, the shipowner or the charterers; (c) in the event of the seaman falling sick or being injured or invalidated in the course of his employment on board ship.

#### ARTICLE 5.

The expenses of repatriation shall include the transportation charges, the accommodation and the food of the seaman during the journey. They shall also include the maintenance of the seaman up to the time fixed for his departure.

When a seaman is repatriated as member of a crew, he shall be entitled to remuneration for work done during the voyage.

*Estonia.* — The relevant sections of the Seamen's Act of 1928 use the term "a free passage, with maintenance", which includes transportation costs, accommodation and food during the voyage. When repatriated as a member of the crew in virtue of §§ 28 and 41 of the Seamen's Act the seaman is entitled to remuneration during the voyage (see under ARTICLE 3).

*Ireland.* — See under ARTICLE 3.

*Uruguay.* — The Commercial Code does not contain any provisions corresponding to this Article of the Convention.

### III.

*Article 11 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the

corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — By Decree of 30 August 1936, the provisions of the Maritime Labour Code were extended to the Colony of *Saint-Pierre and Miquelon*.

#### IV.

*Article 6 of the Convention is as follows:*

The public authority of the country in which the vessel is registered shall be responsible for supervising the repatriation of any member of the crew in cases where this Convention applies, whatever may be his nationality, and where necessary for giving him his expenses in advance.

*Please state, with reference to this Article, what authority, (a) in the home country, and (b) abroad, is responsible for seeing to the repatriation of seamen, both national and foreign, in the cases covered by the Convention, and whether these authorities have instructions to advance, where necessary, the expenses of repatriation to both national and foreign seamen.*

*Belgium.* — The supervision of the observance of the provisions of the Convention is entrusted to the Maritime Commissions in Belgian ports and to the Belgian consuls in foreign ports. These authorities are responsible also for the repatriation of Belgian and foreign seamen. The expenses of repatriation are a charge on the vessel, but if they are not so met they shall be defrayed from the reserve fund placed for this purpose at the disposal of the maritime authorities. The expenses of repatriation may also be advanced by the consuls in agreement with the maritime authorities who shall refund them.

In a letter dated 2 December 1938 the Government forwards supplementary in-

formation regarding its annual report and states that "in applying the Act of 5 June 1928 no distinction is made between Belgian and foreign seamen. If the latter are taken on in a Belgian port at the same time as the rest of the crew they shall receive the same treatment as the other members of the crew. A foreign seaman who is engaged at a port outside Belgium as a substitute for a seaman who has fallen ill or deserted and who has to be repatriated *before the end of the voyage* shall be entitled to repatriation to the port of embarkation which, with the joint consent of the master and the seaman in question, may be subject to change, e.g. in order to enable the seaman to return to his home. Foreign seaman engaged as substitutes at a port other than the port from which the voyage commenced in Belgium have no legal claim to repatriation on the return of the vessel to the port of embarkation. The attention of a foreign seaman who is engaged in such conditions shall be drawn to this last point so that he shall have full knowledge of the conditions under which he is engaged. The following notice, which must be included in the ship's articles, calls the attention of masters and consuls to their duties in this matter:

"If a seaman is engaged outside the Kingdom please state whether, on the normal expiration of his agreement (i.e. return to the port at which the voyage commenced), he is to be returned to the port of embarkation or to another port in the interests of the vessel. If the reply is in the negative please add to the ship's articles the words "Not to be repatriated". This clause and also an affirmative reply must be countersigned by the seaman and the authority responsible for signing him on."

Failure on the part of the master to comply with this procedure shall not prejudice the seaman's interests. On the request of the foreign seaman in question the maritime authority may demand his repatriation at the expense of the vessel. With regard to Belgian vessels having their port of registry abroad (e.g. Bordeaux) at which the crew is signed on, a seaman who is put ashore before the expiration of his agreement shall be returned to the port of embarkation abroad where he is considered to have his home. In the interests of the seaman and in agreement with the master the destination may be changed.

*Cuba.* — The port authorities and the Customs officials are entrusted with the administrative enforcement of the legislation.

*Estonia.* — The responsibility for supervising the repatriation of seamen rests with the authorities of the Seamen's Institute, and with the Consuls.



*France.* — The Government adds the following information to that given in its previous reports :

... With regard to foreign seamen engaged on a French vessel and discharged elsewhere than in their own country, § 3 of the Decree of 22 September 1891 lays down that they shall be returned to the nearest consulate of their own country, in default of any stipulation to the contrary... In a Ministerial Instruction addressed to the superintendents of shipping registration respecting the application of the Convention, their attention was called to the relevant legislative provisions and similar instructions were issued to consular and colonial authorities.

*Poland.* — The report states that the expenses of repatriation of Polish seamen during the period 1 October 1937 to 30 September 1938 were met by the Polish consulates. The expenses of repatriation of seamen from the United States of America were mostly met by the U. S. Government and in one case by the authorities of the State of New York. The repatriation expenses of a Swedish seaman were met by the Swedish Consulate at Gdynia. An inspector of shipping entrusted with the duty of supervising the application of the Conventions ratified by Poland, has been attached to the Maritime Office at Gdynia.

*Uruguay.* — The report does not refer to this point.

*Yugoslavia.* — § 71 (2) of the Decree of 29 March 1925 states that the harbour authorities or the consular authorities shall be responsible for advancing the expenses of the seaman's repatriation.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, where such statistics are available, the number of seamen repatriated during the year under review, the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Belgium.* — The report states that during 1937, no seamen were repatriated from foreign ports to Belgium. No observations were made by the employers' or workers' organisations with regard to the practical application of the Convention.

*Bulgaria.* — The report states that no observations were received from employers' or workers' organisations regarding the practical application of the Convention or of the national legislation implementing it.

*China.* — See introductory note.

*Colombia.* — See introductory note.

*Cuba.* — The Government states in its report that according to the information received it appears that during the period covered by the report there was no case of repatriation. Neither the employers' nor the workers' organisations concerned have submitted observations with regard to the practical application of the Convention or of the national legislation which implements the Convention.

*Estonia.* — The report states that there is in general no difficulty in applying the relevant legislation. No cases of infringement were recorded. The Government has not received any observations from the employers' or workers' organisations concerned with regard to the practical application of the national legislation which implements the provisions of the Convention.

*France.* — The Mercantile Marine Department has not received any observations from the organisations of employers and workers concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the provisions of the Seamen's Code relating to the repatriation of seamen.

*Ireland.* — The Government states in its report that repatriation cases occur but rarely in Ireland. For the twelve months covered by the report there were no cases. No difficulties have been experienced in carrying out the regulations and no contraventions have occurred. No complaints or observations have been

received from organisations of seamen or employers regarding the working of the regulations.

*Luxemburg.* — See introductory note.

*Mexico.* — No observations have been received from workers' or employers' organisations. See also introductory note.

*Poland.* — The report states that during the period 1 October 1937 to 30 September 1938, 57 seamen were repatriated by Polish vessels to the following countries: United States of America (51), Belgium (3), Sweden (1), Poland (1). Classified according to nationality this

number included: 22 Rumanians, 19 Swedes, 8 Poles, 3 Finns, 2 Lithuanians, 1 Dane. In addition, 9 Polish citizens were repatriated from the following countries: United States of America (4), Belgium (3), Finland (1), Sweden (1). The report adds that the application of the relevant legislation gave rise to no difficulties and no contraventions were reported.

*Uruguay.* — The report does not refer to this point. See introductory note.

*Yugoslavia.* — See under *Convention No. 22 (Seamen's Articles of Agreement)*, point VI.

## TENTH SESSION (GENEVA, 1927).

**24. Convention concerning sickness insurance for workers in industry and commerce and domestic servants.**

Article 12 of the Convention provides that it "shall come into force ninety days after the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Secretary-General. Thereafter, the Convention shall come into force for any Member ninety days after the date on which its ratification has been registered with the Secretariat".

The Convention came into force on 15 July 1928. The following table shows the States Members for which the Convention came into force before 1 July 1938, and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Bulgaria . . . . .	1.11.1930	2.12.1938
Chile . . . . .	8.10.1931	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Czecho-Slovakia . .	17. 1.1929	16. 2.1939
Great Britain . . .	20. 2.1931	28.12.1938
Hungary . . . . .	19. 4.1928	14.11.1938
Latvia . . . . .	29.11.1929	25. 1.1939
Lithuania . . . . .	19. 6.1931	7.11.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Rumania . . . . .	28. 6.1929	20. 1.1939
Spain. . . . .	29. 9.1932	
Uruguay . . . . .	6. 6.1933	6. 2.1939
Yugoslavia . . . . .	30. 9.1929	19.11.1938

The Government of *Colombia* states that a Bill to establish compulsory social insurance has been adopted by the Legislature, but that, owing to certain deficiencies, the Executive Power has had to propose amendments which will be considered by Congress at its next session.

The Government of *Great Britain* refers in its report to the passing of the National Health Insurance (Juvenile Contributors and Young Persons) Act 1937, which provides that boys and girls who between school-leaving age and age sixteen are employed within the meaning of the National Health Insurance Act shall be entitled to medical benefit under the National Health Insurance Act as if they were insured persons. The report further states that they are not, however, entitled to any of the other benefits of the national health insurance scheme. Weekly contributions are payable by juvenile contributors and their employers, and the cost of providing them with medical benefit is met out of the produce of these contributions, together with a State grant, which is a fixed proportion of the cost of the benefit and its administration.

The Government of *Luxemburg* stated in previous reports that the Act of 17 December 1925 concerning the Insurance Code only provided for optional insurance for domestic servants and that a Bill to provide for compulsory insurance for domestic servants had been laid before the Chamber of Deputies, which had however decided to postpone a decision on the question, since it considered that the imposition at that moment of new social charges would involve the risk of aggravating unemployment. Under § 1 (2) of the Act of 17 December 1925, however, domestic servants engaged in partial but regular employment in the industrial or commercial undertaking of their employers are already subject to compulsory insurance. Moreover a large number of domestic servants are covered by voluntary insurance. In its report for this year, the Government states that a bill for the revision of the Insurance Code, which provides *inter alia* for the organisation of compulsory sickness insurance for domestic servants, was submitted to the Chamber of Deputies on 17 February 1938. The Council of State is supporting the extension of compulsory insurance to domestic servants.

The Government of *Rumania* states in its report that the Convention is now applied by a new Act of 14 December 1938. The Act of 8 April 1933, as subsequently

amended, is applicable until 1 January 1939, the date on which the new Act comes into force.

The report of the Government of *Spain* has not been received.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Bulgaria.*

Act of 6 March 1924 concerning social insurance (L. S. 1924, Bulg. 1), as amended by, in particular, the Legislative Decree of 5 January 1935 (L. S. 1935, Bulg. 1) and of 30 June 1936.

#### *Chile.*

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting insurance against sickness and invalidity (L. S. 1926, Chile 1).

Decree No. 205 of 8 April 1925 issuing Regulations under Act No. 4054.

Legislative Decree No. 203 of 14 July 1932 concerning the method of constituting the Council of the Compulsory Workers' Insurance Fund.

Act No. 5937 of 16 October 1936 amending § 1 of Act No. 4054.

Act No. 6174 of 9 February 1938 establishing a preventive medical service.

Act No. 6172 of 22 February 1938 increasing the vote of the employers' contribution.

Act No. 6236 of 10 September 1938 increasing the rate of the State contribution.

#### *Colombia.*

See introductory note.

#### *Czecho-Slovakia.*

Act of 9 October 1924 concerning the insurance of employees against sickness, invalidity and old age (L. S. 1924, Cz. 4) amended and completed by the Act of 8 November 1928 (L. S. 1928, Cz. 2) and the Legislative Decree of 15 June 1934 (L. S. 1934, Cz. 4).

Act of 1 July 1926 to continue in operation certain provisions respecting sickness insurance for persons insured under the pension insurance system and for members of miners' benefit societies (L. S. 1926, Cz. 1 A).

Act of 15 October 1925 concerning the sickness insurance of public employees (L. S. 1925, Cz. 5).

#### *Great Britain.*

National Health Insurance Act, 1936 (L.S. 1936, G.B. 8).

National Health Insurance (Amendment) Act, 1937 (L. S. 1937, G. B. 4).

National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937 (L. S. 1937, G. B. 4).

National Health Insurance (Amendment) Act, 1938.

Widows', Orphans' and Old-Age Contributory Pensions Act 1936 (L. S. 1936, G.B. 5).

Widows' Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (L. S. 1937, G. B. 1).

Various Orders and Regulations concerning National Health Insurance dating from 1932 to 1938.

#### *Hungary.*

Act No. XXI of 1927 concerning compulsory insurance against sickness and accidents (L.S. 1927, Hung. 1) amended and supplemented by Orders No. 9090 of 29 December 1931 (L.S. 1931, Hung. 5), No. 9600 of 15 December 1932 (L. S. 1932, Hung. 4), No. 6000 of 2 June 1933 (L. S. 1933, Hung. 4), No. 6500 of 21 June 1935 (L.S. 1935, Hung. 2) and No. 1250 of 6 March 1936 (L. S. 1936, Hung. 4).

Act No. XXXII of 1928 to ratify the Convention.

Decree No. 7,800 1937, U. E. amending and supplementing the law relating to sickness insurance.

#### *Latvia.*

Order of 10 July 1930 concerning sickness insurance funds (L.S. 1930, Lat. 3 A).

Amendments of 2 October 1930 to the Order of 10 July 1930 concerning sickness insurance funds (L.S. 1930, Lat. 3 B).

Amendments of 12 October 1933 to the Order of 10 July concerning sickness insurance funds (L. S. 1933, Lat. 1).

Order of 21 April 1933 concerning the application of the Order of 10 July 1930 respecting sickness insurance funds.

Amendments of 8 May 1937 to the Order of 10 July concerning sickness insurance funds (L. S. 1937, Lat. 2).

Order of 11 May 1937 concerning state subsidies to sickness insurance funds.

Amendments of 31 March 1938 to the Orders of 10 July 1930 and 8 May 1937 concerning sickness insurance funds (L. S. 1938, Lat. 2).

#### *Lithuania.*

Sick Funds Act of 23 January 1934 (L. S. 1934, Lith. 1), amended by the Act of 14 December 1935 (L. S. 1935, Lith. 4).

Act of 1 August 1934 concerning the statutes of the sick funds.

#### *Luxemburg.*

Act of 17 December 1925 concerning the social insurance code (L. S. 1925, Lux. 2 A), amended by the Acts of 31 December 1925 (L. S. 1925, Lux. 2 B) and 6 September 1933 (L. S. 1933, Lux. 3).

Orders of 16 October 1926, 24 February and 23 December 1927, 11 December 1929, 20 February and 28 June 1932, 6 December 1933, 25 September and 26 October 1934, and 30 May 1936.

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

Grand Ducal Order of 15 April 1938 reorganising the Central Committee of Sickness Insurance Funds.

Grand Ducal Order of 30 July 1938 fixing the maximum normal rate of wages for sickness insurance purposes.

See also introductory note.

*Rumania.*

Act of 8 April 1933 concerning the unification of social insurance (L. S. 1933, Rum. 3), and the Regulations of 14 October 1933 issued thereunder.

Royal Decree No. 2986 of 9 November 1934 concerning the composition of governing bodies of social insurance funds.

Legislative Decree No. 1485 of 31 July 1936 concerning the organisation of the Ministry of Labour, Health and Social Welfare.

Act of 2 April 1937 extending social insurance to dock workers.

Act of 18 March concerning insurance against tuberculosis and Regulations of 17 July 1937 applying the above Act.

See also introductory note.

*Uruguay.*

See introductory note.

*Yugoslavia.*

Act of 14 May 1922 concerning workmen's insurance (L. S. 1922, S.C.S. 2).

Order of 16 February 1933 issuing Regulations for the Insurance Fund for workers and salaried employees in undertakings covered by mining legislation (L. S. 1933, Yug. 1).

Order of the Minister of Communications of 30 May 1922 concerning the insurance of persons employed in transport undertakings in case of sickness or accident.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures under which each Article is applied. As far as possible please furnish these particulars within the framework of the questions asked below under each Article.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up a system of compulsory sickness insurance which shall be based on provisions at least equivalent to those contained in this Convention.

The reports received contain no fresh information as this point.

## ARTICLE 2.

The compulsory sickness insurance system shall apply to manual and non-manual workers, including apprentices, employed by industrial undertakings and commercial undertakings, out-workers and domestic servants.

It shall, nevertheless, be open to any Member to make such exceptions in its national laws or regulations as it deems necessary in respect of:

(a) Temporary employment which lasts for less than a period to be determined by national laws or regulations, casual employment not for the purpose of the employer's trade or business, occasional employment and subsidiary employment;

(b) Workers whose wages or income exceed an amount to be determined by national laws or regulations;

(c) Workers who are not paid a money wage;

(d) Out-workers whose conditions of work are not of a like nature to those of ordinary wage earners;

(e) Workers below or above age-limits to be determined by national laws or regulations;

(f) Members of the employer's family.

It shall further be open to exempt from the compulsory sickness insurance system persons who in case of sickness are entitled by virtue of any laws or regulations, or of a special scheme, to advantages at least equivalent on the whole to those provided for in this Convention.

This Convention shall not apply to seamen and sea fishermen for whose insurance against sickness provision may be made by a decision of a later Session of the Conference.

*Please give an analysis of the provisions of the laws and regulations which determine the scope of application of the legislation or systems of legislation concerning compulsory sickness insurance for manual and non-manual workers, including apprentices, employed by industrial undertakings and commercial undertakings, out-workers and domestic servants.*

*If advantage has been taken of the exceptions provided for in the second paragraph of this Article, please indicate:*

(a) the duration of temporary employment, the definition of occasional employment, and the definition of subsidiary employment in respect of which exemptions may have been granted;

(b) the limit of the wages or income fixed by national laws or regulations for determining the scope of application;

(c) whether all workers who are not paid a money wage are excluded or only certain categories of such workers;

(d) the classes of out-workers whose conditions of work are not of a like nature to those of ordinary wage earners;

(e) the age-limits determined by national laws or regulations for admission to insurance;

(f) the persons who are regarded as being "members of the employer's family" as understood in the national legislation.

*If advantage has been taken of the exception provided for in paragraph 3 of this Article, please indicate the categories of persons exempted because of their being entitled in case of sickness to advantages at least equivalent, and give a list of the laws, regulations and statutes relating to the protection of such persons in case of sickness, forwarding the texts of the said laws, regulations or statutes with this report.*

The reports received contain no fresh information on this point.

## ARTICLE 3.

An insured person who is rendered incapable of work by reason of the abnormal state of his bodily or mental health shall be entitled to a cash benefit for at least the first twenty-six weeks of incapacity from and including the first day for which benefit is payable.

The payment of this benefit may be made conditional on the insured person having first complied with a qualifying period and, on the expiry of the same, with a waiting period of not more than three days.

Cash benefit may be withheld in the following cases:

(a) Where in respect of the same illness the insured person receives compensation from another

source to which he is entitled by law; benefit shall only be wholly or partially withheld in so far as such compensation is equal to or less than the amount of the benefit provided by the present Article;

(b) As long as the insured person does not by the fact of his incapacity suffer any loss of the normal product of his labour, or is maintained at the expense of the insurance funds or from public funds; nevertheless, cash benefits shall only partially be withheld when the insured person, although thus personally maintained, has family responsibilities;

(c) As long as the insured person while ill refuses, without valid reason, to comply with the doctor's orders, or the instructions relating to the conduct of insured persons while ill, or voluntarily and without authorisation removes himself from the supervision of the insurance institutions.

Cash benefit may be reduced or refused in the case of sickness caused by the insured person's wilful misconduct.

*Please indicate the extent of the period during which an insured person is entitled to a cash benefit as fixed by the national legislation, and if this right is made conditional on the insured person having first complied with a qualifying period and on the expiry of the same with a waiting period, please indicate the duration of the qualifying period as well as that of the waiting period.*

*If national legislation provides for the withholding of the cash benefit, please indicate the cases in which such benefit may be withheld, classifying them in accordance with the reasons indicated in clauses (a), (b), and (c) of paragraph 3.*

The reports received contain no fresh information on this point.

#### ARTICLE 4.

The insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to medical treatment by a fully qualified medical man and to the supply of proper and sufficient medicines and appliances.

Nevertheless, the insured person may be required to pay such part of the cost of medical benefit as may be prescribed by national laws or regulations.

Medical benefit may be withheld as long as the insured person refuses, without valid reason, to comply with the doctor's orders or the instructions relating to the conduct of insured persons while ill, or neglects to make use of the facilities placed at his disposal by the insurance institution.

*Please indicate the date of commencement, duration and the nature of the medical and pharmaceutical benefits to which an insured person is entitled in case of sickness, under the first paragraph of this Article.*

*If advantage has been taken of the exception provided for in paragraph 2 of this Article, please indicate the circumstances in which the insured person may be required to pay a part of the cost of medical benefit.*

The reports received contain no fresh information on this point.

#### ARTICLE 5.

National laws or regulations may authorise or prescribe the grant of medical benefit to members of an insured person's family living in his

household and dependent upon him, and shall determine the conditions under which such benefit shall be administered.

*Please state whether national laws or regulations have authorised or prescribed the grant of medical benefit to members of an insured person's family.*

*If so, please indicate the conditions under which such benefit is administered.*

The reports received contain no fresh information on this point.

#### ARTICLE 6.

Sickness insurance shall be administered by self-governing institutions, which shall be under the administrative and financial supervision of the competent public authority and shall not be carried on with a view to profit. Institutions founded by private initiative must be specially approved by the competent public authority.

The insured persons shall participate in the management of the self-governing insurance institutions on such conditions as may be prescribed by national laws or regulations.

The administration of sickness insurance may, nevertheless, be undertaken directly by the State where and as long as its administration is rendered difficult or impossible or inappropriate by reason of national conditions, and particularly by the insufficient development of the employers' and workers' organisations.

*Please indicate the constitution and functions of the self-governing institutions entrusted with the administration of sickness insurance.*

*Please indicate the constitution and functions of the authorities entrusted with the administrative and financial supervision of such self-governing institutions.*

*Please indicate the conditions under which the insured persons are enabled to participate in the management of the self-governing insurance institutions, stating in particular the proportion of seats or of votes assigned to them in the organs of these self-governing institutions.*

*If advantage has been taken of the provisions of the last paragraph of this Article, please indicate the nature of the national conditions which at present render the administration of compulsory sickness insurance by self-governing institutions difficult or impossible or inappropriate.*

The reports received contain no fresh information on this point.

#### ARTICLE 7.

The insured persons and their employers shall share in providing the financial resources of the sickness insurance system.

It is open to national laws or regulations to decide as to a financial contribution by the competent public authority.

*Please indicate the conditions under which the insured persons and their employers must share in providing the financial resources of the sickness insurance system.*

*Please state whether the national legislation provides for a financial contribution by the competent public authority.*

Chile. — The financial resources of the sickness insurance system are provided by contributions from the insured persons, the employers and the State. The insured person pays 2 per cent. of his weekly

wage, the employer 5 per cent. thereof and the State 1 ½ per cent. thereof. In the nitrate and mining areas and in Magallanes the insured person's and the employer's contributions are each increased by 1 per cent. of wages.

#### ARTICLE 8.

This Convention does not in any respect affect the obligations arising out of the Convention concerning the employment of women before and after childbirth, adopted by the International Labour Conference at its First Session.

Of the countries which have sent in reports, *Bulgaria, Chile, Colombia, Hungary, Latvia, Luxemburg, Rumania, Uruguay and Yugoslavia* have ratified the Convention concerning the employment of women before and after childbirth. (See summary of reports under that Convention.)

#### ARTICLE 9.

A right of appeal shall be granted to the insured person in case of dispute concerning his right to benefit.

*Please state whether the national legislation grants to the insured person a right of appeal in case of dispute concerning his right to benefit.*

The reports received contain no fresh information on this point:

#### ARTICLE 10.

It shall be open to States which comprise large and very thinly populated areas not to apply the Convention in districts where, by reason of the small density and wide dispersion of the population and the inadequacy of the means of communication, the organisation of sickness insurance, in accordance with this Convention, is impossible.

The States which intend to avail themselves of the exception provided by this Article shall give notice of their intention when communicating their formal ratification to the Secretary-General of the League of Nations. They shall inform the International Labour Office as to what districts they apply the exception and indicate their reasons therefor.

In Europe it shall be open only to Finland to avail itself of the exception contained in this Article.

This question does not arise for the countries which have submitted reports.

### III.

*Article 15 of the Convention is as follows:*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports received contain no fresh information in this connection.

### IV.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the texts of such decisions.*

The reports supplied do not mention any such decisions.

### V.

*Please give a general appreciation of the manner in which the Convention is applied in your country, including, for instance, particulars regarding the organisation and working of the system of sickness insurance and, where such statistics are available, also information concerning the application of the legislation relating to compulsory sickness insurance, especially on the following points:*

#### (1) Scope of application:

*total number of employed persons, subdivided according to their employment in industry, commerce, and domestic service;*

*total number of such persons covered by compulsory sickness insurance;*

*total number of such persons not covered by compulsory sickness insurance but by some other form of protection against the risk of sickness.*

- (2) *Benefits in cash:*
  - (a) *total cost of benefits in cash;*
  - (b) *average cost of benefits in cash per insured person.*
- (3) *Benefits in kind:*
  - (a) *total cost of benefits in kind;*
  - (b) *average cost of benefits in kind per insured person.*
- (4) *Financial resources:*

*Total amount of financial resources.*

*Provision of financial resources:*

  - (a) *contributions from the employers;*
  - (b) *contributions from the insured persons;*
  - (c) *contribution by the public authority.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

**Bulgaria.** — The report states that the total number of employees protected by the legislation concerning sickness insurance is approximately 209,641, of whom 170,648 are employed in industry and 38,993 in commerce, domestic and other work. During the period under review expenditure in benefits in cash amounted to 12,499,385 leva and on benefits in kind to 26,876,246 leva. The total amount of the receipts was 201,091,531 leva, of which 134,061,161 leva were paid by the employers, 55,530,370 by the insured persons and 11,500,000 by the public authorities. The employers' and workers' organisations have not made any observations on the subject of the practical application of the Convention.

**Chile.** — The report refers to the report of the Compulsory Insurance Fund for the financial year 1937-38, from which the following figures are taken: average number of insured persons, 1,380,000; benefits in cash, 20,840,554 pesos; benefits in kind, 70,476,500 pesos; employers' contributions, 73,518,316 pesos; insured persons' contributions, 40,787,526 pesos; State contributions, 32,344,189 pesos. The employers' and workers' organisations have not made any observations on the practical application of the Convention.

**Colombia.** — See introductory note.

**Great Britain.** — The report states that, since the National Health Insurance

Acts apply to serving soldiers, sailors and airmen, seamen and sea fishermen, in addition to workers in industry and commerce, domestic servants and agricultural workers, and since the benefits provided in the Acts include disablement and maternity benefits in addition to medical and sickness benefits, it is not possible to furnish separate statistical information with reference only to the persons and the benefits covered by the Convention. The statistics given below refer to Great Britain: the figures in brackets refer to Northern Ireland.

#### 1. Scope of application:

Number of workers insured on	19,842,000 <sup>1</sup>
31st December 1937 . . . . .	(415,000) <sup>1</sup>
	During year ended 31 December 1937

#### 2. Benefits in cash:

	£
(a) Total cost of sickness benefit . .	11,537,000 (216,000)
(b) Average cost of sickness benefit per insured person . . . . .	12s. 5.9d. (11s. 3d.)
(c) Total cost of disablement benefit	6,451,000 (190,000)
(d) Average cost of disablement benefit per insured person . . .	6s. 11.8d. (10s. 0d.)

#### 3. Benefits in kind:

(a) Total cost of medical benefit . .	11,367,000 (242,000)
(b) Average cost of medical benefit per insured person . . . . .	11s. 9.6d. (11s. 8d.)
(c) Total cost of additional treatment benefits provided under the scheme . . . . .	2,925,000 (35,000)
(d) Average cost of additional treatment benefits per insured person	4s. 0d. (2s. 11d.)

#### 4. Financial resources:

(a) Contributions from employers .	14,921,000 (268,000)
(b) Contributions from employees .	14,368,000 (264,000)
(c) Contributions by Exchequer (including cost of central administration) . . . . .	7,232,000 (166,000)
(d) Interest on accumulated funds and sundry receipts . . . . .	6,374,000 (70,000)

#### Total Financial Resources.

On 31 December 1937, the total accumulated funds amounted to £138,075,000 (£1,837,000) of which £135,443,000 (£1,799,000) was invested and the remainder was in hand or at the Bank.

The report states that no observations have been received from organisations of employers or workers regarding the practical fulfilment of the conditions presented by the Convention or the application of the national law implementing the Convention.

**Hungary.** — The report states that no information is available with regard either to the total number of employed persons or to the total number of such persons

<sup>1</sup> This figure includes 1,366,000 (29,600) insured persons over 65 years of age who are entitled to benefits in kind but who are not entitled to benefits in cash.



not covered by compulsory sickness insurance but by some other form of protection against the risk of sickness. The average number of wage-earners subject to compulsory sickness insurance in 1937 amounted to 1,100,148, of whom 375,806 were women. The Government is not yet in a position to give exact information about the value of benefits in cash and in kind paid in 1937 or the amount of the financial resources of the insurance scheme. The report states that no observations have been made by the organisations of employers or workers with regard to the practical application of the Convention.

*Latvia.* — The report states that the application of the Convention is ensured by the Labour Protection Department of the Ministry of Public and Social Affairs and by the Ministry of Social Welfare. The report adds that no difficulty has arisen with regard to the practical application of the Convention. A statistical publication appended to the report, shows that in 1937, benefits in cash paid to insured persons and members of their families amounted to 4,681,036.87 lats and benefits in kind amounted to 10,359,696.08 lats.

*Lithuania.* — The report states that the average number of wage-earners subject to compulsory sickness insurance during the year 1 October 1937 to 30 September 1938 was 61,612 of which 42,172 were in industry, 9,670 were in commerce and 9,630 in domestic service. The amount of benefit paid was 1,494,457.18 litas (22.67 per insured person) and the cost of medical benefit amounted to 3,946,218.80 litas (59.87 per insured person). During the same period the total resources of the insurance funds amounted to 6,894,995.26 litas of which 3,138,945.05 litas were contributed by the insured persons and 3,244,577.33 litas by their employers, and 511,472.88 litas by the public authorities. The report states that no observations were received on the practical application of the Convention.

*Luxemburg.* — The report refers to the record concerning sickness insurance in the Grand Duchy of Luxemburg during 1937 published by the Central Committee of Sickness Insurance Funds, in which the following figures are given: number of workers insured in 1937, 55,620 (18.73 per cent. of the total number of persons legally domiciled in the country); cash benefits to sick persons 6,907,607 francs (representing an average of 124.19 francs per insured person); expenditure for medical treatment 7,565,500 francs (136.01 francs per insured person); expenditure on pharmaceutical products, etc. 5,501,130 francs (99.98 francs per insured person); expenditure for treatment in hospitals 3,710,026 francs (66.70 francs per insured person); total receipts 26,474,438

francs (475.98 per insured person); receipts from contributions 23,522,798 francs (422.91 per insured person); these contributions are paid as to two-thirds by the insured persons and as to one-third by the employers. The administrative expenses amounted to 1,605,245 francs (28.86 per insured person). The Government has not received any observations from the employers' or workers' organisations concerned with regard to the practical application of the Convention.

*Rumania.* — The report supplies the following particulars with regard to the period 1 April 1937 to 31 March 1938: number of insured persons: 934,306; benefits in cash: 130,804,055 lei; benefits in kind including medicines, hospital treatment, medical assistance, baths, etc.: 262,576,605 lei; contributions paid in equal parts by employers and insured persons: 963,329,834 lei.

*Uruguay.* — See introductory note.

*Yugoslavia.* — The report gives the following figures concerning the application of sickness insurance for the year 1937: average number of insured persons: 680,011, of whom 179,376 were women (this total does not include about 50,000 miners and 70,000 transport workers who are insured by their own insurance funds); cash benefits: 100,871,000 *dinars* (148.34 per insured person); benefits in kind: 160,306,000 *dinars* (235.74 per insured person); total receipts: 334,738,000 *dinars*; employers' contributions: 170,151,000 *dinars*; contributions from insured persons: 158,834,000 *dinars*.

## 25. Convention concerning sickness insurance for agricultural workers.

Article 11 of the Convention provides that it "shall come into force ninety days after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter the Convention shall come into force for any Member ninety days after the date on which its ratification has been registered with the Secretariat".

The Convention came into force on 15 July 1928. The following table shows the States Members for which the Convention came into force before 1 July 1938 and which, in accordance with Article 22 of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Bulgaria . . . . .	1.11.1930	2.12.1938
Chile . . . . .	8.10.1931	2. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Czecho-Slovakia . .	17. 1.1929	16. 2.1939
Great Britain . . .	20. 2.1931	28.12.1938
Luxemburg . . . . .	16. 4.1928	20. 1.1939
Spain . . . . .	29. 9.1932	
Uruguay . . . . .	6. 6.1933	6. 2.1939

For the general information supplied by the *British* Government see under *Convention No. 24 (Sickness insurance, industry, etc.)*, introductory note.

The Government of *Colombia* states that a Bill to establish compulsory social insurance has been adopted by the Legislature, but that, owing to certain deficiencies, the Executive Power has had to propose amendments which will be considered by Congress at its next session.

The Government of *Luxemburg*, in its reports for previous years, stated that a Bill introducing compulsory insurance for agricultural workers had been submitted to the Chamber of Deputies, and that under § 1 (3) of the Act of 17 December 1925 respecting the Social Insurance Code, agricultural workers and domestic servants regularly employed in the subsidiary undertakings of their employers are compulsorily insured. This Bill has not been passed by the Chamber of Deputies. The Government has however made sickness insurance compulsory for workers employed in forestry or agricultural operations undertaken or subsidised by the Government with a view to assisting the unemployed. Moreover the Central Committee of the sick funds has suspended all the provisions in the rules which impose an age limit or require a medical examination before admission to insurance in respect of unemployed persons. In its report for the present year the Government mentions the Bill for the amendment of the Social Insurance Code introduced in the Chamber of Deputies on 17 February 1938, the scope of which includes compulsory insurance for agricultural and forestry workers.

The report of the Government of *Spain* has not been received.

In its report for this year the Government of *Uruguay* states that it has nothing to add to its previous reports in which it stated, in particular, that the complete

application of the Convention would involve a fundamental revision of the system in force and that for this purpose a special committee had been set up to bring the principles of the existing national legislation regarding public health and old age and invalidity pensions into harmony with the provisions of the Convention. While the Government recognised that the organisation of sickness insurance for agricultural workers was called for, it pointed out that agricultural conditions in Uruguay were entirely different from those in Europe and that consequently it would probably be difficult to carry out the obligations arising out of the ratification of the Convention.

## I

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### *Bulgaria.*

Act of 6 March 1924 respecting social insurance (L. S. 1924, Bulg. 1), as amended by, among other measures, the Legislative Decrees of 5 January 1935 (L. S. 1935, Bulg. 1) and of 30 June 1936.

### *Chile.*

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting insurance against sickness and invalidity (L.S. 1926, Chile 1).

Decree No. 205 of 8 April 1925 issuing Regulations under Act No. 4054.

Special Regulations, approved by the Council of Welfare on 9 April 1930, to apply Act No. 4054 to agricultural occupations.

Legislative Decree No. 203 of 14 July 1933 concerning the method of constituting the Council for the Compulsory Workers' Insurance Fund.

Act No. 5937 of 16 October 1936 amending § 1 of Act No. 4054.

Act No. 6174 of 9 February 1938 establishing a preventive medical service.

Act No. 6172 of 22 February 1938 increasing the rate of the employers' contribution.

Act No. 6236 of 10 September 1938 increasing the rate of the State contribution.

### *Colombia.*

See introductory note.

*Czecho-Slovakia.*

Act of 9 October 1924 concerning the insurance of employees against sickness, invalidity, and old age (L. S. 1924, Cz. 4) amended and completed by the Act of 8 November 1928 (L. S. 1928, Cz. 2) and the Legislative Decree of 15 June 1934 (L. S. 1934, Cz. 4).

Act of 1 July 1926 to continue in operation certain provisions respecting sickness insurance for persons insured under the pension insurance system and for members of miners' benefit societies (L. S. 1926, Cz. 1 A).

Act of 15 October 1925 concerning the sickness insurance of public employees (L. S. 1925, Cz. 5).

*Great Britain.*

National Health Insurance Act, 1936 (L. S. 1936, G.B. 8).

National Health Insurance (Amendment) Act, 1937 (L. S. 1937, G. B. 4).

National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937 (L. S. 1937, G. B. 4).

National Health Insurance (Amendment) Act, 1938.

Widows', Orphans' and Old-Age Contributory Pensions Act 1936 (L. S. 1936, G.B. 5).

Widows, Orphans, and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (L. S. 1937, G. B. 1).

Various Orders and Regulations concerning National Health Insurance dating from 1932-1938.

*Luxembourg.*

Act of 17 December 1925 respecting the Social Insurance Code (L. S. 1925, Lux. 2), amended by the Act of 6 September 1933 (L. S. 1933, Lux. 3).

Act of 5 March 1928 approving the Conventions adopted by the International Labour Conference at its first ten Sessions (1919-1927).

See also introductory note.

*Uruguay.*

See introductory note.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures under which each Article is applied. As far as possible please furnish these particulars within the framework of the questions asked below under each Article.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up a system of compulsory sickness insurance for agricultural workers, which shall be based on provisions at least equivalent to those contained in this Convention.

The reports supplied do not contain any fresh information on this point.

## ARTICLE 2.

The compulsory sickness insurance system shall apply to manual and non-manual workers, including apprentices, employed by agricultural undertakings.

It shall, nevertheless, be open to any Member to make such exceptions in its national laws or regulations as it deems necessary in respect of:

(a) Temporary employment which lasts for less than a period to be determined by national laws or regulations, casual employment not for the purpose of the employer's trade or business, occasional employment and subsidiary employment;

(b) Workers whose wages or income exceed an amount to be determined by national laws or regulations;

(c) Workers who are not paid a money wage;

(d) Out-workers whose conditions of work are not of a like nature to those of ordinary wage earners;

(e) Workers below or above age-limits to be determined by national laws or regulations;

(f) Members of the employer's family.

It shall further be open to exempt from the compulsory sickness insurance system persons who in case of sickness are entitled by virtue of any laws or regulations, or of a special scheme, to advantages at least equivalent on the whole to those provided for in this Convention.

*Please give an analysis of the provisions of the laws and regulations which determine the scope of application of the legislation or systems of legislation concerning compulsory sickness insurance for manual and non-manual workers, including apprentices, employed by agricultural undertakings.*

*If advantage has been taken of the exceptions provided for in the second paragraph of this Article please indicate:*

(a) *the duration of temporary employment, the definition of occasional employment, and the definition of subsidiary employment in respect of which exemptions may have been granted;*

(b) *the limit of the wages or income fixed by national laws or regulations for determining the scope of application;*

(c) *whether all workers who are not paid a money wage are excluded or only certain categories of such workers;*

(d) *the classes of out-workers whose conditions of work are not of a like nature to those of ordinary wage earners;*

(e) *the age-limits determined by national laws or regulations for admission to insurance;*

(f) *the persons who are regarded as being "members of the employer's family" as understood in the national legislation.*

*If advantage has been taken of the exception provided for in paragraph 3 of this Article, please indicate the categories of persons exempted because of their being entitled in case of sickness to advantages at least equivalent, and give a list of the laws, regulations and statutes relating to the protection of such persons in case of sickness, forwarding the texts of the said laws, regulations or statutes with this report.*

The reports supplied do not contain any fresh information on this point.

## ARTICLE 3.

An insured person who is rendered incapable of work by reason of the abnormal state of his bodily or mental health shall be entitled to a cash benefit for at least the first twenty-six weeks

of incapacity from and including the first day for which benefit is payable.

The payment of this benefit may be made conditional on the insured person having first complied with a qualifying period and, on the expiry of the same, with a waiting period of not more than three days.

Cash benefit may be withheld in the following cases :

(a) Where in respect of the same illness the insured person receives compensation from another source to which he is entitled by law; benefit shall only be wholly or partially withheld in so far as such compensation is equal to or less than the amount of the benefit provided by the present Article;

(b) As long as the insured person does not by the fact of his incapacity suffer any loss of the normal product of his labour, or is maintained at the expense of the insurance funds or from public funds; nevertheless, cash benefit shall only partially be withheld when the insured person, although thus personally maintained, has family responsibilities.

(c) As long as the insured person while ill refuses, without valid reason, to comply with the doctor's orders, or the instructions relating to the conduct of insured persons while ill, or voluntarily and without authorisation removes himself from the supervision of the insurance institutions.

Cash benefit may be reduced or refused in the case of sickness caused by the insured person's wilful misconduct.

*Please indicate the extent of the period during which an insured person is entitled to a cash benefit as fixed by the national legislation, and if this right is made conditional on the insured person having first complied with a qualifying period and on the expiry of the same with a waiting period, please indicate the duration of the qualifying period as well as that of the waiting period.*

*If national legislation provides for the withholding of the cash benefit, please indicate the cases in which such benefit may be withheld, classifying them in accordance with the reasons indicated in clauses (a), (b), and (c) of paragraph 3.*

The reports supplied do not contain any fresh information on this point.

#### ARTICLE 4.

The insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to medical treatment by a fully qualified medical man and to the supply of proper and sufficient medicines and appliances.

Nevertheless, the insured person may be required to pay such part of the cost of medical benefit as may be prescribed by national laws or regulations.

Medical benefit may be withheld as long as the insured person refuses, without valid reason, to comply with the doctor's orders or the instructions relating to the conduct of insured persons while ill, or neglects to make use of the facilities placed at his disposal by the insurance institution.

*Please indicate the date of commencement, duration and the nature of the medical and pharmaceutical benefits to which an insured person is entitled in case of sickness under the first paragraph of this Article.*

*If advantage has been taken of the exception provided for in paragraph 2 of this Article, please indicate the circumstances in which the insured person may be required to pay a part of the cost of medical benefit.*

The reports supplied do not contain any fresh information on this point.

#### ARTICLE 5.

National laws or regulations may authorise or prescribe the grant of medical benefit to members of an insured person's family living in his household and dependent upon him, and shall determine the conditions under which such benefit shall be administered.

*Please state whether national laws or regulations have authorised or prescribed the grant of medical benefit to members of an insured person's family.*

*If so, please indicate the conditions under which such benefit is administered.*

The reports supplied do not contain any fresh information on this point.

#### ARTICLE 6.

Sickness insurance shall be administered by self-governing institutions, which shall be under the administrative and financial supervision of the competent public authority and shall not be carried on with a view of profit. Institutions founded by private initiative must be specially approved by the competent public authority.

The insured persons shall participate in the management of the self-governing insurance institutions on such conditions as may be prescribed by national laws or regulations.

The administration of sickness insurance may, nevertheless, be undertaken directly by the State where and as long as its administration is rendered difficult or impossible or inappropriate by reason of national conditions, and particularly by the insufficient development of the employers' and workers' organisations.

*Please indicate the constitution and functions of the self-governing institutions entrusted with the administration of sickness insurance.*

*Please indicate the constitution and functions of the authorities entrusted with the administrative and financial supervision of such self-governing institutions.*

*Please indicate the conditions under which the insured persons are enabled to participate in the management of the self-governing insurance institutions, stating in particular the proportion of seats or of votes assigned to them in the organs of these self-governing institutions.*

*If advantage has been taken of the provisions of the last paragraph of this Article, please indicate the nature of the national conditions which at present render the administration of compulsory sickness insurance by self-governing institutions difficult or impossible or inappropriate.*

The reports supplied do not contain any fresh information on this point.

#### ARTICLE 7.

The insured persons and their employers shall share in providing the financial resources of the sickness insurance system.

It is open to national laws or regulations to decide as to a financial contribution by the competent public authority.

*Please indicate the conditions under which the insured persons and their employers must share in providing the financial resources of the sickness insurance system.*

*Please state whether the national legislation provides for a financial contribution by the competent public authority.*

*Chile.* — See under *Convention No. 24 (Sickness insurance, industry, etc.)*, point II, ARTICLE 7.

#### ARTICLE 8.

A right of appeal shall be granted to the insured person in case of dispute concerning his right to benefit.

*Please state whether the national legislation grants to the insured person a right of appeal in case of dispute concerning his right to benefit.*

The reports supplied do not contain any fresh information on this point.

#### ARTICLE 9.

It shall be open to States which comprise large and very thinly populated areas not to apply the Convention in districts where, by reason of the small density and wide dispersion of the population and the inadequacy of the means of communication, the organisation of sickness insurance, in accordance with this Convention, is impossible.

The States which intend to avail themselves of the exception provided by this Article shall give notice of their intention when communicating their formal ratification to the Secretary-General of the League of Nations. They shall inform the International Labour Office as to what districts they apply the exception and indicate their reasons therefor.

In Europe it shall be open only to Finland to avail itself of the exception contained in this Article.

This question does not arise for any of the countries which have supplied a report.

#### III.

*Article 14 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, possessions and protectorates, in accordance with the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*In application of the second paragraph of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports supplied contain no fresh information in this connection.

#### IV.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

#### V.

*Please give a general appreciation of the manner in which the Convention is applied in your country, including, for instance, particulars regarding the organisation and working of the system of sickness insurance and, where such statistics are available, also information concerning the application of the legislation relating to compulsory sickness insurance, especially on the following points :*

##### (1) *Scope of application :*

*total number of persons employed in agricultural undertakings ;*

*total number of the above persons covered by compulsory sickness insurance ;*

*total number not covered by compulsory sickness insurance but by some other form of protection against the risk of sickness.*

##### (2) *Benefits in cash :*

*(a) total cost of benefits in cash ;*

*(b) average cost of benefits in cash per insured person.*

##### (3) *Benefits in kind :*

*(a) total cost of benefits in kind ;*

*(b) average cost of benefits in kind per insured person.*

##### (4) *Financial resources :*

*Total amount of financial resources ;*

*Provision of financial resources :*

*(a) contributions from the employers ;*

*(b) contributions from the insured persons ;*

*(c) contribution by the public authority.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Bulgaria. — See under Convention No. 24 (Sickness insurance, industry, etc.), Point V.*

*Chile. — See under Convention No. 24 (Sickness insurance, industry, etc.), Point V.*

*Colombia. — See introductory note.*

*Great Britain. — See under Convention No. 24 (Sickness insurance, industry, etc.). The information supplied there applies equally to agricultural workers.*

*Luxemburg. — See introductory note.*

*Uruguay. — See introductory note.*

## ELEVENTH SESSION (GENEVA, 1928).

**26. Convention concerning the creation of minimum wage-fixing machinery.**

Article 7 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered."

The Convention came into force on 14 June 1930. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Australia . . . . .	9. 3.1931	28.12.1938
Bulgaria . . . . .	4. 6.1935	2.12.1938
Canada . . . . .	25. 4.1935	23. 3.1939
Chile . . . . .	31. 5.1933	2. 2.1939
China . . . . .	5. 5.1930	8. 2.1939
Colombia . . . . .	20. 6.1933	10. 3.1939
Cuba . . . . .	24. 2.1936	17.11.1938
France . . . . .	18. 9.1930	12. 1.1939
Great Britain . . .	14. 6.1929	28.12.1938
Hungary . . . . .	30. 7.1932	1.11.1938
Ireland . . . . .	3. 6.1930	4.11.1938
Italy . . . . .	9. 9.1930	
Mexico . . . . .	12. 5.1934	26.11.1938
Netherlands . . .	10.11.1936	1.10.1938
Norway . . . . .	7. 7.1933	22.11.1938
Spain . . . . .	8. 4.1930	
Union of South Africa . . . . .	28.12.1932	22.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939

By a communication dated 10 March 1939 the Government of *Canada* has supplied certain information relating *inter alia* to the present Convention. For the text of this Communication see under *Convention No. 1 (Hours of Work, industry)*, introductory note.

The *Chinese* Government refers to its previous reports, in which it stated that the Minimum Wage Act of 23 December 1936 had not yet come into force. After the promulgation of the Act, the Ministry of Industry examined the possibility of applying its provisions to a few trades within certain areas, but owing to the economic situation and political difficulties no further steps have been taken.

The Government of *Colombia* refers to its previous report in which it stated that various Bills were combined with the help of the Government into a single Minimum Wage Bill, which was submitted by the Committee on Social Questions to the Chamber of Representatives.

The *Cuban* Government points out in its report that in the case of the present Convention the procedure recommended at the last International Labour Conference was followed, the ratification in 1936 having been preceded by legislation in conformity with the Convention, viz. the Legislative Decree No. 727 of 30 November 1934.

The report of the Government of *France* mentions that a Bill was introduced in the Chamber of Deputies on 8 June 1937 and is under consideration by the Labour Committee of the Chamber, for the purpose of amending § 33 d of Book I of the Labour Code. This section provides for the fixing of homeworkers' wages on the basis of an eight-hour day, and the Bill proposes to amend this provision in accordance with the new legislation on hours of work.

The Government of *Hungary* mentions in its report that Order No. 6,660 of 1935, by the Council of Ministers, dated 26 June 1935, made only provisional arrangements for the fixing of minimum wages pending legislation to deal with the fixing of minimum wages for workers employed in

industry and commerce. This legislation has now been enacted in the Act of July 1937 on minimum wages, hours of work and holidays with pay. This Act has been supplemented by an Order of January 1938 which makes provision for, among other matters, the setting up and operation of minimum wage-fixing boards. The Government states in its report that the Act and Order are in full accord with the provisions of the Convention and ensure that it is given full effect.

The report of the Government of *Italy* has not been received.

The report of the Government of *Spain* has not been received.

# I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

## Australia.

Commonwealth Conciliation and Arbitration Act 1904. Text as amended up to 22 June 1928 (L. S. 1928, Austral. 2), and amendments of 18 August 1930 (L. S. 1930, Austral. 11) and 17 December 1934; and Rules and Regulations enacted by the Commonwealth Court thereunder.

Industrial Peace Acts, 1920.

Arbitration Public Service Act, 1920-1934.

The Government of the Commonwealth of Australia gives the following further information: In so far as the Commonwealth law is not fully in harmony with the provisions of the Convention, the ratification of the Convention has not itself had any actual legal effect. In particular, (a) the mere act of ratification is not considered as having modified previously existing legislation; and (b) observance of the provisions of the Convention can only be enforced in pursuance of legislation passed to give effect to the Convention.

## Territory for the Seat of Government:

Industrial Board Ordinance, 1936 as amended by Ordinances Nos. 42 of 1936 and No. 12 of 1937.

## Northern Territory of Australia:

Commonwealth Conciliation and Arbitration Act, 1904-1934.

Aborigines Ordinance, 1918-1933, and Regulations thereunder (Regulations of 27 June 1933, L. S. 1933, Austral. 2).

## New South Wales.

The Industrial Arbitration Act, 1912 as amended (L. S. 1926, Austral. 7; 1927, Austral. 7; 1929, Austral. 5; 1930, Austral. 12; 1931, Austral. 13; 1932, Austral. 5; 1936, Austral. 2; 1937, Austral. 2).

## Queensland.

Industrial Conciliation and Arbitration Act of 1932-1936 (L. S. 1933, Austral. 1; 1934, Austral. 5; 1935, Austral. 7).

Apprentices and Minors Act, 1929-1934 (L. S. 1929, Austral. 7) and Regulations of 27 February 1930 to apply the Act.

## South Australia.

The Industrial Acts of 1920 to 1935 (L. S. 1926, Austral. 1., 1935, Austral. 10).

## Tasmania.

The Wages Boards Act, 1920, as amended in 1924 (L. S. 1924, Austral. 1), 1928 (L. S. 1929, Austral. 1), 1933 (L. S. 1934, Austral. 3) and 1934 (L. S. 1935, Austral. 8).

Regulations under the above Act.

## Victoria.

Factories and Shops Act, 1928 (L. S. 1929, Austral. 13) and amendments of 1934 (L. S. 1934, Austral. 11) and 1936.

## Western Australia.

Industrial Arbitration Act, 1912-1925 as amended (L. S. 1925, Austral. 12; 1930, Austral. 7).

Factories and Workshops Act No. 44 of 1930.

## Bulgaria.

Legislative Decree of 5 September 1936 concerning the contract of employment (L. S. 1936, Bulg. 5).

Legislative Decree of 22 September 1936 concerning collective labour agreements and the regulation of labour disputes.

## Canada.

See under Convention No. 1 (*Hours of Work industry*), introductory note.

## Chile.

Legislative Decree No. 178 of 13 May 1931 (§§ 43-45) to ratify the Labour Code (L. S. 1931, Chile 1).

Decree No. 276 of 12 September 1932 to approve the Regulations concerning the appointment and working of joint minimum wage boards.

Act No. 5350 of 8 January 1934, establishing a State monopoly for the sale of nitrates and iodine, providing for profit-sharing by unorganised workers and fixing minimum rates of wages for the nitrates industry.

Act No. 6020 of 8 February 1937, to improve the material conditions of salaried employees by the fixing of minimum salaries and the payment of family allowances and to set up joint committees of employers and employees for the determination of minimum salaries.

Decree No. 300 of 22 March 1937 approving Regulations for the application of Act No. 6020.

## China.

Provisional Regulations of April 1934 concerning the fixing of minimum wages in Government undertakings.

See also introductory note.

## Colombia.

See introductory note.



*Cuba.*

Legislative Decree No. 727 of 30 November 1934 (L. S. 1934, Cuba 6), as amended by Act No. 22 of 19 March 1935 (L. S. 1935, Cuba 3), providing for the fixing of minimum wages in industry, commerce and agriculture.

Legislative Decree No. 18 of 18 June 1935 to set up the National Minimum Wage Board (L. S. 1935, Cuba 3).

Legislative Decree No. 2142 of 26 August 1935 containing regulations with regard to the organisation and the working of the National Minimum Wage Board.

Legislative Decree No. 436 of 26 November 1935 amending §2 of Legislative Decree No. 18 and Decree No. 2142.

*France.*

Basic Act of 10 July 1915 covering home-workers in the clothing industry and also male workers performing similar work in their homes.

Decree of 24 September 1915 amended by the Decrees of 24 September 1919 and 10 April 1929, dealing, in particular, with the conditions for giving publicity to the decisions of the bodies set up by the Act and with the working of the Central Board.

Order of 3 November 1915 issued under the above.

Public Administrative Regulations of 10 August 1922 (L. S. 1922, Fr. 1) extending the protection accorded by the Act of 10 July 1915 to the allied trades of the clothing industry.

Decree of 30 July 1926 to issue public administrative regulations, extending the application of the Act of 10 July 1915 to industries other than the clothing industry (L.S. 1926, Fr. 8).

Act of 14 December 1928 abolishing inequality of treatment between men and women home workers covered by the regulations and prescribing new penalties for infringements of the Act (L.S. 1938, Fr. 11).

Decree of 25 July 1935 extending the protection accorded by the Act of 10 July 1915 to the silk or rayon weaving industry.

Code of Labour and Social Welfare, Book 1 §§ 33 to 33 n concerning the fixing of the minimum wage for home workers and codifying the various provisions enumerated above.

*Great Britain.*

Trade Boards Act, 1909 (B. B. Vol. V, 1910, p. 23).

Trade Boards Provisional Orders Confirmation Act, 1913.

Trade Boards Act, 1918.

Trade Boards Act (Northern Ireland), 1923 (L. S., 1923, G. B. 3).

Various Regulations and Orders issued under the Acts.

*Hungary.*

Act XIX of 1932 respecting the Convention concerning the creation of minimum wage-fixing machinery adopted by the International Labour Conference at Geneva in 1928.

Act XXI of 31 July 1937 on minimum wages, hours of work and holidays with pay (L. S. 1937, Hung. 4).

Order No. 3,000/1938 of the Minister for Industry, dated 27 January 1938 (Chapter II), concerning the setting up and operation of committees to fix minimum wages.

*Ireland.*

Trade Boards Act, 1909 (B. B. Vol. V, 1910, p. 23).

Trade Boards Act, 1918.

*Mexico.*

Constitution of the United States of Mexico of 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

Decree of 6 October 1933 to amend the Federal Labour Act (L. S. 1933, Mex. 2).

*Netherlands.*

Act of 17 November 1933 to regulate home-work (L. S. 1933, Neth. 5).

Legislative Decree concerning home-work, 1936.

*Norway.*

Act of 15 February 1918 concerning industrial home work (B. B., vol. XIII, 1918, p. 55), as amended by Acts of 6 July 1923 (L. S. 1923, Nor. 4), 15 June 1928 (L. S. 1928, Nor. 1) and 24 March 1933.

*Union of South Africa.*

Industrial Conciliation Act No. 36 of 1937 (L. S. 1937, S. A. 3), superseding Act No. 11 of 26 March 1924 (L. S. 1924, S. A. 1) as amended by Act No. 24 of 1930 (L. S. 1930, S. A. 5).

Wage Act No. 44 of 1937 (L. S. 1937, S. A. 4), superseding Act No. 27 of 1925 (L. S. 1925, S. A. 1) as amended by Act No. 23 of 1930 (L. S. 1930, S. A. 4).

Act No. 16. Wage Determinations Validation Act, 1935 (L. S. 1935, S. A. 1).

Various Regulations issued under the Acts.

*Uruguay.*

Act No. 9,216 of 23 January 1934 regulating home-work.

Decrees of 4 May, 27 June and 21 August 1934 in pursuance of the above Act.

Act No. 9,675 of 4 August 1937 on collective agreements in the building industry.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades (and in particular in home working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low.

For the purpose of this Convention the term "trades" includes manufacture and commerce.

*Australia.* — The Government supplies the following information :

*New South Wales.* — The Industrial Arbitration (Amendment) Act, 1937, substitutes the Federal basic wage for the living wage previously determined by the Industrial Commission. It further provides that an award or industrial agreement shall not prescribe a rate of wage for adult males less than the Federal basic wage rates or, for females, an amount less than 54 per cent. of the male basic wage rates.

*Chile.* — §§ 1 and 2 of Act No. 6020 provide that no salaried employee may be paid a salary lower than the minimum prescribed by the Act. Exceptions are permitted in the case of young persons under 18 years of age and of employees over 65 years of age whose working capacity is certified by a Labour Inspector to have been reduced, this certificate being subject to confirmation where necessary by a doctor. Later sections of the Act provide for its application by a joint committee of five members in each province together with a central joint committee.

*Great Britain.* — According to the report there have been two extensions: the Trade Boards Acts were applied to the baking trade and to the rubber manufacturing trade. Moreover, the Royal Assent was given to the Road Haulage Wages Act under which provision is made for the regulation of the remuneration (including holiday remuneration) of workers employed by public carriers and limited carriers, in connection with the mechanical transport of goods by road. This Act also makes separate provision with respect to the remuneration of workers employed by private carriers in connection with such transport.

*Hungary.* — § 13 of Order No. 3,000/1938 provides that where wages are unusually low in industry, commerce or mining, minimum wages shall be officially fixed for payment to wage-earners.

*Netherlands.* — Provisions applying this Article are contained in §§ 1 and 9 of the Home-Work Act of 1933. § 1 defines "homework" as being operations specified by regulations and consisting in manufacturing articles or materials, or altering, adapting, etc., articles or materials, for sale or use for an undertaking in premises which do not form part of the undertaking. § 9 provides that the competent Minister may decide that minimum wage scales shall be fixed for all or certain communes and for certain kinds of homework if he is of opinion that the wages or other remuneration for such work are particularly low and that it is not possible to improve them sufficiently by the conclusion of collective agreements.

*Union of South Africa.* — The Government states in its report that two new Acts (Industrial Conciliation Act No. 36 and Wage Act No. 44) came into operation on 15 December 1937, and replaced the previous measures bearing the same titles passed respectively in 1924 and 1925.

The scope of these two Acts is similar to that of the Act of 26 March 1924 concerning industrial conciliation and includes all undertakings and occupations, with certain exceptions such as Government employment, farming operations and domestic service. The new Industrial Conciliation Act of 1937 preserves the main objects of the Act of 1932, namely, the prevention and settlement of disputes between employers and employees by conciliation and in certain cases arbitration, the registration and regulation of trade unions and employers' organisations and private registry offices. Registered industrial councils, consisting of representatives of employers and employees negotiate agreements, fix the minimum wage rates payable in their industry, the hours of work and other conditions relating to employment. When such agreements, concluded between organisations sufficiently representative of the industry concerned, have been published by the Minister they are binding not only upon the parties to the agreement but also upon the employers and employees in the industry concerned. Where an industrial council fails to settle a dispute it may decide to submit the matter to arbitration.

The new Act on wages authorises the Minister to fix the minimum wages and other conditions of employment in respect of persons not bound by an agreement or by an award under the Industrial Conciliation Act. § 9 of this Act defines the powers of the wage board which cover all phases of the relationship between employer and employee. Under § 15 of the Act the Minister of Labour, before making a determination, may cause to be published the recommendation of the wage board in order to enable the persons concerned to submit any objections they have to the making of the determination. In addition, the Minister may exclude from the determination any section of a trade, class of employee or any area or part of any area (§ 16). The Act further states that the wage board shall take into consideration, before it makes any recommendation, the ability of employers to carry on their business successfully. Ministerial powers have been considerably amplified in regard to the initiation of investigations, and further facilities are granted to the Minister to cancel or suspend determinations and also to extend the area of their application. (§ 17.)

*Uruguay.* — § 3 of Act No. 9,216 provides for the fixing of minimum wages for home-work, and § 2 of Act No. 9,675 establishes a system of collective agreements for the building and kindred trades under the general supervision of the State.

## ARTICLE 2.

Each Member which ratifies the Convention shall be free to decide, after consultation with the organisations, if any, of workers and employers in the trade or part of trade concerned, in which trades or parts of trades, and in particular in which home working trades or parts of such trades, the minimum wage fixing machinery referred to in Article 1 shall be applied.

*In addition, in application of this Article, please indicate what method was adopted to consult the organisations of workers and employers.*

*Australia.* — The Government supplies the following information :

*New South Wales.* — The Industrial Arbitration Act, 1912, as amended, applies to all trades and occupations with the exception of rural employments. Each trade is *prima facie* entitled to an award. During the year the Court refused to make an award for artists' models on the grounds that the opportunities for engagement do not furnish a source of constant employment and that their remuneration and employment are beyond effective industrial regulation. The organisations of employees and the employers were represented at the hearing.

*Chile.* — In response to an observation made by the Committee of Experts that the report for the previous year did not show that representatives of the employers and workers concerned were consulted on the setting up of joint committees, the Government states that the committees are composed of representatives of the employers and workers concerned, the members being nominated by the two parties in accordance with the provisions of Decree No. 276 of 12 September 1932 concerning the appointment and working of joint minimum wage boards.

*Cuba.* — Under § 2 of Legislative Decree No. 727 of 30 November 1934 the Minimum Wage Board is required to fix, after consultation with the organisations of employers and workers concerned and, where desirable, with other persons specially qualified by their employment, office or knowledge, the minimum wage to be paid in each occupation and district. The National Minimum Wage Board includes representatives of the Government and of the most important organisations of employers and workers. Moreover, the employers and workers concerned are regularly consulted before each determination is made. In addition, the Government members of the Board conduct personal investigations in the districts concerned from time to time in order to acquaint themselves fully with the local conditions.

*Hungary.* — § 14 of Order No. 3,000/1938 provides that minimum wages may be fixed for any branch of industry, commerce or mining, or for any part of a branch, or for homeworkers only, and either for the whole territory of the State, or for specified parts of the territory, or even for a single town or commune. The

scope of application is to be determined by the competent Minister after consultation with the employers' and workers' organisations.

*Netherlands.* — The consultation of employers' and workers' organisations required by Articles 2 and 3 of the Convention are provided for by §§ 5 to 8 and 10 of the Homework Act. §§ 5 and 6 empower the Minister to set up local and central homework committees after consulting the more representative associations of employers and workers in the branches of industry concerned. These committees consist of equal numbers of representatives of employers and workers, to whom may be added a chairman not engaged in any of the branches of industry for which the committee is set up (§ 7). The functions of local committees are to draw up wage scales for the branch or branches of industry in the commune or communes for which they are set up and to advise the Minister, the district chief labour inspectors and the central homework committees; the central committees have similar functions of drawing up wage scales and giving advice and also of furthering the conclusion of collective agreements in the branch or branches of industry for which they are set up (§ 5). Before submitting proposals for wage scales at the request of the Minister, the committees are required to give an opportunity to the persons concerned to make known their views and to take into account the wage scales of the collective agreements in force in the industry concerned. Proposals by a local committee must be submitted by the Minister for advice to the central committee, if such exists. Wage scales approved by the Minister are published in the *Staatscourant* and come into operation thirty days thereafter. (§ 10). The wage scales are minimum rates and homework may not be performed otherwise than in accordance with the scales (§ 9), all agreements to the contrary being null and void (§ 17).

*Union of South Africa.* — The report states that during the twelve months under review additional members were nominated to the Wage Board by employer and employee organisations to assist in investigations in the commercial and distributive trade, the diamond-cutting industry and the liquor and catering trade. Consultations with organisations of workers and employers are provided for in the wage-fixing machinery, and are both frequent and customary. See also under ARTICLE 1.

*Uruguay.* — The report states that the Decree of 4 May 1934 (§ 1) covers the following trades: shoe-making, manufacture of sandals and slippers and of leather purses, manufacture of non-alcoholic beverages, and that the Decree of

21 August 1934 covers the making and importation of gloves.

### ARTICLE 3.

Each Member which ratifies this Convention shall be free to decide the nature and form of the minimum wage-fixing machinery, and the methods to be followed in its operation:

Provided that

(1) Before the machinery is applied in a trade or part of trade, representatives of the employers and workers concerned, including representatives of their respective organisations, if any, shall be consulted as well as any other persons, being specially qualified for the purpose by their trade or functions, whom the competent authority deems it expedient to consult:

(2) The employers and workers concerned shall be associated in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by national laws or regulations;

(3) Minimum rates of wages which have been fixed shall be binding on the employers and workers concerned so as not to be subject to abatement by them by individual agreement, nor, except with the general or particular authorisation of the competent authority, by collective agreement.

*In addition, please give full information with regard to the nature and form of the minimum wage fixing machinery which has been adopted in your country as well as the methods followed in its operation in accordance with the provisions of this Article, indicating the method which was employed for consulting the interested parties under clause (1) and the means by which the employers and workers concerned are associated with the operation of the machinery under clause (2).*

*Please also indicate whether advantage has been taken of the exception provided for in clause (3) in the case of collective agreement (abatement of the minimum rates of wages with the general or particular authorisation of the competent authority).*

*Australia.* — The Government supplies the following information.

*New South Wales.* — The employers and employees, through their organisations, are component parts of the machinery for the fixation of rates of wages and other conditions of employment. The usual method followed to obtain an award is by application of employers' or employees' organisations to the Industrial Commissions' Conciliation Committees and Apprenticeship Committees. Representatives of employers and employees are entitled to be heard on its consideration. Thus, in all cases both parties are consulted before an award is made. The rates of wages prescribed must be paid by employers, and employees have the right to sue for any difference between the wage received and the rates prescribed.

*Bulgaria.* — §§12-14 of the Legislative Decree of 22 September 1936 lay down the procedure to be adopted in fixing minimum wages.

*Chile.* — The joint committees set up in each province under Act No. 6,020 are composed of two employers and two employees with a representative of the public authorities as chairman. The em-

ployees' representatives are freely nominated by the unions and professional organisations of employees which are recognised as legal entities and constituted in accordance with the regulations issued by the President of the Republic. The employers' representatives are nominated by the employers' organisations recognised as legal entities. Where no legally constituted organisations exist the members of the provincial joint committees are appointed by the public authorities. A central joint committee has been set up in Santiago, which is composed of nine members of whom four are employers' and four employees' representatives. The employers' members are nominated by the associations named in the Act and the employees' members are appointed by the President of the Republic on the proposal of the unions and professional organisations of the province of Santiago.

*Cuba.* — See under ARTICLE 2. The Government points out that provisions corresponding to those of this Article are contained in §§ 1, 2, 9 and 10 of Legislative Decree No. 727. Employers and workers participate in the work of the National Minimum Wage Board, the composition of which is defined by § 2 of Legislative Decree No. 18 of 1935 as amended by Legislative Decree No. 436 of 1935. The powers and duties of members of the Board are defined by Legislative Decree No. 2142 of 1935. The minimum rates of wages fixed by the Board are binding and can be reduced only by revision by the Board itself.

*Hungary.* — Committees to fix minimum wages will be set up by the competent Minister, after consultation with the organisations concerned, and their functions will also be determined by the Minister. Under §15 of Order No. 3000/1938, the Minister will appoint the members and deputy members of the committees, one-third being chosen from representatives of employers and one-third from representatives of workers (after consultation, in each case, with the employers and workers in the industry or trades concerned), the remaining third being persons who do not belong to either of the other groups. The chairman and vice-chairman will be appointed by the Minister from the third group of members. The committees' decisions will be taken by majority vote, whatever the number of members present; in case of equality of votes, the proposal supported by the chairman, who is the last to vote, is adopted. In fixing minimum wages the committee will have to take into account the wages paid for work of the same kind or, where necessary, those paid in other trades, the general level of wages in the district in question, the price of the necessities of life, and, in general, the local conditions affecting the standard

of living. The committee's decision is communicated to the employers and workers concerned and they, and also the employers' and workers' members of the committee, may within a period of eight days appeal to the Minister, through the chairman of the committee, against the decision. At the expiration of this period the decision and any appeal against it is submitted to the Minister for confirmation. The Minister may either confirm the decision, or refuse to confirm it, or refer it back to the committee, which may then either re-affirm its decision or take a new decision. After confirmation, decisions are published in the official gazette, *Budapesti Kozbny*, and come into force eight days after publication. By § 22 of the Order, minimum wages thus fixed are binding on all the employers affected, who may not pay lower wages, and the employers and workers may not agree upon lower wages, either by individual or by collective agreement, during the period for which the decision is binding.

*Netherlands.* — See under ARTICLE 2.

*Union of South Africa.* — The report contains a list of references to the Wage Board, and adds that the necessary investigations had either been commenced or were to be put in hand shortly. During the period covered by the report collective agreements were substituted, in certain areas, for Wage Act Determinations in the following trades: bespoke tailoring, clothing, building, furniture manufacturing, native trade, unskilled labour in the building, clothing, commercial distributive, motor and printing industries. See also under ARTICLE 1.

*Uruguay.* — The report gives the following information on the methods of application of Act No. 9675. Collective agreements, the main object of which is the fixing of minimum wages in accordance with Act of 4 August 1937, are entered into by the employers and the workers and are afterwards registered with the National Institute of Labour and related services. In practice, both parties may submit complaints, denunciations, and suggestions to the National Institute of Labour, and may also accompany the inspectors charged with the supervision of the fulfilment of those agreements. Fixed wages are considered to be of "public interest" and cannot be forgone.

Under Act No. 9216 and the Decrees issued in pursuance thereof, wages paid to home-workers must not be below those currently paid to workers in factories in the same district. Minimum wages are fixed every two years by the Superior Labour Council with the assistance of local committees including representatives of the employers and workers concerned.

## ARTICLE 5.

Each Member which ratifies this Convention shall communicate annually to the International Labour Office a general statement giving a list of the trades or parts of trades in which the minimum wage-fixing machinery has been applied, indicating the methods as well as the results of the application of the machinery and, in summary form, the approximate numbers of workers covered, the minimum rates of wages fixed, and the more important of the other conditions, if any, established relevant to the minimum rates.

*If existing statistics permit, please indicate separately, in the statement required by this Article, the number of men and women as well as of adults and young persons covered by the minimum wage-fixing machinery and the minimum rates of wages fixed for these different categories of workers.*

*Australia.* — The Government supplies the following information:

*New South Wales.* — Outside employees engaged in rural and domestic service occupations, there are few not covered by awards of State or Federal tribunals. Federal awards operate in the wool-growing and fruit-growing industries. Statistics of the actual number of employees covered by awards cannot be supplied. The living wage rates in Sydney since the adoption of the Federal rate have been as follows: October 1937, £3 18s. per week; March 1938, £3 19s. per week; September 1938, £4 per week. Standard hours of work of 44 per week have remained unchanged.

*Tasmania.* — The report of the Chief Inspector of Factories for 1937, copies of which accompany the report, shows that 32 Wages Boards made determinations during the year. One new Board was set up and twelve were reconstituted.

*Victoria.* — The General Board has now issued determinations in respect of nearly all the trades specified in accordance with the Factories and Shops Act, 1936. A list is furnished of the trades originally specified under the Act and of those added by an Order in Council passed in July 1938. The report of the Chief Inspector of Factories and Shops for 1937, appended to the report, gives a list of the Wages Boards in existence or set up during that year, together with information on methods of payment and the trend of wages, and shows that there were, on 31 December 1937, 189 Wages Boards existent or authorised, affecting about 239,000 workers.

*Bulgaria.* — The Government appends to its report a list of collective agreements, other than those concluded voluntarily, incorporating decisions by the various bodies which, under §9 of the Legislative Decree of 22 September 1936, have to deal with demands for increases in wages (local arbitration committees, the central arbitration committee attached to the Directorate of Labour and Social Insurance, the Ministry of Commerce, Industry and Labour, the Council of Ministers). These decisions, which under § 17 of the Decree, are deemed to be collective agreements, number 22; 17 were taken by the Minister for Commerce, Industry and Labour, 4 by the Council of Ministers and 1 by the central arbitration committee. Minimum wages were thus fixed for the following trades in various districts (in the two trades last mentioned, for the whole country): baking, dealing in eggs,

forestry, printing, match manufacturing, tailoring, slaughter-houses, motor-bus drivers, threshing machine workers, carpet workers, boot and shoe workers, tobacco workers. The wages fixed in each of these trades are given in the appendix to the report.

In a letter dated 20 March 1939, the Government forwards supplementary information to its report and states that the number of workers covered by contracts of employment concluded up to 1 January 1939 was approximately 120,000.

*Chile.* — The report states that during the period under review 16 joint committees of employers and employees have been set up for and in the following industries and departments: baking industry in Tocopilla, Santiago, Vallenar and Rancagua; hotel industry in Santiago and Talca; printing, cardboard, newspaper and milling industries, hairdressing saloons, food pastes, boot and shoe and shirt-making industries in Santiago; printing industry in Valparaíso; copper industry in Rancagua. It also gives a list of the salary scales fixed by the various joint committees for private salaried employees set up under Act No. 6,020, showing the general minimum salaries and also the minimum salaries for employees in the mining industry and for employees in agriculture.

*Cuba.* — The Government mentions that it has communicated to the Office the texts of all the determinations made by the National Minimum Wage Board and states that a minimum wage of one peso in the towns and 80 centavos in non-urban districts is prescribed for all occupations not covered by awards of the Board. Consequently, as the law applies to every person engaged in an occupation for remuneration or reward, it may be accepted that in practice all workers in industry, commerce and agriculture are protected by the minimum wage legislation.

*France.* — The report states that the minimum wage rates fixed under the Act for the various occupations and departments concerned are regularly published in the *Recueil des Actes administratifs* of the departments concerned. Examination of a number of these documents furnished with the report shows that the adjustments of wages effected the previous year, especially in connection with the legislation on the forty-hour week, continued in 1938. In some cases the increases effected the previous year for certain occupations have been extended to other occupations (Loire, Haute-Marne, etc.). In other cases rates which were raised in 1937 have been further increased in 1938, either for all occupations (Bouches-du-Rhône, Charente, Haute-Loire, Nord, Somme) or for certain occupations only (Loire-inférieure, Hautes-

Pyrénées, etc.). The minimum hourly rates fixed vary considerably, both as between trades and as between departments. They range from a minimum of 2.75 francs for certain classes of men's underwear workers in the Nord Department, to a maximum of 7.75 francs for women divisional workers in the ready-made tailoring trade in Rheims and 6.75 francs in the remainder of the Marne Department. No statistics later than those supplied last year are available concerning the number of workers covered by the minimum wage legislation.

*Great Britain.* — The report gives detailed information concerning the minimum time rates of wages in operation on 30 September 1938, the numbers of learners' certificates, apprentices' certificates and permits of exemption issued and the number of establishments on Trade Board lists. In the case of Northern Ireland the estimated number of workers in each trade covered is also given. On 30 September 1938 the total number of establishments on Trade Board lists in Great Britain was 84,442; while in Northern Ireland the number of employers on Trade Board lists was 2,594 and the estimated number of workers covered was 48,000.

*Hungary.* — The report gives the number of workers to whom the minimum wage legislation applies as 242,607 on 10 February 1938 and also gives the number in each industry for which a minimum wage has been fixed. A list showing the minimum wages fixed during the period under review is also furnished, indicating both the trades and the areas covered. Information is given for the following trades: plumbing, heating, engineering, tinsmiths' work, electrical installation, bent-wood industry, fire-wood cutting, frame-making, flag-making, rope and cord making, cotton-wool making, knitting and hosiery, glove-making, baking, milling, carpentry and brick and stone laying, varnishing, gilding, multicopying.

*Ireland.* — Copies of the determinations of Trade Boards are attached to the report or have already been supplied. The report states that the number of workers in establishments inspected was 2,128 males and 6,897 females. Arrears of wages recovered as a result of inspection and in respect of which receipts were forwarded to the Department of Industry and Commerce totalled £1,278. 18s. 3½d.

*Mexico.* — The Government states that as the decisions of the Special Minimum Wage Boards are in force for two years, the wage rates fixed in 1937 remained unchanged during the period under review. The preparatory work for fixing new minimum wage rates for 1940 and 1941 has been undertaken; these investigations relate to the economic situation in the

various districts, the kinds of work to be covered, and the cost of living, and the report gives detailed information about the methods employed.

*Netherlands.* — The report states that no minimum wage scales were fixed under the Home-work Act during 1937.

*Union of South Africa.* — The Government appends to its report the text of agreements, notices and Determinations relating to wages which became operative during the period 1 October 1937 to 30 September 1938. The report also contains comparative information as to minimum weekly wages prescribed under the legislation relating to apprenticeship, industrial conciliation and wages as at 30 September 1938. A further table appended to the report shows, for the industries or occupations subject to wage regulations, the nature of the regulation in force, together with the number of employers and employees affected.

*Uruguay.* — Appended to the report are copies of 11 collective agreements, together with the respective wage tariffs. These agreements cover about 18,000 workers belonging to the Union of Workers in Building and kindred trades.

### III.

*Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace) is as follows :*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

- (1) Except where owing to the local conditions the Convention is inapplicable, or
- (2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of this Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*France.* — In *Algeria* a Decree of 23 February 1938 applies the provisions of §§ 33 to 33n and 99a of Book I of the Labour Code and the provisions of the Decrees of 10 August 1922 and 30 July 1926 containing public administrative regulations in application of Section 33. The Algerian Government services are studying measures to secure the effective enforcement of the law.

In *Morocco*, the Dahir of 18 June 1936 has been amended by a Dahir of 23 June 1938. An Order of 23 June 1938 establishes a minimum wage rate by region, sex and age.

*Great Britain.* — Legislation of a simple character has been enacted in the following dependencies in addition to those already reported : *Barbados* (Act No. 18 of 1938), *Leeward Islands* (Act No. 21 of 1937), *North Borneo* (Ordinance No. 5 of 1937), *Somaliland Protectorate* (Ordinance No. 14 of 1938). Legislation of a simple character has been prepared, and is under consideration in *Cyprus* and *Nyasaland*. A Minimum Wage Ordinance is also in course of preparation in the *Colony of Aden*. In the following dependencies legislation in addition to that already reported has been enacted. In *Malta*, Ordinance No. V of 1938 repeals Ordinance No. XVII of 1936, and provides that an Order made by the Governor in Council may fix the minimum wage payable to any persons in any employment affected by any Order made under the Ordinance. Order No. 1 of 1938 prescribes the minimum wages payable to employees in places of public entertainment. Order No. 4 of 1938 prescribes the minimum wages payable to persons employed in hotels and clubs. In the *Bahamas*, an Advisory Board was appointed in November 1937 under the Labour Minimum Wage Act, 1936, to consider the wages paid to women engaged in building construction, landscaping (excluding ordinary garden maintenance and weeding), and the sponge industry. As a result of the report of the Board, Order in Council No. 29 of 1937 was issued on 8 December 1937, fixing the minimum rate of wage for women engaged in these occupations from 1 January 1938. In *Grenada*, Order No. 5 of 1935, which provided rates of wages to be paid to agricultural workers, has been revoked and replaced by an Order made in 23 May 1938, which came into operation on 6 June 1938. In *St. Lucia*, Ordinance No. 5 of 1935, as amended by Ordinance No. 3 of 1937, has been further amended by Ordinance No. 6 of 1938. The latter Ordinance prescribes the conditions of employment of persons incapable of earning minimum wages, and provides for the recovery of sums short paid to such persons. Orders No. 55 of 1936 and 40



of 1937, which prescribed minimum rates of wages to be paid to agricultural labourers, have been repealed and replaced by Order No. 10 of 1938. Order No. 17 of 1938 prescribes the minimum rates of wages to be paid to shop assistants. In *St. Vincent*, Ordinance No. 14 of 1934, as amended by Ordinance No. 31 of 1936, has been further amended by Ordinance No. 27 of 1937. The latter Ordinance provides for the appointment of a Labour Commissioner, the conditions of employment of persons incapable of earning minimum wages, etc. The Order of the Governor in Council dated 8 January 1937, concerning the minimum rates of wages to be paid to agricultural labourers, etc., was replaced by a further Order made on 20 December 1937, which became effective as from 1 January 1938. In the *Gilbert and Ellice Islands Colony*, by Proclamation No. 3 of 1938 certain minimum rates of wages were prescribed for male persons employed in copra production in Christmas Island. In *Sarawak*, Orders L-3 of 1927 and L-5 of 1930 were repealed and replaced by Order L-3 of 1935, containing provisions additional to those made in Order L-6 of 1933. The legislation mentioned in regard to the *Seychelles* (*International Labour Conference, Eighteenth Session, 1934, Summary of Annual Reports under Article 408*, p. 189) should have been described as Ordinance No. 22 of 1932.

*Netherlands*. — In the *Netherlands Indies*, for contract workers in the Outer Provinces, there are statutory minimum wage regulations issued under § 12 of the Coolie Ordinance. For free workers in the Outer Provinces, similar regulations are in preparation. The wages of the lowest categories of workers employed in agricultural undertakings in Java are subject to supervision, in which the employers share voluntarily. In the case of *Surinam*, reference is made in the report to previous statements giving reasons for the non-application of Conventions to the Colony. In *Curaçao*, a Service for Social Affairs was set up on 15 March 1938, and is examining the Convention.

#### IV.

##### *Article 4 of the Convention is as follows :*

Each Member which ratifies this Convention shall take the necessary measures, by way of a system of supervision and sanctions, to ensure that the employers and workers concerned are informed of the minimum rates of wages in force and that wages are not paid at less than these rates in cases where they are applicable.

A worker to whom the minimum rates are applicable and who has been paid wages at less than these rates shall be entitled to recover, by judicial or other legalised proceedings, the amount by which he has been underpaid, subject to such limitation of time as may be determined by national laws or regulations.

*Please state, with particular reference to this Article, to what authority or authorities the application of the legislation and administrative regulations, etc., mentioned under I and II is entrusted and by what method application is supervised and enforced, indicating the limitation of time as determined by national laws or regulations specified in the second paragraph of this Article. In particular, please supply information on the organisation and working of inspection.*

*Australia*. — The Government supplies the following information :

*New South Wales*. — The administration of the Industrial Arbitration Act is carried out by the Department of Labour and Industry, which has over 30 inspectors engaged on duties under the Act. Awards are enforced by inspection, both routine and on complaints of breaches. Legal proceedings are taken by the Department.

The report includes statistics for the years 1933 to 1937 of the numbers of complaints of breaches of awards received, general inspections made, total complaints and inspections, prosecutions instituted, convictions recorded, total amount of wages paid to employees upon Departmental settlement, cases for the recovery of wages, amounts of wages claimed, and amounts recovered during each year.

*Tasmania*. — The report of the Chief Inspector of Factories for 1937 gives particulars of the number of inspections made, prosecutions instituted, penalties inflicted and wages recovered.

*Victoria*. — The report states that the Metropolitan Industrial Court, set up to ensure a measure of uniformity of decisions and penalties in regard to offences under the Factories and Shops Act, 1936, in the metropolitan district, has functioned satisfactorily. The report of the Chief Inspector of Factories and Shops for 1937, appended to the report, gives an analysis of prosecutions for that year.

*Cuba*. — The report states that in accordance with § 11 of Legislative Decree No. 727 the minimum rates of wages fixed are published in the Official Gazette and must be posted up by employers in all workshops and places where wages are paid. Offences against the provisions of the Legislative Decree are punishable by fines of from 50 to 500 pesos, and the workers concerned are entitled to recover, by summary procedure, any sums lawfully due to them. The enforcement of Legislative Decree No. 727 of 1934 is carried out by the Department of the Secretary for Labour and its provincial offices. Penalties are imposed by the magistrates of the police courts on notification of offences by inspectors of the army or police or by any citizen having knowledge of an offence. The armed forces co-operate in the enforcement of the minimum wage legislation in the more remote and inaccessible parts of the Republic.

*Hungary*. — By § 23 of Order No. 3,000/1938 the heads of undertakings to which minimum wages apply are required to post up a notice showing the minimum



wages in operation. This notice must be posted up in a place where it may be easily seen by the workers, in every place in which the workers affected are employed, or where work to be done elsewhere is given out or taken in, or where wages are paid. Under § 25, the worker is entitled to claim payment of the difference between the wages actually paid and the minimum wage fixed, together with damages in compensation for the delay in payment. By § 44, any agreement by which the worker abandons his rights under the Order is null and void. An employer who fails to comply with the requirements of the Act or Order on minimum wages, or who dismisses or threatens to dismiss a worker because he is not content with the minimum wage fixed, is guilty of an offence and is liable to a fine unless a severer penalty is applicable. In the case of a second or subsequent offence the offender may be sentenced to imprisonment for not more than fifteen days. Proceedings are taken by the administrative authorities acting with the powers of an ordinary police court.

*Netherlands.* — Enforcement of the Home-work Act 1933 is entrusted to the Labour Inspection Service (§ 14); in addition, the State and local police are responsible for the investigation of offences (§ 18). Checking of the wages paid is effected by means of wages books, issued by the mayor of the commune, which every homemaker is required to possess (§ 4). Offences are punishable by a fine not exceeding 100 gulden or imprisonment for not more than one month; if the offence consists in failure to observe the wage scales the fine may exceed 100 gulden but may not exceed three times the sum not paid. Heavier penalties may be imposed for repeated offences.

*Union of South Africa.* — Under the new Industrial Conciliation and Wage Acts of 1937 every employer shall apply for registration in order legally to conduct a business. The certificate of registration may be withheld or withdrawn where an order of the Court is not complied with.

*Uruguay.* — The report states that the agreements are published in the Official Journal and in the newspapers. A labour inspector is present when payments are made in order to ensure that wages are paid in accordance with the agreements. The employers must communicate to the National Institute of Labour the place and date of the payment. The National Institute of Labour and Related Services and the Institute of Pensions are responsible for supervision of the observance of the agreements. Supervision of the ap-

plication of Act No. 9,216 on home-work is entrusted to the inspectors of the Pensions Fund for Industry, Commerce and Public Services, and to the inspectors of the National Institute of Labour and Related Services and of the General Directorate for Direct Taxes. All employers and importers coming under the Act are required to register with the Pensions Fund, and to supply the competent authorities with a statement of their anticipated output and imports and, at the end of each quarter, of their actual output and imports. Traders are likewise required to notify their stocks and the names of the firms supplying them, and are forbidden to receive or sell goods not bearing a control stamp. Further, the National Institute of Labour keeps a register of home-workers and distributes to them numbered work-books and control sheets.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The report states that several legal decisions relating to the application of the Convention were given. Copies of two of these decisions have been forwarded to the Office. In one case an employer was fined 600 pesos for failing to pay the minimum salary fixed by the joint committee for the baking industry. In the other case a hairdresser was fined 100 pesos for having employed four workers without a proper contract.

*Ireland.* — The report states that during the year 1937 court proceedings were taken against two employers under the Boot and Shoe Repairing Trade Board and under the Tailoring Trade Board. In one case a conviction was obtained and a fine imposed; the other case was dismissed on appeal by the employer.

*Mexico.* — The report states that a number of decisions have been given concerning the application of the national legislation implementing the Convention, but that there is nothing of particular importance to report in this connection.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please give a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services and any other relevant data which you may consider useful in so far as such information has not already been given under other headings, and in particular under II (Article 5).*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Australia.* — The Government supplies the following information :

*New South Wales.* — The report states that the outstanding feature of the year was the difficulty of ensuring compliance by alien employers. During the year 286 convictions were obtained against aliens and penalties amounting to £600 imposed. After investigation of award conditions in the basket-shoe making industry, convictions were registered in many cases and heavy penalties imposed. Resort had to be had to bankruptcy proceedings to recover the penalties imposed on some employers. Proposals are being considered for the amendment of the Act to increase the existing penalties for breaches of awards. No observations have been received from organisations of employers or workers concerned regarding the application of the law implementing the Convention.

*Tasmania.* — The report of the Chief Inspector of Factories for 1937 states that 1558 inspections, involving the examination of some 5,000 employees, were made and revealed that the wages of 1135 employees required adjusting to comply with the law. The report adds that the continuance of improved conditions in industry has not resulted in a diminishing number of underpaid employees and a reduction in the amount of arrears of wages recovered. It mentions that from time to time difficulty is experienced in enforcing compliance with the law because of the impossibility of securing the necessary evidence. In some cases an employee on whose behalf the Department has instituted proceedings refuses to give evidence. In some cases, also, employees sign receipts for larger amounts than they have actually been paid, and it is only after their dismissal that the true position is disclosed to the Department.

*Bulgaria.* — The Government states that no observations have been received from employers' or workers' organisations with regard to the practical application of the Convention or of the national legislation which implements its provisions. See also under point II, Article 5.

*Canada.* — See introductory note.

*Chile.* — No observations concerning the Convention or the national legislation adopted in conformity therewith have

been received from employers' or workers' organisations.

*China.* — The Government states that no observations have been received from employers' or workers' organisations. See also introductory note.

*Colombia.* — See introductory note.

*Cuba.* — In an appendix to the report statistics are given showing the number of inspections made and infringements of the legislation reported. Copies of awards of the National Minimum Wage Board are also furnished. The report states that no observations have been received from employers' or workers' organisations concerned. See also introductory note.

*France.* — The report states that the Government has not received any observations from the employers' or workers' organisations with regard to the minimum wage-fixing machinery. It adds that in 1936, the last year for which statistics are available, 20 summonses, involving 21 breaches of the relevant legislation, were issued on minimum wages for home-workers. See also introductory note.

*Great Britain.* — In Great Britain during the year ended 30 September 1938 the number of inspections made was 18,350, the number of workers whose wages were examined was about 230,000 and the number of prosecutions undertaken was 20. The amount of arrears of wages collected by the Ministry of Labour was £26,234. In Northern Ireland during the same year the number of workers whose wages were examined was 10,725 and the number of prosecutions for infractions of the Act was 2. Arrears of wages collected for the same period amounted to £1,088. Detailed information is also given for each of the trades covered concerning the inspections completed, visits paid, workers whose wages were examined and to whom arrears were paid. The report states that no observations have been received from the employers' and workers' organisations concerned regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

*Hungary.* — The Government states that the enforcement of the Ministerial Orders has proceeded smoothly. No observations have been made by the employers' and workers' organisations concerned regarding the practical application of the Convention or the national legislation which implements the Convention. See introductory note.

*Ireland.* — The report states that no observations have been received from organisations of employers or workers during the period under review.

*Mexico.* — The Government states that the provisions of the Convention are applied, *ipso facto*, by §§ 99, 100, 414 to 424 of the Federal Act of 18 August 1931. No observations have been received from employers' or workers' organisations.

*Netherlands.* — See under Point II, ARTICLE 5.

*Norway.* — The report states that certain infractions of the law have occurred, some employers having failed to pay the minimum rates fixed or to hand in the prescribed records of workers employed in their undertakings. Thus four infractions have been reported to the police with a view to prosecution and penalty. Other cases have been adjusted by the action of the Home Work Council without the intervention of the police. No observations have been received from

the organisations of employers or workers concerning the laws and regulations applying the Convention, but the organisation of workers in the clothing industry has invited the Home Work Council to promote a stricter control of the enforcement of the regulations concerning minimum rates. The Council has studied this question and presented to the Department of Social Affairs certain suggestions and proposals.

*Union of South Africa.* — The Government states that information in regard to the administration and enforcement of the relevant legislation is found in the report of the Industrial Legislation Commission, a copy of which was forwarded to the Office.

*Uruguay.* — See under Point II, ARTICLE 5.

## TWELFTH SESSION (GENEVA, 1929).

**27. Convention concerning the marking of the weight on heavy packages transported by vessels.**

Article 3 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 9 March 1932. The following table shows the States Members where the Convention came into force before 1 July 1938 and which, in accordance with Article 22 of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Australia . . . . .	9. 3.1931	17.12.1938
Belgium . . . . .	6. 6.1934	21.10.1938
Bulgaria . . . . .	4. 6.1935	19.11.1938
Chile . . . . .	31. 5.1933	2. 2.1939
China . . . . .	24. 6.1931	8. 2.1939
Czecho-Slovakia . .	26. 3.1934	16. 2.1939
Estonia . . . . .	18. 1.1932	11.10.1938
Finland . . . . .	8. 8.1932	5.11.1938
France . . . . .	29. 7.1935	12. 1.1939
Greece . . . . .	30. 5.1936	21. 3.1939
India . . . . .	7. 9.1931	16.12.1938
Ireland . . . . .	5. 7.1930	24.10.1938
Italy . . . . .	18. 7.1933	
Japan . . . . .	16. 3.1931	
Lithuania . . . . .	28. 9.1934	
Luxemburg . . . . .	1. 4.1931	20. 1.1939
Mexico . . . . .	12. 5.1934	26.11.1938
Netherlands . . . .	4. 1.1933	1.10.1938

COUNTRIES	Date of registration of ratification	Report received
Norway . . . . .	1. 7.1932	22.11.1938
Poland . . . . .	18. 6.1932	8.12.1938
Portugal . . . . .	1. 3.1932	8.11.1938
Rumania . . . . .	7.12.1932	20. 2.1939
Spain . . . . .	29. 8.1932	
Sweden . . . . .	11. 4.1932	28.11.1938
Switzerland . . . .	8.11.1934	1.11.1938
Uruguay . . . . .	6. 6.1933	6. 2.1939
Venezuela . . . . .	17.12.1932	6.12.1938
Yugoslavia . . . . .	22. 4.1933	19.11.1938
* * *	* * *	* * *
Burma <sup>1</sup> . . . . .	22.12.1937	30. 1.1939

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The report of the Government of *Lithuania* has not yet been received.

The report of the Government of *Spain* has not been received.

The Government of *Venezuela* states that a Labour Code and regulations under the Labour Act are in course of preparation. The preparation of the Code has been delayed for various reasons, among them the desire that it should be as complete as possible, and also the desire to bring Venezuelan social legislation into harmony with that of other countries in accordance with the principles of the International Labour Organisation, which tend towards the unification of the social legislation of all countries. The draft labour code, which contains detailed regulations implementing the Convention, is to be submitted to the National Congress in May 1939.

<sup>1</sup> See the introduction to the present volume, p. 4.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Australia.*

The Navigation (Loading and Unloading) Regulations, issued under the Navigation Act, 1912-1926, and amended by Statutory Rules 1930, No. 126, and 1932, No. 20.

*Queensland.*

Regulation of 12 July 1934 concerning the marking of weights on certain heavy packages or articles loaded at Queensland ports (L. S. 1934, Austral. 2).

*Victoria.*

Marine Board of Victoria Loading and Unloading Regulations of 16 July 1931, No. 31.

*Western Australia.*

Regulation No. 180 of 24 August 1934 concerning the marking of the weight on heavy packages. — Fremantle Harbour Trust (L. S. 1934, Austral. 4 A).

Regulation No. 38 concerning the marking of the weight on heavy packages. — Western Australian Government Railways. Jetty Regulations.

Amending Regulation of 12 September 1934 concerning the marking of the weight on heavy packages. — Jetties Act, 1926 (L. S. 1934, Austral. 4 B).

Amending Regulation of 17 September 1934 concerning the marking of the weight on heavy packages or articles. — Bunbury Harbour Act, 1909 (L. S. 1934, Austral. 4 C).

*Belgium.*

Act of 2 July 1899 concerning the safety and health of workpeople in industrial and commercial undertakings.

Royal Order of 31 December 1932 requiring the marking of the weight on heavy packages transported by vessels (L. S. 1932, Belg. 7).

*Bulgaria.*

Legislative Decree of 25 March 1935 to carry out the Convention concerning the marking of the weight on heavy packages transported by vessels (L. S. 1935, Bulg. 3).

*Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (§§ 244 and 248) (L. S. 1931, Chile 1).

Decree No. 217 of 30 April 1926 to approve regulations respecting industrial hygiene and safety. (Extracts in L. S. 1926, Chile 2.)

*China.*

Regulations concerning the marking of the weight on heavy packages transported by vessels, put into force on 23 November 1931.

Revised regulations of 10 December 1936 concerning the marking of the weight on heavy packages transported by vessel.

*Czecho-Slovakia.*

Act of 18 December 1934 concerning the marking of the weight on heavy articles transported by vessels. (L. S. 1934, Cz. 10).

Decree of the Minister of Public Works of 25 June 1936 implementing the above Act.

Transport Regulations of the Czecho-Slovak Railways, supplement to § 58.

*Estonia.*

Decree of the President of the State of 10 October 1934; Act concerning the marking of the weight on heavy packages and articles transported by vessels (L. S. 1934, Est. 6).

*Finland.*

Act of 10 June 1932 concerning the marking of the weight on heavy packages transported by vessels (L. S. 1932, Fin. 1).

Order of 10 June 1932 concerning the ratification of the Convention adopted by the International Labour Conference in 1929 on the marking of the weight on heavy packages transported by vessels.

Act of 4 March 1927 concerning industrial inspection (L. S. 1927, Fin. 1).

Orders of the Council of Ministers, dated 4 March 1927, concerning the application of the Act of 4 March 1927 concerning industrial inspection.

*France.*

Act of 27 June 1935 inserting in the Second Book of the Labour Code special provisions concerning the marking of the weight on heavy packages transported by vessels. (L. S. 1935, Fr. 7.)

*Greece.*

Act of 30 October 1935, to ratify the Convention (L. S. 1935, Gr. 11).

Decree of 20 May 1938 supplementing the above Act (L. S. 1938, Gr. 5).

Circular of the Ministry of Finance to the Customs Authorities, 11 June 1938.

*India.*

Various measures taken by the competent authorities for the ports of Bombay, Karachi, Aden, Tuticorin, Madras, Calcutta, Rangoon, Chittagong and Cochin.

*Ireland.*

Act of 21 December 1934 making compulsory the marking of gross weight on packages and articles of 1,000 kilograms or more gross weight consigned for transport by sea or inland waterway. (L. S. 1934, I.F.S. 4.)

*Luxembourg.*

Act of 24 February 1931 to ratify the Conventions adopted by the International Labour Conference during its Twelfth Session (L. S. 1931, Lux. 1).

*Mexico.*

Decree of 28 August 1936 amending the Customs Act.

*Netherlands.*

Act of 19 March 1932 to provide for the marking of the weight on heavy packages transported by seagoing vessels (L. S. 1932, Neth. 2 A).

Act of 19 March 1932 to provide for the marking of the weight on heavy packages transported by vessels engaged in inland navigation (L. S. 1932, Neth. 2 B).

Decree of 1 December 1932 to issue public administrative regulations as provided in the second sentence of § 1 of the Act of 19 March 1932 to provide for the marking of the weight on heavy packages transported by seagoing vessels (L. S. 1932, Neth. 2 C).

Decree of 1 December 1932 to issue public administrative regulations as provided in the second sentence of § 2 of the Act of 19 March 1932 to provide for the marking of the weight on heavy packages transported by vessels engaged in inland navigation (L. S. 1932, Neth. 2 D).

Decree of 1 December 1932 to fix the date on which the Acts of 19 March 1932 mentioned above shall come into operation (L. S. 1932, Neth. 2 E).

*Norway.*

Act of 22 April 1932 concerning the marking of the weight on heavy packages transported by vessels (L. S. 1932, Nor. 1).

*Poland.*

Act of 31 January 1935 concerning the marking of the weight on goods transported by vessels. (L. S. 1935, Pol. 1.)

*Portugal.*

Decree No. 20611 of 11 December 1931, to provide for the marking of the weight on packages or objects of more than one thousand kilograms gross weight transported by vessels (L. S. 1931, Por. 5).

Decree No. 21024 of 24 March 1932 to settle the procedure to be followed in cases of infringement of the provisions of the preceding Decree.

*Rumania.*

Act concerning the marking of the weight on heavy packages transported by sea or by inland waterway, published in *Monitorul Oficial*, No. 70, 25 March 1937.

Administrative regulations under the above Act, published in *Monitorul Oficial*, No. 63, 17 March 1938.

*Sweden.*

Act of 11 March 1932 respecting the marking of the weight in certain cases on packages or objects to be transported by vessels (L. S. 1932, Swe. 1).

*Switzerland.*

Federal Act of 28 March 1934 concerning the marking of the weight on heavy packages consigned for transport by vessels (L. S. 1934, Switz. 2).

Circular, dated 8 November 1934, from the Federal Department of Public Economy to the cantonal governments concerning the implementing of the above Act.

Cantonal measures of an organising and administrative nature to implement the Federal Act of 28 March 1934 in certain cantons.

*Uruguay.*

Act No. 5032 concerning the prevention of industrial accidents.

Regulation of 22 January 1936 in application of the above Act.

Decree of 10 August 1938 issuing regulations for the prevention of accidents to port and maritime workers.

*Venezuela.*

Labour Act of 15 July 1936 (L. S. 1936, Ven. 2).

See also introductory note.

*Yugoslavia.*

Order of the Minister of Communications of 12 January 1933 to put into force the provisions of the Convention.

\* \* \*

*Burma.*

By-law 32 of the Commissioners for the Port of Rangoon, made under the Rangoon Port Act, 1905.

## II.

*Please indicate in detail for the following Article of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which the Article is applied.*

## ARTICLE 1.

Any package or object of one thousand kilograms (one metric ton) or more gross weight consigned within the territory of any Member which ratifies this Convention for transport by sea or inland waterway shall have had its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel.

In exceptional cases where it is difficult to determine the exact weight, national laws or regulations may allow an approximate weight to be marked.

The obligation to see that this requirement is observed shall rest solely upon the Government of the country from which the package or object is consigned, and not on the Government of a country through which it passes on the way to its destination.

It shall be left to national laws or regulations to determine whether the obligation for having the weight marked as aforesaid shall fall on the consignor or on some other person or body.

*Australia.* — The Convention has not yet been applied by all the States to shipping within their respective jurisdictions. *Victoria, Western Australia, Queensland* and *New South Wales* have followed the Commonwealth regulations in the matter, but the authorities in *South Australia* are not disposed at present to

adopt similar regulations. In *Tasmania* some of the port authorities have adopted rules in conformity with the Convention, but the principal port (Hobart) has not yet done so. The Harbour Authorities, which meet periodically in conference, are still urging all port authorities to adopt regulations on the lines of the Commonwealth regulations.

*Greece.* — § 1 of the Decree of 20 May 1938 lays down that any package or object exceeding one metric ton in weight must have its weight marked on the outside if it is to be transported by sea or inland waterway. The weight must be indicated in kilograms as follows: (a) plainly, i.e. in figures at least 8 cm. high and 1 cm. wide and in a colour contrasting with the wrapping of the package; (b) durably, i.e. the colour must be indelible and the substance with which the figures are drawn must not be liable to deterioration either from contact with water or from the sun's rays. If, for technical reasons, it is difficult to determine the exact weight, or if the weight varies owing to the nature of the goods, an approximate weight may be marked, on condition that the difference between the actual weight and the approximate weight does not exceed 5 per cent.

§ 2 of the Decree provides that in the case of goods entering a Greek port for forwarding to another country (transit) no responsibility shall rest on the persons in Greece concerned with the transit operations if the weight is not marked on the package. Responsibility rests on the consignor, as provided in § 2 of the Act of 30 October 1935.

*Uruguay.* — § 21 of the Decree of 10 August 1938 provides that every package or object of 1,000 kilogrammes or more gross weight, consigned within the territory of Uruguay for transport by sea or inland waterway, shall have its gross weight plainly and durably marked upon it on the outside before it is taken on board. In exceptional cases where it is difficult to determine the exact weight an approximate weight may be marked.

\* \* \*

*Burma.* — Rangoon By-law 32 lays down that no cargo shall be discharged from or loaded on to a vessel at a wharf except under the superintendence of its master or owner or of a stevedore holding a licence from the Port Commissioners. No owner may bring or cause to be brought upon any of the premises of the Commissioners any package or object weighing one metric ton or upwards, intended for shipment, unless the English standard weight is clearly marked thereon.

### III.

*Article 35 of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace) is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

- (1) Except where owing to the local conditions the Convention is inapplicable, or
- (2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of this Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Australia.* — The reports supplied in respect of *Norfolk Island* and *Papua* and the *Mandated Territories of Nauru and New Guinea* state that the Convention is applied in these territories.

*France.* — The Protectorate Government is examining the possibility of applying this Convention to the French zone of Morocco.

*Netherlands.* — The adoption of General Administrative Regulations containing provisions for the application of this Convention in the *Netherlands Indies* is under consideration. In view of the special circumstances prevailing in the *Netherlands Indies*, the Draft Regulations have had to limit the application of the Convention to ports which are generally open to foreign trade (so-called maritime ports). The Draft provides that the obligation to mark the weight shall lie with the person responsible for bringing the goods alongside the vessel by which they are to be transported. Supervision of the

observance of the Regulations will be entrusted to the administrative and police officers, and also to officers in the Import, Export and Excise Duties Service. In Curaçao, a Service for Social Affairs was set up on 15 March 1938, and is re-examining the Convention.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Greece.* — Under § 2 of the Act of 30 October 1935, the authorities responsible for applying the provisions of the Convention are the competent customs authorities, and, if loading is effected through their intermediary, the public authorities. Consignments may not be loaded if the provisions of the Decree of 20 May 1938 have not been complied with. The Circular of 11 June 1938 enjoins the customs authorities strictly to comply with the provisions of the relevant regulations.

§ 3 of the Decree of 20 May 1938 deals with penalties for breaches of the regulations.

*Poland.* — A special post of shipping inspector has been created in the Shipping Office of Gdynia, and the duties attaching to this post include supervision of the application of the maritime Conventions ratified by Poland.

*Uruguay.* — Supervision of the enforcement of the Decree of 10 August 1938 is assigned to the National Institute of Labour and Related Services, and the maritime authorities.

#### V.

*Please state whether decisions have been given by courts of law or other courts regarding the application of the Convention. If so, please state the text of such decisions.*

The reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from inspectors' reports, information concerning the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Australia.* — The Commonwealth Government reports that two breaches of the Commonwealth regulations occurred during the year, the firms concerned giving undertakings to comply strictly with the regulations in future and no proceedings being taken, and that no observations were received from the organisations of employers and workers. The report concerning the State of *Western Australia* states that only three instances of breaches of the regulations came to notice during the year. The report adds that the Australian Steamship Owners' Federation has made serious efforts to impress upon shipowners the necessity for a proper observance of the Commonwealth regulations applying the Convention. With a view to assisting in the matter, the Fremantle Harbour Trust suggested that it might be useful to have the statutory requirements printed in a prominent manner upon coastal and inter-State bills of lading. The reports concerning *New South Wales*, *Queensland*, *Tasmania*, *Victoria* and *Western Australia* state that no observations were received from the organisations of employers and workers.

*Belgium.* — Generally speaking, the regulations are well observed. No legal proceedings have been taken for offences against them. In a few exceptional cases it has been sufficient to give the necessary advice. No complaints have been received from employers' or workers' organisations.

*Bulgaria.* — The Government refers to its previous report in which it stated that no observations have been received from employers' or workers' organisations.

*Chile.* — No breaches of the regulations have been detected; in fact, all large packages transported by vessels, whether national or foreign, bear a visible indication of their gross weight. No observations have been received from employers' or



workers' organisations concerning the application of the national legislation which implements it.

*China.* — The report states that there were fourteen breaches of the regulations in the period under review. Thirteen of the packages came from Great Britain and one from Norway. No observations have been received from employers' or workers' organisations concerning the application of the Convention.

*Estonia.* — The report states that no difficulties have been encountered in the application of the Convention and no observations have been received from the employers' or workers' organisations concerned regarding the practical application of the Convention.

*Finland.* — An offender was fined for exporting a package weighing 2,200 kg. without properly marking the weight. The Government has received no observations from employers' and workers' organisations on the practical application of the Convention or on the enforcement of the relevant legislation.

*France.* — The report states that the enforcement of the provisions of the Act of 27 June 1935 has not given rise to any particular difficulty. No observations have been received from employers' or workers' organisations concerning the practical application of the Convention or of the national legislation which implements it.

*Greece.* — The Government states that it is rare for goods exceeding 1,000 kilos in weight to be shipped from Greece. No observations have been received from the employers' and workers' organisations.

*India.* — The report states that the Government of India has not received from the organisations of employers' or workers' any observations regarding the practical fulfilment of the conditions presented by the Convention or the application of the national law implementing the Convention.

*Ireland.* — The report states that inspection shows that the Act is being complied with to the extent that the gross weight is marked on packages. Some instances were reported in which the gross weight was not durably marked, the marking being in chalk. The parties responsible were suitably warned. No observations have been received from organisations of employers or workers.

*Luxemburg.* — The report states that no breaches of the regulations are mentioned in the report of the Labour Inspectorate and no observations have been received from employers' or workers' organisations regarding the practical application of the

Convention or of the notional legislation which implements it.

*Mexico.* — No information is given on this point.

*Netherlands.* — Particulars in tabular form are given of 863 heavy objects inspected as to the marking of their weight. The information relates to the nature of the object, country of origin, country of destination, packing and means of transport (inland or seagoing ship or overland). There are separate tables for countries that have and have not ratified the Convention. Of 597 objects from countries that had ratified, 423 had the weight marked and 174 had not, and, of 266 objects from countries that had not ratified, 101 had the weight marked and 165 had not. The application of the Convention has been supervised by the port and labour inspectorates, and a number of observations have been addressed to firms in consequence of breaches of the provisions. Legal proceedings were taken against one firm that took no notice of the observations addressed to it. No observations on the application of the Convention have been received from employers' or workers' organisations.

*Norway.* — The report states that the Convention is strictly applied and the relevant legislation is in full harmony with the provisions of the Convention. The report adds that no observations have been received from employers' or workers' organisations.

*Poland.* — As interpreted by the Polish authorities, the term "package" covers any consignment forwarded by ship—cases, boxes, bales, individual articles even if unpacked, and individual articles held together in any way whatsoever. No offences have been detected in Poland, but it has been noticed that some packages from abroad, especially packages in transit through Gdynia, do not comply with the provisions of the Convention.

*Portugal.* — The report does not refer to this point.

*Rumania.* — The report states that the regulations are strictly enforced and that no observations have been received from employers' or workers' organisations.

*Sweden.* — The report states that the Convention is satisfactorily applied. No offences against the relevant regulations were committed in Sweden. Two breaches of the provisions of the Convention, committed abroad, were detected in Sweden and notified to the foreign competent authority concerned. The report adds that there were no observations from employers' or workers' organisations.

*Switzerland.* — The report states that the Convention is fully applied in Switzerland. All parties concerned have become accustomed to its provisions, and no difficulties arise. Some exporting firms mark the weight on all packages for export, and not only on those of 1000 kg. or over. Further, all such packages have to be weighed for Customs purposes, and this naturally facilitates the enforcement of the relevant regulations. The Federal authorities have received no observations from employers' or workers' organisations concerning the application of the Convention or of the national legislation which implements it.

*Uruguay.* — The report states that no information is available owing to the shortness of the time elapsed since the Decree was issued.

*Venezuela.* — The Government states in its report that when the Regulations applying the Labour Act are issued the labour inspectors will ensure their strict enforcement. Records will be kept of inspections and of any offences detected. From the records it will be possible to furnish information on the practical application of the Convention in Venezuela, and also to supervise the enforcement of the relevant legislative provisions. With the collaboration of the Statistical Department, it will further be possible to furnish statistics of the number of workers covered by the Convention and other statistics relating to its practical application. No observations have been made by employers' and workers' organisations on the application of the Convention. See also introductory note.

*Yugoslavia.* — The report does not refer to this point.

\* \* \*

*Burma.* — The report states that the Convention has been satisfactorily applied in Burma and no cases of contravention of the provisions of the Convention have been reported. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of national law implementing the Convention have been received from organisations of employers or workers.

**28. Convention concerning the protection against accidents of workers employed in loading or unloading ships.**

Article 19 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been

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

The Convention came into force on 1 April 1932. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Office, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Ireland . . . . .	5. 7. 1930	15. 12. 1938
Luxemburg . . . . .	1. 4. 1931	20. 1. 1939
Spain <sup>1</sup> . . . . .	29. 8. 1932	

The Convention was subjected to a partial revision by the International Labour Conference at its Sixteenth Session, and the revised draft Convention was adopted by the Conference on 27 April 1932.

\* \* \*

The *Irish* Government, by letter dated 15 December 1938, has communicated the following statement: "The Minister notes from Article 23 of this Convention that 'should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention, shall, *ipso jure*, involve a denunciation of this Convention'. In the light of this provision, the Minister has had under consideration the new revising Convention adopted in 1932 by the 16th Session of the International Labour Conference, and the amendment of the Docks Regulations 1928 necessary for the purpose of implementing the latter Convention, with a view to ratification. Consideration of the obligations entailed by ratification indicates the possibility of the difficulties that might arise in negotiating agreements in pursuance of the provisions of Article 18 of the revised Convention and although the position has been somewhat clarified by the report of the Reciprocity Con-

<sup>1</sup> On 28 July 1934 the Secretary-General of the League of Nations registered the ratification by the Spanish Government of the Convention concerning the protection against accidents of workers employed in loading or unloading ships (revised 1932). Article 23 of the present Convention lays down that such ratification "shall *ipso jure* involve denunciation of this Convention without any requirement of delay... if and when the new revising Convention shall have come into force." The revising Convention came into force on 30 October 1934.

ference held in London in July 1935, at which the Irish Free State was represented, the fulfilment of the requirements of Article 9 (1) and (3) of the Convention, as outlined in paragraph 3 of the Report of that Conference, still presents difficulties. The possibility of adapting the system in operation in the Saorstát to the requirements of this article of the Convention, is still being explored. The Minister has had before him the Brief Report on the Maritime Work of the Organisation (1929/1936) issued in connection with the 21st Maritime Session and has noted that 'the holding up of ratification

appears to be due mainly to the fact that the question of ratification has become linked up with the conclusion of reciprocity agreements as provided for in Article 18 of the Convention'." The letter adds that any information bearing on the solution of the difficulties impeding ratification by other States Members would be greatly appreciated and requests that this communication be accepted in lieu of the annual report on the Convention.

The report of the *Luxembourg* Government states that the Convention has no practical application in the Grand Duchy.

FOURTEENTH SESSION (GENEVA, 1930).

29. Convention concerning forced or compulsory labour.

Article 28 of the Convention provides that “it shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered”.

The Convention came into force on 1 May 1932. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Australia . . . . .	2. 1. 1932	29. 11. 1938
Bulgaria. . . . .	22. 9. 1932	2. 12. 1938
Chile . . . . .	31. 5. 1933	2. 2. 1939
Denmark . . . . .	11. 2. 1932	21. 11. 1938
Finland . . . . .	13. 1. 1936	5. 11. 1938
France . . . . .	24. 6. 1937	12. 1. 1939
Great Britain . . .	3. 6. 1931	28. 12. 1938 27. 1. 1939
Ireland . . . . .	2. 3. 1931	14. 10. 1938
Italy . . . . .	18. 6. 1934	
Japan. . . . .	21. 11. 1932	
Liberia . . . . .	1. 5. 1931	2. 12. 1938
Mexico . . . . .	12. 5. 1934	26. 11. 1938
Netherlands . . . .	31. 3. 1933	10. 11. 1938
Norway . . . . .	1. 7. 1932	22. 11. 1938
Spain . . . . .	29. 8. 1932	
Sweden . . . . .	22. 12. 1931	28. 11. 1938
Yugoslavia. . . . .	4. 3. 1933	19. 11. 1938

The Government of *Bulgaria* states that the Convention has no applicability as Bulgaria does not possess colonies.

The Government of *Chile* states that the type of labour covered by the Convention is non-existent in Chile.

The Government of *Denmark* states that forced or compulsory labour within the meaning of the Convention is non-existent in Denmark and the Danish possession of *Greenland*.

The Government of *Finland* states that the Convention was ratified as a measure of support of the principles contained in it. As, however, Finland has no colonies or other territories where forced or compulsory labour exists or can arise, it is not possible to give a report on the application of the Convention as regards Finland.

The Government of *Ireland* reports that it has not under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority any territories to which the provisions of the Convention concerning forced or compulsory labour are applicable. The Government is in favour of the suppression and abolition of forced or compulsory labour on the lines laid down in the International Labour Convention. The Convention was accordingly ratified, and the Government will be prepared to act in accordance with the provisions thereof should any occasion arise.

The report of the Government of *Italy* has not been received.

The report of the Government of *Japan* has not been received.

The Government of *Norway* states that forced or compulsory labour does not exist in that country and that the Government has not under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority any territories to which the provisions of the Convention are applicable. The Convention was ratified by Norway because the Government is in favour of the abolition of forced or compulsory labour on the lines laid down in the Convention.

The report of the Government of *Spain* has not been received.

The Government of *Sweden* states that Sweden possesses no territories to which there could be any question of applying the provisions of the Convention.

The Government of *Yugoslavia* states that the provisions of the Convention do not concern that country.

For the seventh year in succession, a voluntary report upon the measures taken to give effect to the provisions of the Convention was received from the Government of the *Anglo-Egyptian Sudan* (7 December 1938).

# I.

*Please give for each territory concerned a list of the legislation and administrative regulations, etc. which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Australia.* — The report states that no forced or compulsory labour exists in *Australia* or in *Norfolk Island*. Legislation for the *Mandated Territory of New Guinea* is contained in the Native Administration Regulations, 1924; and for *Papua* in the Native Administration Regulations, 1931.

With regard to the Mandated Territory of *Nauru*, the report states: "There has been no occasion to make any special laws or regulations for giving effect to the provisions of the Convention on *Nauru*. What the Convention seeks to achieve has long been an accomplished fact on *Nauru*, and the extension of the Convention to *Nauru* has demanded no alteration or modification of existing law or practices. Every inhabitant on *Nauru* of whatever race, creed or nationality does now enjoy and has enjoyed for decades the rights of free citizenship, and there is, and has been, no law which would confer the power on any person, whether a Government official or a private individual, to exact from any other person forced or compulsory labour as defined by the Convention. Any attempt to exact such labour would therefore be construed as an offence against personal liberty, and would be dealt with under the Criminal Code. The particular part of the Criminal Code which would be applicable is § 355, which reads

as follows: "any person who unlawfully confines or detains another in any place against his will or otherwise unlawfully deprives another of his personal liberty is guilty of misdemeanour and is liable to imprisonment with hard labour for three years (see Criminal Code Act 1899 for the State of Queensland as applied to *Nauru* by the Laws Repeal and Adopting Ordinance, 1932)."

*Chile.* — Paragraph 9 (3) of Article 10 of the Constitution provides that "no person may be required to perform any kind of personal service . . . . save by Decree of the competent authorities, issued in accordance with the legislation permitting such service".

*France.* — The Government states that "it should be recalled that, although the French Government did not deem it possible immediately to accept the provisions of the Convention, it has nevertheless always adhered fully to the humanitarian conceptions on which the Convention is based and has affirmed its intention of securing the progressive abolition of this form of labour. The need to respect local traditions and to take account of certain demographic and social circumstances led the Government to lay down by Decree of 21 August 1930 the general rules which should govern action in this sphere and to entrust to the local authorities, which were in a better position to judge the consequences of action, the responsibility of framing measures of application with due regard to the particular circumstances of each colonial territory. The resulting regulations, suitable to local circumstances, made it possible to provide for a period of transition, during which a considerable improvement was noted in the use of compulsory labour, as is shown by an examination of the situation in the principal French colonies".

A summary of this situation is given under IV. In regard to the legislation, below is given a list of the principal laws, adopted either before or after the ratification of the Convention:

## *France (General).*

Decree of 21 August 1930 for the regulation of compulsory labour for public purposes in the colonies (L. S. 1930, Fr. 17).

Act of 17 June 1937 for the ratification of the Convention concerning forced or compulsory labour.

Decree of 12 August 1937 promulgating the Forced Labour Convention.

## *Cameroons under French Mandate.*

Mandate, §4.

Order of 19 September 1937 promulgating the Decree of 12 August 1937.

Order of 18 November 1937 concerning tax labour (*prestations*), §3.

## *French Equatorial Africa.*

Order of 14 February 1931 promulgating the Decree of 21 August 1930.

Orders of 29 May 1933 concerning the employment of compulsory labour for public purposes (L. S. 1933, Fr. 8) and concerning the employment of compulsory labour for transport.

*French West Africa.*

General Orders of 18 February 1933 concerning the employment of compulsory labour for public purposes (L. S. 1933, Fr. 3) and concerning the employment of compulsory labour for transport.  
 Order of 15 October 1937 promulgating the Decree of 12 August 1937.  
 General Orders of 28 September 1938 concerning the employment of compulsory labour for transport and concerning penal labour.  
 Circular No. 524 of 16 August 1938 concerning tax labour (*prestations*).  
 Circular No. 525 of 27 September 1938 concerning the application of the Forced Labour Convention.

*Indo-China.*

Order of 20 October 1930 promulgating the Decree of 21 August 1930.  
 General Orders of 5 and 6 February 1932 concerning the employment of compulsory labour for public purposes and concerning the employment of compulsory labour for transport.  
 Orders of 11 May 1933, 10 April 1934, 22 April 1936, 31 July 1937 and 16 April 1938 defining districts where the use of compulsory labour is prohibited.  
 General Order of 11 October 1937 promulgating the Act of 17 June 1937 and the Decree of 12 August 1937.

*Annam*: Royal Ordinance of 21 August 1933 and Orders of 30 August 1933 and 8 February 1934.

*Tonkin*: Order of 26 August 1933.

*Laos*: Orders of 27 June 1933 and 4 May 1934.

*Madagascar.*

Orders of 5 March 1932 in application of the Decree of 21 August 1930.  
 Order of 18 November 1937 repealing the Order of 29 November 1926 concerning the employment of labour of the second military contingent.

*New Caledonia.*

Order of 15 June 1932 concerning the employment of forced labour for public purposes.  
 Order of 1 December 1937 promulgating the Decree of 12 August 1937.  
 Orders of 4 February and 28 September 1938.

*Togoland under French Mandate.*

Mandate, §4.  
 Order of 13 October 1937 promulgating the Decree of 12 August 1937.

*Great Britain.* — The Government states that there is no law or custom permitting the exaction of forced or compulsory labour as defined for the purpose of the Convention in the *United Kingdom, Newfoundland, Southern Rhodesia*, and in the following British dependencies which are not fully self-governing: *Aden, Bahamas, Barbados, Bermuda, British Guiana, British Honduras, Ceylon, Cyprus, Falkland Islands and Dependencies, Fiji, Gambia, Gibraltar, Hong Kong, Jamaica (including Turks and Caicos Islands and the Cayman Islands), Leeward Islands (Antigua, Dominica, Monserrat, St. Christopher and Nevis and the Virgin Islands), Malay States (Federated Malay States: Negri Sembilan, Pahang, Perak and Selangor; Unfederated Malay States: Johore, Kedah, Kelantan, Perlis, Trengganu and Brunei), Malta, Mauritius, Northern Rhodesia, Palestine, St. Helena and Ascension, Sarawak, Seychelles, Somaliland Protectorate, South Africa High Commission Territories (Basutoland, Bechuanaland Protectorate, Swaziland), Straits Settlements, Trans-Jordan, Trinidad and Tobago, Western Pacific Islands (British Solomon Islands Pro-*

*tectorate, Gilbert and Ellice Islands Colony, Tonga, Windward Islands (Grenada, St. Lucia, St. Vincent), Zanzibar Protectorate.*

The Government states in regard to the *United Kingdom* that the liberty of the subject is safeguarded by the Writ of Habeas Corpus (or in Scotland at Common Law) and that attempts to exact forced labour by detention or physical compulsion would form the subject of proceedings before Courts of Criminal Jurisdiction and would therefore give rise to civil action for damages.

The position in the self-governing Colony of *Newfoundland* is the same as in the *United Kingdom*.

In *Southern Rhodesia* the liberty of the subject is safeguarded at Common Law.

In the majority of the dependencies which are not fully self-governing the position is similar to that in the *United Kingdom*. In certain, however, the illegal exaction of forced labour is specifically prohibited by law with appropriate penalties (e.g. *Northern Rhodesia*, Penal Code §234; *Somaliland*, Indian Penal Code, §374, applied by Order-in-Council; *Zanzibar*, Decree No. 8 of 1932; *Straits Settlements, Federated Malay States and Unfederated Malay States*, Penal Code, §374).

The addition of the *Gambia* and *Trans-Jordan* to the list of dependencies where there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention results from laws adopted since the ratification of the Convention.

In the *Gambia* the Forced Labour Ordinance, 1934, makes provision only for the exaction of compulsory labour for minor communal services and in cases of emergency. The exaction of any other form of compulsory labour is a punishable offence.

The addition of *Trans-Jordan* to the list results from the adoption of the Forced Labour (Prohibition) Law of 1934. This Law prohibits the exaction of all forced or compulsory labour, the definition of which does not include the work or service exempted under paragraphs (c) and (d) of Article 2 of the Convention, and any work or service exacted under and by virtue of the Locust Destruction Law, 1929, or the Road Tax Law, in the places where this law is still in force. The penalties provided by the law for cases of infringement are imprisonment for a term not exceeding six months or a fine not exceeding £50 or both penalties.

*Aden* attained the status of a Colony on 1 April 1937. There are no laws or customs permitting the exaction of forced or compulsory labour. The liberty of the subject is safeguarded by directions of the nature of the writ of Habeas Corpus issuable by the Supreme Court under

§444 of the Criminal Courts Ordinance, 1937.

In the case of *Bechuanaland* the British Government in a letter dated 28 January 1938 refers to the provisions regarding personal services to Chiefs, contained in the Bechuanaland Protectorate Native Administration Proclamation, 1934. The most important of the personal services to which a Chief is entitled is that in accordance with which, after the first rains, the Chief calls out certain of his people to plough a part of his fields. It is understood that the ceremony is a traditional one and that no Native of the tribe may plough his own land until it has been performed. There are also other personal services which a Chief can require his tribesmen to perform, namely hoeing and reaping of the Chief's land; herding the Chief's cattle; and the building of the Chief's kraal, tending of kgotla fire; hunting for the Chief or presenting him with part of the game killed; and building the Chief's house. These personal services are not, however, regarded as forced or compulsory labour within the meaning of the Convention. With few and minor exceptions the services are general throughout the Bechuanaland Protectorate. The British Government reported that few cases of abuses had occurred during the previous five years and that it was considered that sufficient safeguards are furnished by the provisions of Proclamation No. 74 of 1934. The Government concluded that the matter was being carefully watched by the local Government and no further legislation would appear to be necessary at present.

Forced or compulsory labour, as defined by the Convention, is allowed by law in the following dependencies: *Gold Coast (Colony, Ashanti, Northern Territories, Togoland under British Mandate), Kenya (Colony and Protectorate), Nigeria (Colony, Protectorate, Cameroons under British Mandate), North Borneo, Nyasaland Protectorate, Sierra Leone (Colony and Protectorate), Tanganyika Territory, Uganda Protectorate.*

Below is given a list of the principal laws in these territories.

#### *Gold Coast.*

- Gold Coast Colony Labour Ordinance (No. 21 of 1935) (L. S. 1935, G.C.1).
- Ashanti Labour Ordinance (No. 32 of 1935).
- Northern Territories Labour Ordinance (No. 33 of 1935).
- Criminal Code (Cap. 29), § 449 (7).
- Criminal Code Amendment and Extension Ordinance (No. 17 of 1935), § 16.
- Roads Ordinance, (Cap. 149), amended by Ordinance No. 22 of 1935.
- Northern Territories Native Authority Ordinance (No. 43 of 1936), § 9.
- Towns Ordinance (Cap. 170), § 38 (1), amended by Ordinance No. 23 of 1935.
- Sanitary bye-laws made under the Native Jurisdiction Ordinance (Cap. 113).
- Gold Coast Colony Labour Regulations (No. B 38 of 1935).

Gold Coast Colony Labour Regulations (No. 29 of 1936).

Gold Coast Colony bye-laws, Nos. 8 and 9 of 1936 and Nos. 5, 6, 7, 8, 11, 12, 19 and 20 of 1937 made by the Ajumaku, Prampram, Anamabu, Agona, Ekunfi, Akim Busume, Akim Kotoku, Eguaao, and Gomoa Assin states, revoking bye-laws having reference to the maintenance of roads, which are incompatible with the provisions of the Convention.

Ashanti Labour Regulations (No. B 44 of 1935). Administration (Ashanti) (Roads Repeal) Rules (No. 17 of 1936).

Ashanti Labour Regulations (No. 28 of 1936).

Northern Territories Labour Regulations (No. B 45 of 1935).

Administration (Northern Territories) (Roads Repeal) Rules (No. 16 of 1936).

Northern Territories Labour Regulations (No. 27 of 1936).

#### *Kenya.*

Penal Code, § 243.

Compulsory Labour (Regulation) Ordinance, 1932

Native Authority Ordinance, 1937.

Government Notices, Nos. 406 of 1926, 595 of 1928, 657 and 756 of 1933.

#### *Nigeria.*

Forced Labour Ordinance, 1933, (L. S. 1933, Nig. 1), amended by Ordinance [No. 16 of 1937.

Regulations with regard to the Forced Labour of Persons as Carriers, issued under § 7 of the above Ordinance.

Regulations No. 3 of 1934, made under §§ 13 and 16 of the above Ordinance, amended by Regulations Nos. 10 and 27 of 1937 and 4 of 1938.

Regulations No. 13 of 1934, made under § 16 of the above Ordinance, amended by Regulations No. 21 of 1936.

Regulations No. 23 of 1935, made under § 16 of the above Ordinance, amended by Regulations No. 24 of 1938.

Order in Council No. 18 of 1937, made under § 11 of the Native Courts Ordinance, 1933.

#### *North Borneo.*

Indian Penal Code (adopted as law in North Borneo under the Procedure Ordinance, 1926), § 374.

Village Administration Ordinance No. 5 of 1913, § 9 (ii), as amended by Notifications Nos. 95 of 1931 and 37 of 1933.

Land Ordinance No. 9 of 1930, § 66.

Prohibition of Forced Labour Ordinance (No. 4 of 1933) (L. S. 1933, N.B. 1).

Notification No. 505 of 1930 (issued under the Land Ordinance, 1930), § 5.

Notification No. 159 of 1931 (issued under the Agricultural Pests Ordinance, 1917).

#### *Nyasaland.*

Forced Labour Ordinance No. 15 of 1933.

#### *Sierra Leone.*

Headmen Ordinance (Cap. 91).

Public Health (Protectorate) Ordinance (Cap. 172), § 9.

Destruction of Locusts Ordinance No. 21 of 1931.

Forced Labour Ordinance No. 50 of 1932, amended by No. 11 of 1938.

Protectorate Ordinance No. 32 of 1933, § 9 (7).

Sierra Leone General Orders Nos. 461-477, as amended by Amendment Slips No. 40 of 24 January and No. 52 of 9 September 1933.

#### *Tanganyika Territory.*

Penal Code, §§ 243 and 34.

Native Authority Ordinance (Cap. 47).

Hut and Poll Tax Ordinance (Cap. 63), as amended by Ordinance No. 23 of 1930.

Employment of Porters (Restriction) Ordinance (Cap. 27).

Native Tax Ordinance (No. 20 of 1934).

Instructions concerning the recruitment, employment and care of Government labour, 2nd edition, 1933.

Native Administration Memorandum No. I.

Native Administration Memorandum No. VIII, 2nd edition, 1938.

*Uganda.*

Penal Code of 1930, § 223.  
 Native Authority Ordinance of 1919 (Cap. 60) as amended by Ordinance No. 14 of 1923.  
 Native Authority Rules, 1920.  
 Native Authority Rules, 1929, Rule 2 (ii) being repealed.  
 Poll Tax Ordinance, 1920 (Cap. 68).  
 Luwalo Law, 1930 and 1931 (Kingdom of Buganda).  
 Regulations and General Instructions for the control of compulsory labour, 1932.

*Liberia.* — The report states that the following are the measures in force which were taken to give effect to the Convention :

Act relating to the Pawning System, approved 19 December 1930.  
 Act approving the Administrative Regulations proposed by the President for Governing the Hinterland Districts of the Republic, approved 17 December 1936.  
 Administrative Regulations, approved 17 December 1936.

The following legislation is also cited :

Criminal Code, § 64.  
 Duties of Township Officers (The Road Overseers) (§ 1416 (4) of Revised Statutes, amended by Act of 20 January 1932).

*Mexico.*

The Government states that it will be sufficient to declare in reply to all of the questions concerning the application of the Convention that there is a special safeguard established in the Mexican Constitution, Article 5, which runs as follows : " No person is compelled to render personal services without fair remuneration and without his full consent, unless the work is imposed by the judicial authority, in which case it is subject to the provisions of Article 123, heads I and II", which prescribe 8 hours as a limit for the working day, and 7 hours as a limit for night work.

*Netherlands.*

Forced labour within the meaning of the Convention does not exist in the *Netherlands* or in *Surinam* or *Curaçao*. In the *Netherlands Indies* it is authorised by law. The principal legislation cited is as follows :

Constitution Act of the Netherlands Indies, 1925 § 46.  
 Penal Code, §§ 421 and 425.  
 Ordinance of 25 February 1931 to revise the Coolie Ordinances for the Outer Provinces (Coolie Ordinance, 1931) (L. S. 1931, D.E.I. 1).  
 Ordinance of 9 December 1931 amending and supplementing the *heerendiensten* Ordinances for the Outer Provinces.  
 The Governor General's Order of 7 October, 1933, No. 20 containing further provisions with regard to the application of the Ordinances concerning *heerendiensten* in the Outer Provinces.  
 Ordinance of 3 December 1934 abolishing *heerendiensten* in West, Central and East Java and excluding from *heerendiensten* compulsory labour for the transport of military forces on the march, etc.

*Kotawaringin* Order of 27 August 1927 concerning personal labour services.

*Poso, Todjo, Lore and Oena-Oena* Regulations of 10 June 1933 concerning personal labour services.

*Soerakarta* Compulsory Labour Order of 17 December 1934.

*Mungkoenagoro* Order of 28 January 1936 concerning the regulation of compulsory labour.

*Sudan (Voluntary Report).*

Sudan Penal Code, §§ 311, 312, 313.  
 Locusts Destruction Ordinance, 1907, § 3.  
 Plants Diseases Ordinance, 1911, § 8 (4).  
 Agricultural Pests Prevention Ordinance, 1919, § 3.  
 Public Order Ordinance, 1921, § 9 (a).  
 Sleeping Sickness Regulations, 1928 (amended 1935).  
 Central Forest Ordinance, 1932, § 11.  
 Local Government (Rural Areas) Ordinance, 1937, § 10.1 (j).

*Bulgaria, Denmark, Finland, Ireland, Norway, Sweden, Yugoslavia.* — See introductory note.

## II.

*Article 26 of the Convention is as follows :*

Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction ; provided that, if such Member may desire to take advantage of the provisions of Article 421 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace, it shall append to its ratification a declaration stating :

(1) the territories to which it intends to apply the provisions of this Convention without modification ;

(2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications ;

(3) the territories in respect of which it reserves its decision.

The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of sub-paragraphs (2) and (3) of this Article, in the original declaration.

*If advantage has been taken of the provisions of Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace), and the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of making the subsequent declaration referred to in the second paragraph of the above Article of the Convention.*

*Australia.* — The ratification of the Convention by *Australia* applies to the *Commonwealth* of *Australia* and the ter-



ritories of *Papua*, and *Norfolk Island*, and to the *Mandated Territories of New Guinea* and *Nauru*.

*France*. — The French ratification is accompanied by the following declaration :

“(1) France intends to apply the provisions of the Convention with certain modifications to the following territories only : *French West Africa, French Equatorial Africa, Indo-China, Madagascar, French possessions in Oceania, New Caledonia*, territories under B mandate. The modifications in question affect the following provisions of the Convention : (a) Article 2, second paragraph (letter (a)) ; this provision is to be applied as if it did not include the words “ for work of a purely military character ” ; (b) Article 10 : the provisions of this Article will not be applied as regards forced or compulsory labour exacted by way of taxation ; (c) Article 12, first paragraph : this provision will not be applied when forced or compulsory labour is imposed for the carrying out of public works which are of general advantage ; (d) Article 19 : this provision will not be applied in the case of cultivation for the purpose of experimental agricultural instruction.

“(2) France reserves its decision in respect of the following territories : *Morocco, Tunisia* and the *Levant State* under French Mandate.”

In a memorandum from the French Government received by the Office on 25 March 1939, it is stated that compulsory labour is imposed in *Morocco* only in the form of a tax in analogy with the *prestations* still in force in France. Only Moroccans unable to pay their fiscal obligations by other means are liable to service. In view of the present evolution of the country it does not appear possible to abolish this system. By a Dahir of 23 February 1937 workmen's compensation in case of accident is payable to Moroccans thus furnishing labour.

*Great Britain*. — Appended to the British instrument of ratification is the following list of British non-self-governing Colonies and Protectorates and of Mandated Territories administered under the authority of His Majesty's Government of the United Kingdom of Great Britain and Northern Ireland to which the provisions of the Convention are to apply without modification :

*Bahamas, Barbados, Bermuda, British Guiana, British Honduras, Ceylon, Cyprus, Falkland Islands and Dependencies, Fiji, Gambia (Colony and Protectorate), Gibraltar, Gold Coast (Colony, Ashanti, Northern Territories and Togoland under British Mandate), Hong Kong, Jamaica (including Turks and Caicos Islands and the Cayman Islands), Kenya (Colony and Protectorate), Leeward Islands*

*(Antigua, Dominica, Montserrat, St. Christopher and Nevis and the Virgin Islands), Malay States (Federated Malay States: Negri Sembilan, Pahang, Perak and Selangor; Unfederated Malay States: Johore, Kedah, Kelantan, Perlis, Trengganu and Brunei), Malta, Mauritius, Nigeria (Colony, Protectorate and Cameroons under British Mandate), State of North Borneo, Northern Rhodesia, Nyasaland Protectorate, Palestine, St. Helena and Ascension, Sarawak, Seychelles, Sierra Leone (Colony and Protectorate), Somaliland Protectorate, Territories of the South Africa High Commission (Basutoland, Bechuanaland Protectorate and Swaziland), Straits Settlements, Tanganyika Territory, Trans-Jordan, Trinidad and Tobago, Uganda Protectorate, Islands of Western Pacific (British Solomon Islands Protectorate, Gilbert and Ellice Islands Colony and Tonga), Windward Islands (Grenada, St. Lucia and St. Vincent) and Zanzibar Protectorate.*

On 13 November 1931 the Secretary-General of the League of Nations registered a communication from the British Government, informing him that, with the consent of His Majesty's Government in *Newfoundland*, His Majesty's Government in the United Kingdom desired to accept the obligations of the Convention on behalf of *Newfoundland*. On 20 March 1933 a similar communication was registered in respect of *Southern Rhodesia*.

In its report on the Convention for the year ending 30 September 1938, the British Government notes that *Aden*, previously under the administration of the Government of India, attained the status of a Colony on 1 April 1937, and should be added to the list of Colonies, etc., in which there is no law or custom permitting the exaction of forced or compulsory labour as defined by the Convention.

*Liberia*. — The Republic of Liberia has no dependencies.

*Netherlands*. — The following declaration was appended to its ratification of the Convention by the Government of the *Netherlands* : “ (1) The Netherlands Government intends to apply the provisions of the Convention without modification in the *European Kingdom, Surinam* and *Curaçao*. (2) The Netherlands Government intends to apply the provisions of the Convention to the *Netherlands Indies* with the following modifications : (a) Article 3 will not be applied ; the competent central authorities will, however, be responsible for the use of forced or compulsory labour. (b) Article 4 will not be applied to services carried out for landlords by the inhabitants of the so-called ‘ *particuliere landerijen* ’ in the *Island of Java*. ” The report states that the reservation in regard to Article 4 must still be maintained. Information, however, is given as regarding the progress made in the redemption of the *particuliere landerijen*. See also under ARTICLE 4.

## III.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied, and furnish in particular information for each of the territories concerned on the matters indicated below under various Articles.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.

At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the Agenda of the Conference.

*France.* — The Order of the Governor-General of *Indo-China*, dated 11 May 1933, defined the districts in which compulsory labour was already suppressed. As provinces where the use of compulsory labour was still tolerated were opened up, Orders have been issued in completion of the original text to prohibit any recourse to forced labour in these provinces. The provinces where compulsory labour is permitted are decreasing in numbers. Moreover, on several occasions the Governor-General has recommended the heads of the local administration to make every effort to suppress forced labour by a rapid as possible execution of the programme of developing communications. *Indo-China*, it is certain, will in the not far distant future be able to decree the suppression of compulsory labour throughout its territories.

## ARTICLE 2.

For the purposes of this Convention the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include :

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character ;

(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country ;

(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations ;

(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population ;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

*France.* — The Decree of 12 August 1937 promulgated the Convention and provides in § 1 that the text " will receive full and entire application and will come into force as regards France on 24 June 1938. " Under the Decree, Article 2 (a) is to be applied as if it did not include the words " for work of a purely military character ". The earlier Decree of 21 August 1930 defines compulsory labour for public purposes as meaning all work or service which is exacted from any person, for the performance of which the said person has not offered himself voluntarily, exclusive of work or service arising out of the said person's fiscal or military obligations or the carrying out of a sentence imposed under the general law. The provisions of the Decree do not apply to (1) levies of compulsory labour necessitated by *force majeure*, viz., the defence of the territory, a calamity, and in general any circumstance that would endanger the existence of the whole or part of the population ; (2) communal services authorised by the custom of the community concerned and constituting a part of the normal obligations of the members of the community.

Particulars supplied concerning separate territories are as follows :

*French West Africa.* — The General Order of 28 September 1938 concerns Article 2 (c) (convict labour). Under previous legislation convict labour could be hired out to private employers. The new text prohibits such hirings when they result in taking the prisoners from the supervision and control of the administrative authority. In addition, the exceptions provided in the Article were commented upon and explained in the Circular No. 525 of 27 September 1938.

*Indo-China.* — The Order of 5 February 1932 provides in § 2 that " apart from the levy of compulsory labour necessitated by *force majeure* or by village services, as indicated in § 2 of the Decree of 21 August 1930, recourse to compulsory labour may only be had for public purposes and as an exceptional measure ". In practice forced labour is only used in the cases provided by the Convention.

*Great Britain.* — The following new information has been supplied:

*Nigeria.* — Regulations No. 24 of 1938 contain two amendments to regulation 2 of Regulations No. 23 of 1935. The object of these amendments is to provide for the maintenance of certain settlements which are at present being established under a scheme for the control of sleeping sickness. The labour employed on the clearing of tsetse-infested bush and all other work in connection with the inauguration of the scheme is being paid from a grant from the Colonial Development Fund; but after the settlements have been established a small amount of annual clearing will be necessary to maintain them free of undergrowth. As the intention is that the settlements should be entirely free of sleeping sickness, such clearing could not be authorised under the 1935 Regulations, which apply to localities where "there is a high incidence of sleeping sickness". By the first amendment, inserting the words "or such high incidence is likely to occur", the danger of re-infection is recognised as a justification for the exaction of labour. The second amendment, providing for the maintenance of the clearings whether within one mile of the habitation of the labourers as at present prescribed or not, is necessitated by the fact that the whole object of the scheme is to concentrate the population in comparatively large tsetse-free areas and that it is essential that stream-beds throughout the whole of such areas be kept free of undergrowth. With regard to minor communal services, Regulations No. 4 of 1938 add certain districts of the Pankshin Division of the Plateau Province to those specified in Regulations No. 3 of 1934, in which labour may be exacted for the planting and tending of communal fuel plantations and reserves.

*Liberia.* — The Government states that it still views road labour for main highways and trade routes as falling under (b) of this Article.

*Sudan (Voluntary Report).* — The Local Government (Rural Areas) Ordinance 1937 provides in § 10.1 (j) that any Local Authority may issue local orders "to require any able-bodied Native to work in the making or maintaining of any watercourse or any flood protecting work or other work constructed or to be constructed or maintained for the benefit of the community to which such Native belongs, provided that no person shall be ordered or required to work as aforesaid for more than ten days in any year."

#### ARTICLE 3.

For the purposes of this Convention the term "competent authority" shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

*France.* — The legislation specifies in each case the authorities empowered to authorise forced labour. See under ARTICLE 8.

#### ARTICLE 4.

The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.

Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Secretary-General of the League of Nations, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

*If forced or compulsory labour for the benefit of private individuals, companies or associations existed at the date of ratification of this Convention, please indicate the measures taken for its suppression.*

*France.* — The report states that in *Indo-China* recourse to compulsory labour is only permitted for public purposes and in exceptional cases. For the transport of non-officials, compulsion may only be used in the event of urgent necessity such as illness or accident; compulsion is limited to the provision of the means of transport for the person concerned and his baggage up to a maximum of 60 kgs. (§ 13 of the Order of 6 February 1932.)

In other colonies there is no forced or compulsory labour for the benefit of private individuals, companies or associations.

*Liberia.* — With reference to Article 34 of the Administrative Regulations, which entitles travellers or traders requiring porters to apply to the village chief, the Government states that this service is a public utility which is incumbent on Government to perform and should not therefore be construed as labour for private persons.

*Netherlands (Netherlands Indies).* — The *Javasche Particuliere Landerijen Maatschappij* has bought four more private estates, Prioeek Bong, Teloekpoetjoeng, Tjakoeng and Goenoeng Sindoer, and acted in a humane manner when requisitioning the labour of the persons on the estates it works.

#### ARTICLE 5.

No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.

Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

*If concessions granted to private individuals, companies or associations exist which contain provisions involving forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade, please indicate the character and extent of the labour involved and state what measures have been taken to rescind such provisions and the date on which the rescission takes effect.*

*France.* — As recourse to forced labour may only be imposed for public purposes,

the grant to a private individual or company cannot involve the imposition of forced labour on the Natives living near lands which have been conceded.

#### ARTICLE 6.

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

*France.* — See under ARTICLE 5.

#### ARTICLE 7.

Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.

Chiefs who exercise administrative functions may, with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.

Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

*France.* — The following information is supplied :

*French West Africa.* — This territory is administered under the direct system of Native administration, and there are no chiefs who exercise administrative functions in the sense of the Convention. Native chiefs who have been regularly installed have on occasions the enjoyment of personal services. These services are based on old traditional custom and, owing to the close supervision of the authorities of the territory and the rapidly increasing realisation of their rights on the part of the peoples concerned, rarely lead to abuses, which, should they occur, are in all cases severely punished. The heads of the colonial administrations have been consulted by Circular No. 525 on the means of regulating these personal services. This, however, appears to be a problem of great delicacy. The solution towards which the central government of the territory has for some years been directing its efforts is in all places to secure for the chiefs remuneration which will allow them to surrender unpaid services.

*Indo-China.* — Reference is made to § 2 of the Order of 5 February 1932 which provides that recourse to compulsory labour may only be imposed for public purposes and in exceptional cases.

*Great Britain.* — See also under ARTICLE 10.

*Sierra Leone.* — The Forced Labour (Amendment) Ordinance, No. 11 of 1938, empowers the provincial commissioners to require a Chief, when the occasion arises, to commute all or any of the personal services to which the Chief is entitled in return for a fixed payment in cash or in kind. Once such personal services have been commuted they may not at any future date be exacted by the Chief in question or by his successors in office.

#### ARTICLE 8.

The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.

Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.

*France.* — The following information is supplied :

*French West Africa.* — The provisions of Article 8 have been brought to the notice of the heads of the colonial administrations by Circular No. 525. This Circular authorises the heads of the administrations to give instructions for compulsory cultivation in the circumstance provided in Article 19 when the workers will not have to leave their homes. General Order of 28 September 1938 on compulsory transport authorises the heads of the colonial administrations to determine certain details of application.

*Indo-China.* — Under §§ 4, 6, 7 and 8 of the Order of 5 February 1932, special authority for recourse to forced labour may, according to the number of days involved, be obtained on the approval (1) of the Governor-General after consultation of the Government Council, (2) of the heads of the local administrations after consultation of the Privy Council or Protectorate Council, or (3) of the provincial officers after agreement with the Native authorities. The authorisation of the Governor-General is required in the case of services necessitating 3,000 man-days or more. The heads of the local administrations are entitled to authorise levies of compulsory labour for work involving less than 3,000 man-days. Lastly, in the event of absolute and urgent necessity, the provincial officers may authorise the calling out of labour, informing the Governor-General in cases where more than 3,000 man-days are required, or in agreement with the provincial Native authority for services requiring not more than 2,000 man-days. Such special authority is not required if the work to be accomplished has been provided for in the budget and thus approved in the ordinary manner. Under § 14, the Order of 6 February 1932 entitles the provincial officers or their delegates to requisition men and means of transport for Government officers and goods. In the case of urgent necessity, such as sickness or accident, for which compulsory labour may, in accordance with § 13, be used for non-officials, the provincial officer is instructed immediately to inform the head of the local administration of any authority he has granted.

#### ARTICLE 9.

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself :

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

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

(c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

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

*France.* — The Decree of 21 August 1930 provides in § 4 that the employment of compulsory labour is subject in every case to the impossibility of obtaining a sufficient supply of free labour. The following additional information is also supplied:

*Indo-China.* — An explanatory statement indicating the total number of man-days required and the average number of days for each worker, the reasons for which it has been impossible to obtain voluntary labour, the present or imminent necessity of the work or service and its interest for the community concerned, is required to be annexed either to the special request for authority forwarded to the superior authorities, or to the plans included in the budgets (§ 5 of the Order of 5 February 1932). The employment of compulsory labour is subject to the impossibility of obtaining sufficient free labour (§§ 9 and 15). Labour may only be called upon from within a distance from the place of employment fixed by the head of the local administration, which distance may not exceed 50 kms. (100 kms. in Laos) (§ 12). Compulsory labour may only be employed during periods when agricultural work is not being carried on and with due account of the economic needs of the district (§ 14).

#### ARTICLE 10.

Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.

Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself:

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

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

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

(d) that the work or service will not entail the removal of the workers from their place of habitual residence;

(e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

*Please state what measures, if any, are being taken to abolish forced or compulsory labour exacted as a tax, or such labour for the execution of public works which is levied by chiefs who exercise administrative functions.*

*France.* — The report points out that the provisions of Article 10 are by the instrument of ratification not to be applied

as regards forced or compulsory labour exacted by way of taxation. The following information is, however, supplied concerning tax labour as well as labour imposed by chiefs:

*French Equatorial Africa.* — Native chiefs who exercise administrative functions are not entitled to use forced or compulsory labour either as a tax or for the execution of public works. The Order of 28 December 1938 for the reorganisation of tax labour (*prestations*) provides in § 4 that tax labour may only be imposed if the works have been provided for in a programme drawn up by the head of the department concerned and legalised by the regional head or the Governor-General. Nevertheless, services agreed upon with the medical authorities for the cure or prevention of sleeping sickness or any other endemic or epidemic disease may be effected even if not figuring in the programme and at any period of the year should the regional head or the Governor-General approve the work and declare its urgency. Under § 8, tax labour is performed on the authority and under the supervision of the heads of departments or sub-divisions. The calculation of the work performed is by days of attendance at employment. The commutation of tax labour is permitted for the whole population during the first two months of the year. After this period has passed the tax must be paid in labour. In regard to forced or compulsory labour for public purposes, the Order of 29 May 1933 provides in § 2 (3) that the recruiting of compulsory labour may be authorised for each colony and for each undertaking by Order of the Governor-General adopted in the Government Council or in the Permanent Commission of the Council.

*French West Africa.* — As there are no chiefs who exercise administrative functions, Article 10 is not applicable. In districts where such an important reform is possible, the local authorities are endeavouring to replace tax labour (*prestations*) by an addition to the head tax to be used for the payment of workers in substitution for tax labour.

*Indo-China.* — Compulsory labour for public purposes is, in accordance with § 11 of the Order of 5 February 1932, effected on the orders of the provincial officers. The only Native chiefs who may impose compulsory labour are the protected sovereigns of Annam and Cambodia. In Cambodia, compulsory labour has, however, been abolished. In Annam it still remains in three districts but the population is covered by the provisions of the *Du* of 21 August 1933, which reproduces the provisions of the Orders of the Governor-General dated 5 and 6 February 1932.

*Madagascar.* — The provisions of Article 10 are not applicable to Madagascar. No forced or compulsory labour is imposed as a tax or for the execution of public works by chiefs who exercise administrative functions.

*Mandated Territories of the Cameroons and Togoland.* — Compulsory labour imposed as a tax (*prestations*) or for public purposes follows strictly the rules contained in this Article of the Convention.

*New Caledonia.* — No tax except in the form of labour dues (*prestations*) is required of the Natives as a form of forced or compulsory labour. There are no Native chiefs who exercise administrative functions and have the right to require the performance of compulsory labour.

*Great Britain.* — During the period under review no labour of the type covered by Article 10 was imposed in *Nigeria, North Borneo, Kenya, Nyasaland, or Sierra Leone.*

*Gold Coast.* — There is no change in the situation, which necessitates the occasional employment of compulsory labour on the maintenance of roads.

*Tanganyika.* — A further reduction is reported in the number of men who liquidate their tax liabilities by labour in lieu of cash payment. The figures for the last five years are as follows :

1933-34 . . . . .	59,316
1934-34 . . . . .	41,609
1935-36 . . . . .	31,605
1936-37 . . . . .	16,092
1937-38 . . . . .	10,082

The decrease is due to the generally excellent harvest during 1937 and to the continued efforts made by all concerned to reduce the employment of tax labour to a minimum. Four deaths were recorded all due to natural causes.

*Uganda.* — By Legal Notices No. 26 of 1937, and No. 166 of 1937, commutation rates in certain districts have been reduced. During the year, in no case was sanction given for the exaction of forced labour from persons unable to pay poll tax. In Buganda the experiment was continued whereby every person liable to *Luwalo* was given an opportunity to pay the commutation fee, and persons unable to do so offered work as paid labourers. Elsewhere, the right to commute the *Luwalo* obligation by a cash payment was universally recognised as before.

*Netherlands (Netherlands Indies).* — The requisitioning of *heerendiensten* in the Outer Provinces gave rise to no particular difficulties or complaints during the period under review. The statutory maximum number of days was exacted in a few provinces only, and in some the number of days required was well below the maximum. *Heerendiensten* were required mainly for the maintenance and repair of roads and of bridges and conduits occurring on these roads, and for the collection of road metal. They were required for the clearing of waterways in one province only. The number of persons who, owing to negligence or failure to carry out their obligations, had to be punished, did not exceed the normal. In consequence of the economic revival at the beginning of the period under review, recourse was had at first on a somewhat larger scale to commutation. The renewal of the depression, however, had again an unfavourable influence on commutation. The expected collective commutation, therefore, did not take place. The rate of commutation varies with the number of days' service required and the local rates of wages. It averages about 5 florins. The whole sum resulting from commutation was, in accordance with the Regulations, used for organising works which would otherwise have been performed by compulsory labour and for meeting the cost of tools, materials and means of transport. During the year certain amendments in the Regulations concerning *heerendiensten* came into operation in the Outer Provinces. Under an Ordinance of 3 December 1934, which came into operation on 1 February 1938, compulsory labour for the transport of military forces on the march, or other persons, and their baggage was excluded from the

Regulations. The report states that all persons living in the Netherlands Indies are now liable to perform these services, as also transport services, on the understanding that only adult men who can be considered as not unused to this kind of work shall be liable to manual work. In this way, it is stated, the provisions concerning transport services for the army have been brought into conformity with the Regulations in force in this respect in most countries. Secondly, the maximum number of days' service has in various provinces been reduced by an average of three days, and the requisitioning of *heerendiensten* for the construction of roads not classed as main metalled highways was abolished in one province. Thirdly, the exemption of the Native staff of hospitals was regulated by law and exemptions were extended in other respects. Finally, the budget estimates for the Netherlands Indies included a sum for speeding up the process of liquidating *heerendiensten* in the Outer Provinces.

*Sudan (Voluntary Report).* — Labour in lieu of tax is almost confined to one district of the Upper Nile Province, where the amount represents about 50 per cent. of the assessed tax for the district. The reasons for such tribute labour are economic. Among the Nilotic negroids who inhabit this area, the urge to buy and sell scarcely exists and money is not valued as it is in more civilised communities. With approaching improvements—an extension of the road system in the Province—facilities for trade will be increased and, in the 1939 budget proposals, tax labour has been eliminated.

## ARTICLE 11.

Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply :

(a) whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out ;

(b) exemption of school teachers and pupils and of officials of the administration in general ;

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

(d) respect for conjugal and family ties.

For the purpose of sub-paragraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which

must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

*Please state in particular what proportion has been fixed for the resident adult able-bodied male population which may be taken at any one time for forced or compulsory labour.*

*France.* — The following information is supplied :

*French Equatorial Africa.* — No proportion has been fixed of the resident able-bodied adult males who may be taken at any one time for compulsory labour. The proportion is thus 25 per cent., as laid down in the Convention. The other provisions of the Article are covered by the Orders of 29 May 1933.

*French West Africa.* — Effect is given to the first paragraph of the Article by the General Order of 28 September 1938, while Circular No. 524 provides for its application to tax labourers. The same General Order provides for the application of paragraphs (a) and (b) of the Article, but not, however, to tax labour. The provisions of Article 11 (c) and (d) and of the last paragraph are not applicable to French West Africa, where forced labour is only used for transport purposes and as tax labour, and where the authority of the Governor-General is required for any recourse to forced labour. Thus no proportion has been fixed of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour. Such action would be taken if there was any intention of using forced or compulsory labour for other than the purposes mentioned.

*Indo-China.* — § 15 of the Order of 6 February 1932 is to the following effect: "Able-bodied adult males belonging to the various races of Indo China, and French subjects or protected peoples between the ages of 18 and 45 years may be liable to compulsory labour. In no case, however, shall the following be required to perform compulsory labour — (1) Natives who have served with the colours beyond the frontiers of Indo-China during the war or since the war in external operations; (2) Native officials and notables; (3) Native holders of a French or colonial decoration; (4) Teachers in State or private schools; (5) Pupils in State or private schools; (6) Ministers of religion, etc.; (7) Traders holding a licence of \$10 or more; (8) Permanent workers or employees; (9) Widowers with minor children dependent upon them." It is also provided that, wherever possible, the workers shall be medically examined at the place of concentration or at their arrival at employment, so as to ascertain their state of health, immunity from infectious disease and fitness for employment. In small undertakings where such an examination cannot be arranged, the officers entrusted with calling out the labour and with the supervision of employment are required to ascertain that the workers are similarly fit for employment. They are also responsible for seeing that in no case women or children are called upon (§ 13 of the Order of 5 February 1932, §§ 17 and 18 of the Order of 6 February 1932). The number of compulsory labourers may not at any one time exceed a quarter of the permanent masculine population residing in the village or commune. Compulsory labour may only be called upon at times when agricultural operations are not being performed. In calling upon such labour, account must be taken of the economic necessities of the district (§ 14 of the Order of 5 February 1932). Special accommodation is reserved for workers who are accompanied by their wives and children (§ 21 of the Order of 5 February 1932).

*Madagascar.* — Local Orders of 5 March 1932 fix the proportion of the male population which may be taken at any one time for forced or com-

pulsory labour. The limits fixed in these Orders are more favourable than the terms of the Convention. Age limits are fixed at between 20 and 40 years instead of between 18 and 45 years as fixed in the Convention.

*New Caledonia.* — The proportion of workers who may be taken at any one time for forced or compulsory labour may not exceed 5 per cent. of the able-bodied male population.

*Togoland under French Mandate.* — The Order of 13 January 1937 concerning tax labour provides that only able-bodied male adults between 18 and 60 years of age shall be liable to such taxation. The rules laid down in Article 11 of the Convention are followed as far as possible. In particular the health of the tax labourers receives the strict attention of the local authorities. Nevertheless, the proportion of resident able-bodied males who may be taken at any one time for forced or compulsory labour has not been prescribed in the manner provided in Article 23 of the Convention. The question is now being studied. It appears, however, from the first reports that the current practice is not to use at any one time more than 5 per cent. of the able-bodied male population.

## ARTICLE 12.

The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.

Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

*France.* — The following information is supplied.

*French West Africa.* — Effect is given to the first paragraph of Article 12 by § 8 of the General Order of 28 September 1938. Action was unnecessary in the case of tax labour (*prestations*), as the number of days of labour due by tax-payers is limited to 10 by the basic texts. This labour, moreover, is the subject of a reservation on the part of the French Government and the administration would therefore be entitled not to apply the provisions of the Article in the case of public works of general importance. The obligation to furnish a certificate to the workers is covered for compulsory transport services by § 9 of the Order of 28 September 1938 and also figures in Circular No. 524 concerning tax labour.

*Indo-China.* — Under § 15 of the Order of 5 February 1932, the maximum period of forced labour is fixed by the Governor-General. In no case, however, may this maximum exceed 60 days in the year (30 for Tonkin), including the time required for going to and from the place of work. Under §§ 16 and 17 the workers receive individual receipts for the labour performed or stamps which are affixed to their tax cards. General supervision is assured by the provincial officer, who ascertains by village or commune the number of men called upon, the number of days worked, the nature of the work, and the dates of employment.

For *Madagascar*, see under ARTICLE 18.

*Sudan (Voluntary Report).* — The Local Government (Rural Areas) Ordinance of 1937 which, under § 10.1 (j), permits compulsory labour on the making and maintenance of public works for local benefit, limits the period of labour to ten days in the year.



## ARTICLE 13.

The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime voluntary labour.

A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

*France.* — The following information is supplied:

*French West Africa.* — As regards tax labour (*prestations*), the application of the provisions of this Article is prescribed in Circular No. 524. As regards compulsory labour for transport purposes, the special rules contained in Article 18 of the Convention are applied.

*Indo-China.* — The requirements of this Article are enforced by §§ 23, 24 and 31 of the Order of 5 February 1932. Maximum hours of work are fixed at 9 in the day and the normal working hours are required to be the same as those prescribed in the case of voluntary labour. Overtime may only be worked in exceptional urgencies and is remunerated at time and a half rates. Provision is made for weekly rest and for rest on customary holidays.

## ARTICLE 14.

With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.

In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.

The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.

For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.

Nothing in this Article shall prevent ordinary rations being given as part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

*Please state in particular what steps have been taken towards the introduction of payment of wages in accordance with the second paragraph of this Article.*

*France.* — The following information is supplied:

*French West Africa.* — The provisions of the first, third and fourth paragraphs are contained in the General Order of 28 September 1938 concerning transport, to which work these provisions are alone applicable. The second and fifth paragraphs are not applicable in the circumstances of French West Africa.

*Indo-China.* — The provisions of the Article are applied by §§ 26, 27 and 30 of the Order of 5 February 1932, which are to the same effect as paragraphs 1, 3, 4 and 5 of the Convention.

*Madagascar.* — The only form of compulsory labour at present permitted (the transport of Government officers and goods) is remunerated in accordance with the provisions of the Order of 5 March 1932. Porters may receive bonuses in addition to wages. The rates of both payments are fixed annually by Order of the Governor-General after consultation of the Central Labour Office.

*New Caledonia.* — Persons called upon to perform compulsory labour for public purposes are remunerated, the wage rates being fixed by Order of 8 February 1938.

*Togoland under French Mandate.* — The Article is not applied as forced or compulsory labour is only employed in the cases covered by Article 10, which was excluded from the instrument of ratification.

## ARTICLE 15.

Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.

In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

*France.* — The following information is supplied:

*French West Africa.* — The General Order of 28 September 1938 provides for the grant of pensions to forced porters or their heirs in the case of accident, sickness or death. Circular No. 524 on tax labour (*prestations*) contains the same directions.

*Indo-China.* — § 36 of the Order of 5 February 1932 extends to forced workers the laws concerning health and medical attention. Under § 34, repatriation is compulsory. The report states that it goes without saying that when workmen's compensation is introduced no distinction will be made between forced and free workers and that already grants are regularly paid to victims of industrial accidents on works employing compulsory labour.

## ARTICLE 16.

Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.

In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

When such transfer cannot be avoided, measures of gradual habituation to the new conditions of



diet and of climate shall be adopted on competent medical advice.

In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

*France.* — The following information is supplied :

*French West Africa.* — These provisions have no present applicability to French West Africa, where forced or compulsory labour is not used for the execution of important works. For the most important public undertakings, when there is a lack of voluntary labour, resort is had to workers of the second military contingent. In virtue of reservation (a) of the Decree of 12 August 1937 such work is excluded from the application of the Forced Labour Convention.

*Indo-China.* — The Order of 5 February 1932 provides under § 18 for the adoption of special measures of adaptation when forced workers are called upon to perform regular work to which they are not accustomed. Under § 32 the provincial officers concerned are required to assure themselves that all steps have been taken in regard to housing and the provision of rations, water, fuel and cooking utensils.

#### ARTICLE 17.

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself :

(1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals, and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory :

(2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers ;

(3) that the journeys of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport ;

(4) that in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration ;

(5) that any worker who may wish to remain as voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.

*France.* — The following information is supplied :

*French West Africa.* — The provisions of this Article are not at present of any practical utility in French West Africa. The Governor-General is alone authorised to permit recourse to forced labour except in very special cases (transport,

compulsory cultivation in cases of famine or food shortage).

*Indo-China.* — The Order of 5 February 1932 provides for preliminary medical examination (§ 13), welfare at the place of employment, including the appointment of a medical officer or medical orderly at distant and important workplaces (§ 33), and the repatriation of the worker in the event of his permanent or prolonged incapacity (§ 34). Under § 20 it is provided that the necessary measures shall be taken by the administration to facilitate the remittance of part of the wages of the worker to his family at the request or with the consent of the workers. Under § 29 the administration pays the cost of the journeys of the workers to and from the workplaces. The only provision which is not expressly provided is that allowing the worker who remains as a volunteer at the end of his period of forced or compulsory labour to retain his right to free repatriation for a period of two years. This provision does not appear to be of any practical value in Indo-China, as the workers may only be employed in the neighbourhood of their home villages.

#### ARTICLE 18.

Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, *inter alia*, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.

The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

*Please state what steps have been taken towards the abolition of forced or compulsory labour for the transport of persons or goods.*

*Please summarise the provisions of the regulations made in accordance with the Article.*

*France.* — The following information is supplied :

*French Equatorial Africa.* — The Order of 29 May 1933 concerning compulsory labour for transport

limits the employment of such labour to the transport of Government officers and stores. Porters and boatmen called upon to perform such services are required to be physically fit and within the age limit of 18 and 45 years. The maximum is fixed at 25 kgs., and the maximum daily distance 25 kms.

*French West Africa.* — The provisions of Article 18 are applied by the General Order of 28 September 1938. Transport by compulsory labour is only permitted when mechanical means of transport or animals cannot be used (§ 1) and in the event of the absolute impossibility of obtaining voluntary labour (§ 2). The report states that these provisions will suffice to secure the progressive abolition of this form of forced labour. It is materially impossible to suppress it radically at present, although in practice it is only used for government officers on tour, these officers being required to visit districts far from any means of communication or at times when such communications are impracticable and animals are unprocureable. Where animals can be used, the transport of persons by litter may only be used for women, children, men over 45 years and the sick (§ 3 of Order of 28 September 1938). Workers employed are required to be medically examined when possible, and when examination is not practicable the person employing such workers is responsible for ensuring that they are physically fit. Age limits are 18 and 45 years (§ 4). The maximum load is fixed at 25 kgs. (§ 6). Except in cases of *force majeure*, workers may not be taken greater distances than those separating the headquarters of two districts (§ 7). The maximum period of service is 60 days in the year, including the days spent in returning home (§ 8). Normal hours of march are fixed at 6, with extra remuneration for overtime (§ 9).

*Indo-China.* — The policy of road construction has permitted the progressive abolition of this form of forced labour, which since 1933 has been prohibited in the provinces of Thanh-Hoc, Pleiku, Upper Donnai, Binhuan and a part of Kontum in Annam. In Tonking, in the upper provinces where forced transport is alone permitted it is in practice used exceptionnally for the supplying of distant and poorly served administrative posts. The Order of 6 February 1932 concerning compulsory labour for transport defines the conditions under which officials travelling on duty are entitled to use compulsory labour. Their baggage is limited, according to class, at from 30 to 60 kgs. (§§ 1-3). Persons other than officials may only be granted transport by compulsory labour in the event of accident or sickness (§ 15). Medical examination is required when possible (§ 17). The maximum load is 15 kgs. (§ 10); the maximum distance to which porters, etc. may be taken from the place of recruiting is 100 kms. (§ 21). The report states that as far as possible the normal daily journey corresponds at a maximum to an eight-hour working day; extra hours are remunerated at rates of time-and-a-half. Wages are paid in cash and direct to the workers immediately after their services are completed; half-rates are paid for the return journey (§ 23). The Order of 5 February 1932 fixes the maximum period of service at 60 days in the year and provides that not more than one quarter of the able-bodied male population may be taken from any village or commune (§§ 14 and 15).

*Madagascar.* — The Order of 5 March 1932 concerning compulsory labour for transport purposes limits such labour to government purposes, where mechanical means of transport or animals cannot be used and when the local transport service testifies that voluntary labour is not available (§§ 1 and 2). The maximum period of service is 45 days in the year, including return journeys (§ 4). Medical examination is compulsory (§ 6).

*New Caledonia.* — Porterage labour is not employed.

*Togoland under French Mandate.* — Compulsory labour is not used for the transport of persons or stores.

*Netherlands.* — Under the Ordinance of 3 December 1934, which came into operation on 1 February 1938, compulsory labour for the transport of military forces on the march was excluded from the *Heerendiensten* Regulations. See also under ARTICLE 10.

#### ARTICLE 19.

The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the produce or any profit accruing from the sale thereof remains the property of the community, to perform the work demanded by the community by virtue of law or custom.

*France.* — The Decree of 12 August 1937 adds cultivation for the purpose of experimental agricultural instruction to the compulsory cultivation permitted by the Convention.

*French West Africa.* — By Circular No. 525 the right to require compulsory cultivation is delegated to the heads of the colonial Governments. Such cultivation, however, may be imposed only as a precaution against famine or food shortage, if it does not take the workers from their homes and subject to the condition contained at the end of the first paragraph of the Article.

#### ARTICLE 20.

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

*France.* — French colonial legislation in no case provides for collective punishment.

#### ARTICLE 21.

Forced or compulsory labour shall not be used for work underground in mines.

*France.* — This provision has no practical bearing on French colonies other than Indo-China.

*Indo-China.* — § 19 of the Order of 5 February 1932 prohibits compulsory labour for underground work.

## ARTICLE 22.

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of Article 408 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

*Please supply the information mentioned in this Article, in so far as such information has not already been furnished in connection with other Articles.*

*Australia.* — In the *Mandated Territory of New Guinea* 76 Natives were prosecuted during the period under review for failure to carry out instructions to tend their crops. In all, 47 were sentenced to one month's imprisonment each, 10 were fined 10s., and 19 fined 5s. For *Papua*, the total number of porters engaged during the period under review as forced labourers was 171. The total number of convictions for refusal to labour was 157.

*France.* — The following information is supplied :

*French Equatorial Africa.* — Since the promulgation of the Convention forced labour has only been authorised on one occasion. The Order of 15 January 1938 authorised compulsion in the Estuary Province to complete road work which is necessary to establish land communications between Libreville and the Province of Woleu-N'Tem. The Order contains all the information required by the Convention. The work necessitates the employment of a maximum of 2,000 men for 90 days each, the total population being approximately 40,000.

*French West Africa.* — Detailed information for 1938 can only be furnished in 1939. All necessary instructions to enable this information to be supplied by the central Government of French West Africa have been given to the local Governments by Circulars Nos. 524 and 525.

*Indo-China.* — The report states that no special information appears necessary concerning the employment of compulsory labour. The administration uses such labour to a decreasing extent

and only for portage purposes in distant mountainous regions. The heads of the local administrations have not made any unfavourable reports on the attitude of the peoples still liable to compulsory labour. The latter regard themselves as sufficiently protected by the provisions of the Order of 6 February 1932.

*New Caledonia.* — In work imposed under § 2 of the Order of 15 June 1932 cases of death or sickness are exceptional or non-existent. Hours of work have never exceeded nine in the day. In all cases wages have been paid regularly to each individual worker.

*Togoland under French Mandate.* — The Article is not applicable in the case of the forced or compulsory labour employed as under Article 10 of the Convention, in regard to which a reservation was made in the instrument of ratification. Reports, however, from the local administrations show that there have been no deaths or sickness on the tax labour (*prestations*) undertakings, only able-bodied men having been called upon to work and that only for very short periods (two to eight days in the year).

*Great Britain.* — The following information is supplied :

*Gold Coast.* — No unpaid compulsory labour, other than for minor communal services, was employed during the period under review. See also, however, under Article 10.

*Kenya.* — During the period under review, the number of men employed was 944 representing a total of 2,825 man-days. The reduction of the number of men employed compared with the previous year amounting to 1,762 and the reduction of man-days amounting to 1,814 indicate that the policy of abolishing porter transport is rapidly being carried out.

*Nigeria.* — No forced or compulsory labour has been exacted by chiefs or by the administration for transport or other purposes, nor has any such labour been exacted as tax or for the execution of public works. In regard to the services mentioned under Article 2 as exempt from the provisions of the Convention, a total of 9,720 men were employed to prevent the spread of sleeping sickness. This total includes 5,400 men employed in Katsina Province for between three and 30 days, 3,520 employed in Sokoto Province for an average of five days, 500 in the Benue Province for a maximum of seven days, and 300 in Zaria Province for an average of seven days. In regard to the dispersal of locusts, 24,430 men were employed in Katsina Province for an average of six days, and 4,000 in the Benue Province for periods ranging from a few hours to a maximum of 28 days.

*North Borneo.* — The report supplies the following statistical information :

	East Coast Residency	West Coast Residency	Whole State
Total number of persons compulsorily employed as carriers	1,382	12,042	13,424
Average number of days each person employed	5.00	1.80	2.13
Normal working hours	6 to 8	3 to 8	3 to 8
Rate of daily remuneration	30 cents	30-35 cents	30-35 cents
How paid	By cash through Government Officers	By cash through Government Officers	By cash through Government Officers
Deaths	Nil	Nil	Nil
Sickness	Nil	Nil	Nil

*Nyasaland.* — No forced labour was employed during the period under review otherwise than on minor communal services which are exempt from the stipulations of the Convention.

*Sierra Leone.* — All labour was voluntary and paid.

*Tanganyika.* — The total number of compulsory labourers requisitioned in the territory during the period under review is shown in the table below in comparison with those of previous years :

(1) Porters	Number Employed	Man-days worked
1934/35	6,858	18,377
1935/36	5,303	14,274
1936/37	2,258	9,723
1937/38	2,280	6,996
(2) Others	Number employed	Man-days worked
1934/35	241	927
1935/36	262	2,971
1936/37	1,056	6,988
1937/38	1,777	57,317

Although there has been a slight increase in the number of porters requisitioned there is again a substantial decrease (approximately 28 %) in the number of man-days worked. On the other hand several emergency works and the construction of a new link road in the Lake Province had to be carried out by requisitioned labour, with the result that the number of labourers compelled to work at tasks other than portage shows a considerable increase. In the Northern Province 157 men had to be called out for two days each when a large fire occurred in the Meru Forest Reserve. In the Western Province it was found necessary to employ 375 men on behalf of the Native Author-

ities for short periods of from one to three days, near their homes, for repairs to roads and Native Administration buildings. In the Lake Province 870 men were requisitioned on behalf of Government Departments and 375 for the Native Authorities. In regard to the former 70 men had to be requisitioned in the Musoma District for urgent road repairs which were necessitated by flood damage. The remaining 800 were employed on road construction in the Bukoba District after unsuccessful efforts had been made to obtain volunteers, primarily due to the comparative prosperity of the local tribes who are able to meet their normal requirements out of the proceeds of agricultural pursuits. In this particular case economic development was being seriously hampered by the absence of direct communication with the tin-fields, which are the natural market for the produce of the area. The road was also urgently needed for administrative purposes. The 375 labourers requisitioned in the same District on behalf of the Native Authorities were employed on urgent repair work on Native Administration roads, bridges and buildings.

The following table shows the total of labour for all purposes requisitioned by Native Authorities during the period under review, in comparison with those of previous years.

(1) Porters	Number Employed	Man-days worked
1934/35	446	716
1935/36	325	548
1936/37	319	691
1937/38	155	384
(2) Others	Number Employed	Man-days worked
1934/35	160	642
1935/36	76	1,455
1936/37	238	450
1937/38	750	6,903

	Number employed	Total number of man-days worked	Nature of work	Number of convictions		Number of deaths	Number of sick	Average number of hours worked per day	Rate of wages
				Fined	Imprisoned				
A. Labour requisitioned on behalf of Government Departments.									
I. Porters									
(1) Southern Highlands Province	264	843	Transport of loads of officers on tour.	—	1	—	—	4	-/50
(2) Eastern Province	972	3,157	Transport of specie and Government loads.	—	—	—	—	5	-/45 to -/60
(3) Northern Province	512	1,830	Transport of loads of officers on tour.	—	—	—	7	5	-/50
(4) Lake Province	377	782	Transport of loads of officers on tour.	5	—	—	—	4	-/50
2,125 6,612				5	1	7			
II. Others									
(1) Northern Province	157	314	Fire fighting in Meru Forest Reserve.	—	—	—	—	8	-/30
(2) Lake Province	870	50,100	Road construction and repair work.	2	—	—	—	6	-/40
1,027 50,414				2	—	—			

	Number employed	Total number of man-days worked	Nature of work	Number of convictions		Number of deaths	Number of sick	Average number of hours worked per day	Rate of wages
				Fined	Imprisoned				
<b>B. Labour requisitioned on behalf of Native Authorities.</b>									
<b>I. Porters</b>									
(1) Western Province	25	100	Transport of Native Administration loads.	6	—	—	—	4½	-/85
(2) Northern Province	16	39	Transport of tax money	—	—	—	—	4	-/40
(3) Lake Province	114	245	Transport of tax money; carrying corpses.	6	1	—	—	4	-/40
	155	384		12	1				
<b>II. Others</b>									
(1) Western Province	375	850	Road work and Native Administration buildings.	87	—	—	—	5	-/35
(2) Lake Province	375	6,053	Road and building repairs. Native Administration Plantations.	40	—	—	—	8	-/40
	750	6,903		127	—	—	—		
<b>C. Labour exacted in lieu of payment of tax.</b>									
(1) Southern Highlands Province	74	2,554	Sanitation and Station improvements.	—	1	—	—	7	Tax ticket
(2) Tanga Province	3,145	97,508	Stone breaking; Maku-ti making; Town Sanitation; Road repairs.	—	35	3 Lobar pneumonia Cerebral Hæmorrhage	75	8	Tax labour tickets plus rations
(3) Southern Province	924	24,448	Road repairs. Minor works.	—	5	—	31	8	Tax labour tickets plus rations
(4) Eastern Province	2,362	79,786	Upkeep of roads and stations.	1	109	—	147	8	-/25 to -/35
(5) Western Province	255	8,374	Road work.	—	22	—	—	8	Tax labour tickets
(6) Northern Province	559	21,520	Maintenance of roads; Upkeep of Stations.	—	16	—	9	8	Arusha and Masai -/40 Moshi -/30 Mbulu -/33 and posho. Tax labour tickets issued after specified number of days worked.
(7) Central Province	1,103	46,242	Road maintenance, station improvements, stone breaking.	—	78	1	42	7	Tax labour tickets
(8) Lake Province	1,660	68,898	Station Upkeep; road and building construction; reclamation of swamp. Extension of aerodromes.	—	40	—	—	8	Tax labour tickets
	10,082	349,330		1	306	4	304		

*Uganda.* — The report gives the following statistical information. The figures show a further decrease in regard to the employment of forced

or compulsory labour. The explanatory notes to the table are not reproduced as they are the same as last year.

	Buganda Province	Eastern Province	Northern Province	Western Province
1. Labour called out under ARTICLE 10 exacted by chiefs who perform administrative functions.	29,358	69,969	17,961	67,158
Number of man-days worked.	858,869	1,625,564	497,602	1,716,130
2. Labour called out under ARTICLE 18 for transport	779	4,496	10,122	2,669
Number of man-days worked.	1,623	4,496	10,122	3,061
3. Labour called out for any other form of compulsory labour.	—	—	—	—
4. Nature of work performed.	<p>1. The labour under 1 above was employed on construction and maintenance of Native Administration buildings, roads and bridges, etc.</p> <p>2. The labour under 2 above was employed on the transport of the effects of Officers and chiefs on tour.</p>			
5. Health.	Good — 1 death resulting from a motor accident which occurred whilst deceased was working on the road.			
6. Hours of work.	<p>(1) Task work, commencing 7 a.m., usual hour of completion of task 12 noon-1 p.m.</p> <p>(2) Non-task work, 7 a.m.-4 p.m. with a break at midday.</p>	7.30 a.m.-4 p.m. with a break at midday. Transport depends on distance and nature of country.	7 a.m. to 3 p.m. with a break at midday. Transport according to distance and nature of country but not more than 5 hours a day.	<p>(1) Task work as in Buganda.</p> <p>(2) Non-task work, 7 a.m.-4.30 p.m. with a break at midday.</p> <p>(3) Transport, maximum of 5 hours per day and no transport between the hours of 11 a.m. and 3 p.m.</p>
7. Payment.	1 above, 40 cents per day or Shs. 12/- per month. Transport, paid on arrival in camp: 40 cents a day or 4 cents per mile.	1 above, unpaid. Transport, paid on arrival in camp, 4 cents per mile.	1 above, unpaid. Transport, paid on arrival in camp, 3-4 cents a mile with a minimum of 30 cents per days.	1 above, unpaid. Transport, paid on arrival in camp: 10 cents per hour up to 4 hours, through porters 30-36 cents per day.

*Netherlands.* — The following table is supplied, showing *heerendiensten* in the Outer Provinces of the Netherlands Indies.

Residencies	Persons liable	Number of commu- tations	No. of Workers	No. of persons liable who neither paid nor worked	Man-Days				Total com- mutations fees in guilders
					Legal maximum		Actually imposed		
					per worker	Total	Total	Per worker	
<i>Native States</i>									
East Coast of Sumatra	169,326	109,896	36,609	22,821	12-24	839,197	764,575	18	348,902.85
Atjeh and dependencies	136,161	32,793	91,030	12,338	15	1,365,450	1,365,126	15	98,374.09
Riouw and dependencies	25,224	19,673	1,321	4,230	24	31,704	29,898	21	152,988.76
Western districts of Borneo	115,530	25,878	82,872	6,780	20	1,657,445	1,492,145	19	215,303.73
Southern and eastern districts of Borneo	34,732	4,816	25,377	4,539	20	507,540	353,964	14	9,103.25
Manado	111,022	11,299	94,964	4,759	27	2,576,072	2,111,049	22	68,913.27
Celebes and dependencies	377,886	57,791	310,599	9,496	30	9,317,970	7,133,260	23	234,054.48
Moluccas	65,736	2,087	60,750	2,899	30	1,822,500	1,261,426	21	12,511.50
Timor and dependencies	331,584	29,761	288,918	12,905	32	9,245,376	6,254,501	22	66,211.56
<i>Territories of Direct Government</i>									
Lampung districts	56,388	24,690	22,714	8,984	24	545,136	545,136	24	176,148.94
Palembang	176,800	109,692	49,890	17,218	24	1,197,360	947,668	19	558,663.33
Djambi	43,474	28,581	6,861	8,032	24	164,664	164,171	24	341,686.45
East coast of Sumatra	2,548	173	2,375	—	24	57,000	50,345	21	706.75
Benkoelen	51,267	6,390	38,271	6,606	30	1,148,130	1,040,390	27	36,930.75
West coast of Sumatra	254,859	32,162	150,061	72,636	24	3,601,464	2,770,324	19	120,213.10
Tapanoeli	141,020	42,154	89,799	9,067	25	2,244,975	2,101,563	24	217,939.52
Atjeh and dependencies	26,788	2,847	21,342	2,599	15	320,130	271,106	13	8,542.50
Southern and eastern districts of Borneo	156,337	40,790	83,402	32,145	20	1,668,040	1,249,959	15	188,681.97
Manado	28,114	1,117	21,739	5,258	28	608,692	608,654	28	7,804.50
Celebes and dependencies	128,303	2,067	126,075	161	25	3,151,875	1,879,254	15	6,906.95
Moluccas	67,393	338	67,055	—	24	1,609,320	989,136	15	2,028.00
Timor and dependencies	843	—	676	167	18	12,168	10,910	16	—
Bali and Lombok	287,240	29,874	252,934	4,432	25	6,323,350	4,796,252	19	89,389.20

### ARTICLE 23.

To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.

These regulations shall contain, *inter alia*, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

*Please summarise the provisions of the regulations made in pursuance of this Article, in so far as this has not already been done in connection with other Articles.*

*France.* — The following information is supplied :

*French Equatorial Africa.* — The complete and precise regulations specified in this Article of the Convention are contained in the two Orders applying the Decree of 21 August 1930.

*French West Africa.* — In view of conditions in French West Africa, which are summarised under IV, it has not been thought necessary to draw up the complete and precise regulations provided in Article 23, particularly as the provisions of the Convention which have been promulgated in the territory in themselves constitute a general regulation, directly applicable on more than one point. The legislation adopted in this sphere is therefore of a special character, each text relating to one particular form of forced or

compulsory labour as practised in French West Africa. This legislation is summarised in connection with other Articles. The provisions of the second paragraph of Article 23 have been applied by the Order of 28 September 1938 concerning the employment of compulsory labour for transport. Attention has, moreover, been drawn to them in Circular No. 524 concerning tax labour (*prestations*). A report is required to be made to the head of the colonial administration in regard to any complaints made and the action taken thereon.

*Indo-China.* — The provisions of the Convention are covered by the general legislation in force, the application of which is regulated in detail, as shown under the other Articles.

### ARTICLE 24.

Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour, or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

*Please state what arrangements have been made for inspection, and what measures are taken to bring the regulations to the knowledge of the persons affected.*

*France.* — The following information is supplied :

*French Equatorial Africa.* — § 40 of the Order of 29 May 1933 appoints the inspectors of administrative affairs, the heads of the health departments in each colony and the district and sub-district officers as inspectors of compulsory labour within their respective spheres of jurisdiction. The Order instructs these officers to hear all complaints made by workers and to take decisions thereon, reporting accordingly to the heads of the colonial administrations.

*French West Africa.* — The General Order of 28 September 1938, concerning compulsory labour for transport, nominates the following as inspecting authorities: labour inspectors, inspectors of administrative affairs, heads of the health departments and, within the jurisdiction of the Central Colonial Government, the Central Labour Inspector and the Inspector-General of Sanitary and Medical Services. In the case of tax labour (*prestations*), supervision is already exercised as a normal rule by the inspectors of administrative affairs, acting under the authority of the Governor, apart from the supervision which is exercised by the district officers. The General Order and Circular No. 524 both provide that the rules regulating tax labour and compulsory transport shall be posted outside Government offices and at every important place of work.

*Indo-China.* — Under the direction and responsibility of the heads of the local administrations and under the control of the Inspector-General of Labour, the local labour inspectors and provincial officers are entrusted, in accordance with § 37 of the Order of 5 February 1932, with the protection of compulsory workers and the application of the relevant laws. In addition, the local health directors in liaison with the labour inspectorate are, under § 38, permanently entitled to supervise any matter connected with the health or safety of workers taken for compulsory labour.

*Madagascar.* — It is stated that it has not been deemed necessary to set up a service for the inspection of forced or compulsory labour, as such labour is only employed for Government purposes and under the control of officers of the Government.

*New Caledonia.* — It is part of the functions of the Government service of Native Affairs to centralise, study and regulate any question connected with compulsory labour for public purposes. The chief of police, the head of the service for Native Affairs and the Inspector of Native Affairs are inspectors of forced or compulsory labour. The Natives are kept informed of their rights by the administration as well as by the Catholic and Protestant missions.

#### ARTICLE 25.

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

*France.* — The French Government states that this recommendation appears unnecessary, as compulsory labour may only be used for public purposes.

*Sudan (Voluntary Report).* — There have been some half dozen investigations into alleged offences and five persons have been convicted under the Sudan Penal Code.

#### IV.

*Please give a general appreciation of the manner in which the Convention is applied in the several territories, and of the progress made towards the suppression of forced or compulsory labour in all its forms.*

*France.* — In the colonies, other than those mentioned below, no detailed information is given, but it is stated that the application of the Convention has presented no difficulties and calls for no particular comment.

*French Equatorial Africa.* — It is held that, after the promulgation of the Convention, there was no need to amend the existing legislation, constituted by the Order of 14 February 1931 and the two Orders of 29 May 1933. Although, chiefly owing to the lack of means of communications, the territory has not yet advanced as rapidly as most other African territories, the Convention is applied in a very strict manner. Only once has there been any necessity to call out compulsory labour. In this one case, a road was being constructed which is essential for the development of the country and which will lead to an appreciable reduction in portage (see under Article 22). The development of the road system and the improvement of means of communications, which have been actively pursued during the last few years, will open up immense regions to economic development. The Natives will be brought, in their own interests, to understand the importance and necessity of works of public interest and there is every reason to believe that recourse to compulsory labour will no longer be necessary.

*French West Africa.* — Subject to the reservations contained in the Decree of 12 August 1937, the Convention has been fully applied. Of the forms of forced labour so regulated by the Convention, use has only been made of labour for transport purposes. There is no present intention of using other forms of forced labour in the near future. On the contrary, the whole efforts of the central colonial government are directed towards the encouragement of the voluntary labour supply by the improvement of conditions of employment and by the organisation of employment exchanges. The execution of public works has been assured through tax labour (*prestations*) and the second military contingent. In early 1937 the use of forced labour was contemplated on the Ivory Coast, but the efforts of the local administration made it possible to avoid any such exceptional measure. As regards tax labour, although in virtue of the reservation on this point no action was obligatory, the central government has endeavoured, where local circumstances permit, to reduce such labour. As from 1 January 1938 tax labour has been abolished in 25 out of the 109 circles of the confederation, and as from 1 January 1939 the same action will be taken in an appreciable number of additional circles.

*Indo-China.* — The Orders of 5 and 6 February 1932 and of 11 May 1933 were in force before the promulgation of the Convention, and no further legislative action has been deemed necessary. The Order of 11 May 1933 enumerated the following districts as closed to forced or compulsory labour: all Cochinchina and Cambodia, all Tonking except the Provinces of Lang-Son, Bac-Kan, Yen-Bay and Son-La and the second, third and fourth military territories, and, finally, in Annam, the concession of Tourane, the Provinces of Binh-Dinh, Ha-Tinh, Khanh-Hoa, Nghê-An, Phan-Rang, Phu-Yên, Quang-Binh, Quang-Nam, Quang-Tri, and Thua-Thien and part of the Provinces of Bin-Thuan, Kontum, Quang-Ngai, and Thanh-Hoa. With the development of communications to these districts in Annam have been



added the Provinces of Thanh-Hoa, Pleiku, Upper Donnai and Bin-Thuân. Forced labour is only used in mountainous districts for the construction of roads which will open up the districts and for the supply of victuals to distant posts. It is to be presumed that in a few years forced labour will have entirely ceased in Indo-China. In 1937 in Laos, where alone such labour is in practise used, only 1,425 workers were called upon for a total of 26,321 man-days in transporting government officers and stores.

*Mandated Territories of the Cameroons and Togoland.* — Forced labour for public works has never been used in Togoland, and in the Cameroons only between 1922 and 1927, when 6,000 men were employed on the extension of the Central Railway to Yaoundé. Compulsion for government transport is very often unnecessary. In the southern districts portage is now only a memory. The payment of the labour tax (*prestations*) in labour is optional, and, as notified by the local authorities each year, the workers concerned may meet their obligations by payments in money or kind. In some districts the taxpayers are prosperous financially and all pay the labour tax in money. Except for cases of *force majeure*, such as sudden catastrophes, forced or compulsory labour is disappearing completely.

*Liberia.* — To previous information concerning road labour in the Hinterland the statement is added that the inhabitants are citizens of the Republic, in full exercise of their franchise, and that all the laws and regulations are made by them through their duly elected representatives in the National Legislature.

*Sudan (Voluntary Report).* — The general situation remains satisfactory. No trade unions or organisations of workers or of employers exist. An account is given of two episodes in the nature of labour disputes. These episodes, however, appear to be concerned with voluntary labour.

## V.

*Please state whether decisions have been given by courts of law or other courts regarding the application of the Convention. If so, please supply the text of such decisions.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

Except for certain information concerning prosecutions for failure to fulfil labour obligations or for the illegal exaction of forced labour (see under ARTICLES

22 and 25), the reports either do not mention any decisions of the courts or state that no such decisions were given.

## 30. Convention concerning the regulation of hours of work in commerce and offices.

Article 14 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered".

The Convention came into force on 29 August 1933. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Bulgaria . . . . .	22. 6. 1932	2. 12. 1938
Chile . . . . .	18. 10. 1935	2. 2. 1938
Cuba . . . . .	24. 2. 1936	17. 11. 1938
Finland . . . . .	13. 1. 1936	5. 11. 1938
Mexico . . . . .	12. 5. 1934	26. 11. 1938
Spain . . . . .	29. 8. 1932	
Uruguay . . . . .	6. 6. 1933	6. 2. 1939

The Government of *Mexico* states in its report that an Act fixing the Civil Servants' Statute, which was approved by the Chamber of Deputies on 6 September 1938 has de facto come into force and is pending publication in the *Diario Oficial*. The Government adds that it has not yet been able to combine in a single text all regulations concerning the conditions of work of employees in the postal and telegraph services. Formal regulations on this subject will be issued as soon as Congress approves the new Act concerning general means of communication.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* states that the observations made by the Committee of Experts in the past with regard to the divergencies between Articles 5 and 7 of the Convention and the national legislation will be taken into account

when the revision of the existing laws and regulations which has been ordered by the Minister is undertaken.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Bulgaria.

Decree No. 9,844 of 26 May 1936 concerning hours of work in commercial establishments, amended and supplemented by Decree No. 13,272 issued on 20 July 1936 (L. S. 1936, Bulg. 2).

Act of 28 January 1922 concerning civil servants, (§ 27) with subsequent amendments.

### Chile.

Legislative Decree No. 178 of 13 May 1931, to ratify the Labour Code, Book I, Part IV (L. S. 1931, Chile 1).

Decree No. 969 of 18 December 1933, issuing administrative regulations in application of Book I, Part IV of the Labour Code.

Decree No. 702 of 8 June 1935 to approve the Regulations for hours of work in railway undertakings (superseding Decree No. 224 of 16 March 1932) (L. S. 1932, Chile 1).

### Cuba.

Decree No. 1693 of 19 September 1933 respecting the eight-hour day.

Decree No. 2513 of 19 October 1933 issuing general regulations for the administration of the above Decree, amended by Decrees No. 2699 of 11 November 1933, No. 2940 of 2 December 1933 (L. S. 1933, Cuba 4), No. 3112 of 12 December 1933, No. 364 of 3 February 1934 (L. S. 1934, Cuba 1) and No. 2309 of 29 July 1937.

Orders of the Secretary of State for Labour, dated 2 March 1934 and 13 May 1935.

Basic Act of the Executive Power, § 239.

### Finland.

Act of 8 December 1934 respecting the conditions of employment in commercial establishments and offices (L. S. 1934, Fin. 4).

Order of 5 December 1935 concerning the application of the Convention.

Act of 4 March 1927 respecting industrial inspection (L. S. 1927, Fin. 1).

### Mexico.

Political Constitution of the United States of Mexico, dated 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

The Government states that the ratification of the Convention and its promulgation by the President of the Republic have the legal effect of converting its provisions into a Constitutional Act, in accordance with the provisions of Article 133 of the Political Constitution.

See also introductory note.

### Uruguay.

Act No. 5350 of 17 November 1915 concerning the 8-hour day for workers and employees (B.B. 1916, vol. XV, p. 29).

Decree of 15 May 1935 issuing administrative regulations in application of the Act.

Act No. 8797 of 22 October 1931 concerning the compulsory weekly half holiday (L. S. 1931, Uruguay 1).

Decree of 26 June 1935 issuing administrative regulations in application of the Act.

Legislative Decree No. 9347 of 13 April 1934 concerning the uniform closing of establishments in certain circumstances.

Decree of 23 May 1934 issuing administrative regulations in application of the Act.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

### ARTICLE 1.

(1) This Convention shall apply to persons employed in the following establishments, whether public or private :

(a) commercial or trading establishments, including postal, telegraph and telephone services and commercial or trading branches of any other establishments ;

(b) establishments and administrative services in which the persons employed are mainly engaged in office work ;

(c) mixed commercial and industrial establishments, unless they are deemed to be industrial establishments.

The competent authority in each country shall define the line which separates commercial and trading establishments, and establishments in which the persons employed are mainly engaged in office work, from industrial and agricultural establishments.

(2) The Convention shall not apply to persons employed in the following establishments :

(a) establishments for the treatment or the care of the sick, infirm, destitute, or mentally unfit ;

(b) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses ;

(c) theatres and places of public amusement.

The Convention shall nevertheless apply to persons employed in branches of the establishments mentioned in (a), (b) and (c) of this paragraph in cases where such branches would, if they were independent undertakings, be included among

the establishments to which the Convention applies.

(3) It shall be open to the competent authority in each country to exempt from the application of the Convention :

(a) establishments in which only members of the employer's family are employed ;

(b) offices in which the staff is engaged in connection with the administration of public authority ;

(c) persons occupying positions of management or employed in a confidential capacity ;

(d) travellers and representatives, in so far as they carry on their work outside the establishment.

*In particular, please indicate any decisions which have been taken for the purpose of defining the line which separates the establishments covered by the Convention from industrial and agricultural establishments.*

*If application has been made of the exemptions provided for in paragraph 3 of this Article, please indicate the categories of persons or establishments exempted.*

*Bulgaria.* — The report does not refer to this point.

*Chile.* — The Government refers in its report to the observation made by the Committee of Experts last year and states that no special legislation exists with regard to the hours of work of employees of State railways, but that, in virtue of § 109, paragraph 2 of the Labour Code, these employees are covered by the provisions of § 138 of the Code which provides that railway undertakings shall be subject to special regulations with respect to hours of work, subject to the general principles laid down in this Code. The report adds that the special regulations in this connection are contained in Decree No. 702 of 8 June 1935 approving the Regulations for hours of work in railway undertakings, which therefore apply to employees of State railways.

*Cuba.* — § VI of Decree No. 2513 exempts from the regulations employees who have a share in the undertaking or an interest in its profits, provided that the sums received by way of salary or share in the profits do not amount to less than 2,400 pesos a year or 200 pesos a month. The report adds that this limit was laid down to prevent non-compliance with the provisions concerning the daily hours of work on the pretext that the persons concerned have a share in the undertaking. Thus, an employee who, although in receipt of a salary amounting to 2,400 pesos a year or 200 pesos a month, has no share in the undertaking, may not take advantage of the exception provided for under § VI of the above Decree. The Government states that so far no line of division has been established between industrial and commercial establishments. The existing legislation applies to commerce and industry alike, exceptions being made for public services and continuous pro-

cesses. Persons employed in agriculture and stock-raising are also excluded. The hours of work of civil servants are from 8 a.m. to 1 p.m. and on Saturday from 8 a.m. to 12 noon.

*Mexico.* — The distinction between public employees and workers in private undertakings which already existed in practice is defined in the Act fixing the Civil Servants' Statute. The provisions of this Act apply to the so-called "basic workers" ("*trabajadores de base*"), that is, to all civil servants with the sole exception of officials employed in a confidential capacity. Persons employed in private cablegram companies are covered by the Federal Labour Act. See also introductory note.

## ARTICLE 2.

For the purpose of this Convention the term "hours of work" means the time during which the persons employed are at the disposal of the employer ; it does not include rest periods during which the persons employed are not at the disposal of the employer.

The reports received contain no fresh information on this point.

## ARTICLE 3.

The hours of work of persons to whom this Convention applies shall not exceed forty-eight hours in the week and eight hours in the day, except as hereinafter otherwise provided.

*Mexico.* — . . . . The 8-hour day, laid down as a fundamental principle in the Constitution, which is embodied in the Federal Labour Act, is also established in the new Act fixing the Civil Servants' Statute. According to its provisions, hours of work shall not exceed 8 in the day (between 6 a.m. and 8 p.m.), 7 at night (between 8 p.m. and 6 a.m.), or 7 ½ in the case of a mixed working day, provided that the period of night work is less than 3 ½ hours. See also introductory note.

## ARTICLE 4.

The maximum hours of work in the week laid down in Article 3 may be so arranged that hours of work in any day do not exceed ten hours.

*Mexico.* — Under §§ 63 and 64 of the new Act fixing the Civil Servants' Statute the general working conditions, including hours of work, shall be determined, after consultation with the civil servants' organisation concerned, at the beginning of each Presidential period of office.

## ARTICLE 5.

In case of a general interruption of work due to (a) local holidays, or (b) accidents or *force majeure* (accidents to plant, interruption of power, light, heating or water, or occurrences causing serious material damage to the establishments), hours of work in the day may be increased for the purpose of making up the hours of work which have been lost, provided that the following conditions are complied with:

(a) hours of work which have been lost shall not be allowed to be made up on more than thirty days in the year and shall be made up within a reasonable lapse of time;

(b) the increase in hours of work in the day shall not exceed one hour;

(c) hours of work in the day shall not exceed ten.

The competent authority shall be notified of the nature, cause and date of the general interruption of work, of the number of hours of work which have been lost, and of the temporary alterations provided for in the working time-table.

*Please indicate what means have been adopted for the purpose of enabling the competent authority to keep informed of any steps taken under the conditions laid down in this Article with a view to making up lost time.*

The reports supplied contain no fresh information in this connection.

## ARTICLE 6.

In exceptional cases where the circumstances in which the work has to be carried on make the provisions of Articles 3 and 4 inapplicable, regulations made by public authority may permit hours of work to be distributed over a period longer than the week, provided that the average hours of work over the number of weeks included in the period do not exceed forty-eight hours in the week and that hours of work in any day do not exceed ten hours.

*If any application has been made of this Article, please supply a list of the regulations made, together with the texts thereof, in so far as they may not already have been communicated under 1 of this report form.*

The reports supplied contain no fresh information in this connection.

## ARTICLE 7.

Regulations made by public authority shall determine:

(1) The permanent exceptions which may be allowed for:

(a) certain classes of persons whose work is inherently intermittent, such as caretakers and persons employed to look after working premises and warehouses;

(b) classes of persons directly engaged in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the hours of work of the rest of the persons employed in the establishment;

(c) shops and other establishments where the nature of the work, the size of the population or the number of persons employed render inapplicable the working hours fixed in Articles 3 and 4.

(2) The temporary exceptions which may be granted in the following cases:

(a) in case of accident, actual or threatened, *force majeure*, or urgent work to machinery or plant, but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment;

(b) in order to prevent the loss of perishable goods or avoid endangering the technical results of the work;

(c) in order to allow for special work such as stock-taking and the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts;

(d) in order to enable establishments to deal with cases of abnormal pressure of work due to special circumstances, in so far as the employer cannot ordinarily be expected to resort to other measures.

(3) Save as regards paragraph 2 (a), the regulations made under this Article shall determine the number of additional hours of work which may be allowed in the day and, in respect of temporary exceptions, in the year.

(4) The rate of pay for the additional hours of work permitted under paragraph 2 (b), (c) and (d) of this Article shall not be less than one-and-a-quarter times the regular rate.

*Please supply a list of the regulations made in accordance with this Article, together with the texts thereof, in so far as they may not already have been communicated under point 1 of this report form.*

*Chile.* — The Government refers in its report to the observation made by the Committee of Experts last year and states that the exceptions authorised by the General Labour Inspectorate under paragraph (1) of this article are only granted in cases which are entirely justified.

## ARTICLE 8.

The regulations provided for in Articles 6 and 7 shall be made after consultation with the workers' and employers' organisations concerned, special regard being paid to collective agreements, if any, existing between such workers' and employers' organisations.

The reports supplied contain no fresh information in this connection.

## ARTICLE 9.

The operation of the provisions of this Convention may be suspended in any country by the Government in the event of war or other emergency endangering national safety.

The reports received contain no fresh information on this point.

## ARTICLE 10.

Nothing in this Convention shall affect any custom or agreement whereby shorter hours are worked or higher rates of remuneration are paid than those provided by this Convention.

Any restrictions imposed by this Convention shall be in addition to and not in derogation of any other restrictions imposed by any law, order or regulation which fixes a lower maximum number of hours of employment or a higher rate of remuneration than those provided by this Convention.

The reports received contain no fresh information on this point.

#### ARTICLE 11.

For the effective enforcement of the provisions of this Convention :

(1) The necessary measures shall be taken to ensure adequate inspection ;

(2) Every employer shall be required :

(a) to notify, by the posting of notices in conspicuous positions in the establishment or other suitable place, or by such method as may be approved by the competent authority, the times at which hours of work begin and end, and, where work is carried on by shifts, the times at which each shift begins and ends ;

(b) to notify in the same way the rest periods granted to the persons employed which, in accordance with Article 2, are not included in the hours of works ;

(c) to keep a record in the form prescribed by the competent authority of all additional hours of work performed in pursuance of paragraph 2 of Article 7 and of the payments made in respect thereof.

(3) It shall be made an offence to employ any person outside the times fixed in accordance with paragraph 2 (a) or during the periods fixed in accordance with paragraph 2 (b) of this Article.

*Please state what measures have been adopted with a view to ensuring adequate inspection for the effective enforcement of the provisions of the Convention.*

*Please attach specimen copies of the notices and forms specified in this Article.*

*Cuba.* — Under § XV of Decree No. 2513 of 19 October 1933, as amended by Decree No. 2,699 of 11 November 1933 and Decree No. 3,112 of 12 December 1933, with a view to facilitating official supervision, every employer shall procure a register with numbered pages, or, where the staff is particularly large, wages lists previously countersigned. These documents must contain particulars as to the hours of work, wages and rest periods of every wage-earning or salaried employee, according to his trade or profession, whether the hours are regular or not. The inspectors attached to the Department of Labour are responsible for the administration of these provisions.

#### ARTICLE 12.

Each Member which ratifies this Convention shall take the necessary measures in the form of penalties to ensure that the provisions of the Convention are enforced.

*Cuba.* — With regard to contraventions, § XVIII of Decree No. 2513 provides that the inspectors shall impose a fine of 10 pesos for the first offence, twenty pesos for the second offence and thirty pesos for the third and every subsequent offence. Employees shall be liable to a fine equal to the amount of the wages for the time improperly worked, and the said fine shall

be collected at the same time and in the same manner as the fine imposed on the employer. If the fine is not paid to the municipal authority concerned within 10 days reckoned from the date of the imposition of the fine, it shall be enforced by the competent criminal magistrate.

*Finland.* — Penalties are provided in case of failure to keep a record of overtime worked. In this connection, the chief inspector of factories by Circular dated 12 November 1937 instructed the labour inspectors to pay special attention to this point ; in case of infringement, unless the offence called for immediate legal proceedings, a further inspection should be made as soon as possible, and in the event of continued neglect by the employer to fulfil his obligations in this respect the inspectors should take immediate steps to deal with the matter.

### III.

*Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace) is as follows :*

(1) The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

1. Except where owing to the local conditions the Convention is inapplicable, or

2. Subject to such modifications as may be necessary to adapt the Convention to local conditions.

(2) And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The reports supplied do not contain any fresh information in this connection.

## IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection, in so far as such information has not already been supplied under Article 11 above.*

*Cuba.* — § 65 of the Act of 6 September 1938 fixing the Civil Servants' Statute provides that civil servants' organisations may appeal to the Arbitration Board if they have substantial objections to the general working conditions which have been fixed. See also under ARTICLE 11.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Chile.* — The report states that numerous decisions regarding the application of the Convention have been given. The text of the two decisions appended to the report refer in particular to the obligation to post up hours of work and to keep a record of all hours worked. The fines imposed amounted to 100 and 200 pesos.

*Mexico.* — The report states that no judicial decisions regarding the application of the Convention have been given but that numerous decisions were given in connection with the corresponding principles in the national legislation.

The remaining reports supplied do not mention any decisions of this kind.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, the number of hours overtime worked in the cases covered by Article 5 and 7 (2) of the Convention, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Bulgaria.* — The Government refers to its report for last year in which it stated that the total number of workers protected by the legislation is about 45,000. The number of cases of infringement reported is 385. No observations have been received from employers' or workers' organisations on the practical application of the Convention or on the national legislation implementing it.

*Chile.* — The Government states that the inspection services' reports show that the provisions implementing the Convention are being satisfactorily observed. The total number of workers protected by the legislation is 113,035. No other statistics are available and no observations have been received from employers' or workers' organisations concerned regarding the practical application of the Convention or the national legislation implementing it.

*Cuba.* — The report states that no observations have been made by employers' or workers' organisations regarding the practical application of the Convention. See under *Convention (Hours of work, industry)*, No. 1, point VII, for information regarding the contraventions reported and the fines imposed in connection with the regulations on hours of work.

*Finland.* — The Inspectorate's report for 1937 states that there were 20,788 commercial establishments and offices with 55,655 employees. Proceedings were instituted in 104 cases of infringement, most of which concerned hours of work or overtime. The employers' and workers' organisations have made proposals with a view to stricter supervision of the application of the provisions regarding hours of work and overtime, and new instructions to that effect have been given to labour inspectors.

*Mexico.* — The report states that no statistics are as yet available, and that no observations have been made by employers' or workers' organisations.

*Uruguay.* — As regards the number of visits of inspection, infringements and fines in connection with the regulations on hours of work, see under *Convention No. 1 (Hours of work, industry)*, point VII.

## SIXTEENTH SESSION (GENEVA, 1932).

**32. Convention concerning the protection against accidents of workers employed in loading or unloading ships (revised 1932).**

Article 20 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 30 October 1934. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Chile . . . . .	18.10.1935	2. 2.1939
China . . . . .	30.11.1935	8. 2.1939
Great Britain . . .	10. 1.1935	28.12.1938
Italy . . . . .	30.10.1933	
Mexico . . . . .	12. 5.1934	26.11.1938
Spain . . . . .	20. 7.1934	
Uruguay . . . . .	6. 6.1933	6. 2.1939

The Government of *Chile* refers to the observations made by the Committee of Experts in 1938 and states in its report that a Decree is in preparation to amend Decree No. 217 of 4 May 1936 so far as it deals with loading and unloading operations in ports, which will take into account the provisions of the Convention.

The report of the Government of *Italy* has not been received.

The report of the Government of *Mexico* states that the Bill to amend the Act on public means of communication is still before Congress. As soon as Congress has passed the Bill regulations which have

already been drafted will come into force, and these will include the provisions of the Convention, which will thus be incorporated in Mexican legislation.

The report of the Government of *Spain* has not been received.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Chile.*

Legislative Decree No. 178 to approve the Labour Code. 13 May 1931 (§§ 244 and 248). (L. S. 1931, Chile 1).

Decree No. 217 of 30 April 1926 to approve the appended regulations respecting industrial hygiene and safety. (Extracts in L. S. 1926, Chile 2).

See also the introductory note.

*China.*

Regulations of 22 April 1937 concerning the protection against accidents of workers employed in loading or unloading ships.

*Great Britain.*

Factory and Workshop Act of 12 August 1901. Explosives Act of 14 June 1875.

Petroleum (Consolidation) Act of 3 August 1928.

The Docks Regulations of 6 March 1925 (in Northern Ireland 1926) (L. S. 1925 G. B. 1).

The Docks Regulations of 5 March 1934 (in Northern Ireland also 1934) (L. S. 1934 G. B. 1).

(The Northern Ireland Code is, save for certain slight differences in the administrative machinery, the same as the Code in Great Britain.)

Model Bye-laws made under the Explosives Act, 1875, and the Petroleum (Consolidation) Act 1928.

The First-Aid Regulations of 10 August 1937.

*Mexico.*

Decree of 2-31 July 1935 implementing the Convention. (*Diario Oficial*, No. 39, 14 August 1935)

*Uruguay.*

Act No. 5032 of 21 July 1914 concerning the prevention of accidents.

Decree of 22 January 1936 in application of the above Act (Chap. XVIII, § 150).

Decree of 10 August 1938 issuing regulations for the prevention of accidents to dockers and seamen.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention :

(1) the term "processes" means and includes all or any part of the work performed on shore or on board ship of loading or unloading any ship whether engaged in maritime or inland navigation, excluding ships of war, in, on, or at any maritime or inland port, harbour, dock, wharf, quay or similar place at which such work is carried on ; and

(2) the term "worker" means any person employed in the processes.

The reports supplied contain no fresh information on this point.

## ARTICLE 2.

Any regular approach over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers using them.

In particular,

(1) every said working place on shore and any dangerous parts of any said approach thereto from the nearest highway shall be safely and efficiently lighted ;

(2) wharves and quays shall be kept sufficiently clear of goods to maintain a clear passage to the means of access referred to in Article 3 ;

(3) where any space is left along the edge of any wharf or quay, it shall be at least 3 feet (90 cm.) wide and clear of all obstruction other than fixed structures, plant and appliances in use ; and

(4) so far as is practicable having regard to the traffic and working,

(a) all dangerous parts of the said approaches and working places (e.g. dangerous breaks, corners and edges) shall be adequately fenced to a height of not less than 2 feet 6 inches (75 cm.) ;

(b) dangerous footways over bridges, caissons and dock gates shall be fenced to a height of not less than 2 feet 6 inches (75 cm.) on each side, and the said fencing shall be continued at both ends to a sufficient distance which shall not be required to exceed 5 yards (4 m. 50).

(5) The measurement requirements of paragraph (4) of this Article shall be deemed to be complied with, in respect of appliances in use at the date of the ratification of this Convention, if the actual measurements are not more than 10 per cent. less than the measurements specified in the said paragraph (4).

*Uruguay.* — This Article is reproduced in § 1 of the Decree of 10 August 1938.

## ARTICLE 3.

(1) When a ship is lying alongside a quay or some other vessel for the purpose of the processes, there shall be safe means of access for the use of the workers at such times as they have to pass to or from the ship, unless the conditions are such that they would not be exposed to undue risk if no special appliance were provided.

(2) The said means of access shall be ;

(a) where reasonably practicable, the ship's accommodation ladder, a gangway or a similar construction ;

(b) in other cases a ladder.

(3) The appliances specified in paragraph (2) (a) of this Article shall be at least 22 inches (55 cm.) wide, properly secured to prevent their displacement, not inclined at too steep an angle, constructed of materials of good quality and in good condition, and securely fenced throughout to a clear height of not less than 2 feet 9 inches (82 cm.) on both sides, or in the case of the ship's accommodation ladder securely fenced to the same height on one side, provided that the other side is properly protected by the ship's side.

Provided that any appliances as aforesaid in use at the date of the ratification of this Convention shall be allowed to remain in use :

(a) until the fencing is renewed if they are fenced on both sides to a clear height of at least 2 feet 8 inches (80 cm.) ;

(b) for two years from the date of ratification if they are fenced on both sides to a clear height of at least 2 feet 6 inches (75 cm.).

(4) The ladders specified in paragraph (2) (b) of this Article shall be of adequate length and strength, and properly secured.

(5) (a) Exceptions to the provisions of this Article may be allowed by the competent authorities when they are satisfied that the appliances specified in the Article are not required for the safety of the workers.

(b) The provisions of this Article shall not apply to cargo stages or cargo gangways when exclusively used for the processes.

(6) Workers shall not use, or be required to use, any other means of access than the means specified or allowed by this Article.

*In addition, please give detailed information regarding the exceptions, if any, allowed by the competent authorities under paragraph (5) (a) of this Article, forwarding the texts of any regulations, etc., which may have been issued for this purpose.*

*Uruguay.* — § 2 of the Decree of 10 August 1938 reproduces the provisions of this Article.

## ARTICLE 4.

When the workers have to proceed to or from a ship by water for the processes, appropriate measures shall be prescribed to ensure their safe transport, including the conditions to be complied with by the vessels used for this purpose.



*Please give full information regarding the measures which have been prescribed under this Article, forwarding the texts of the relevant legislation, administrative regulations, etc.*

*Uruguay.* — The provisions of the Article are reproduced in § 3 of the Decree of 10 August 1938.

#### ARTICLE 5.

(1) When the workers have to carry on the processes in a hold the depth of which from the level of the deck to the bottom of the hold exceeds 5 feet (1 m. 50), there shall be safe means of access from the deck to the hold for their use.

(2) The said means of access shall ordinarily be by ladder, which shall not be deemed to be safe unless it complies with the following conditions :

(a) provides foothold of a depth, including any space behind the ladder, of not less than 4½ inches (11½ cm.) for a width of not less than 10 inches (25 cm.) and a firm handhold ;

(b) is not recessed under the deck more than is reasonably necessary to keep it clear of the hatchway ;

(c) is continued by and is in line with arrangements for secure handhold and foothold on the coamings (e.g. cleats or cups) ;

(d) the said arrangements on the coamings provide foothold of a depth, including any space behind the said arrangements, of not less than 4½ inches (11½ cm.) for a width of not less than 10 inches (25 cm.) ;

(e) if separate ladders are provided between the lower decks, the said ladders are as far as practicable in line with the ladder from the top deck.

Where, however, owing to the construction of the ship, the provision of a ladder would not be reasonably practicable, it shall be open to the competent authorities to allow other means of access, provided that they comply with the conditions laid down in this Article for ladders so far as they are applicable.

In the case of ships existing at the ratification of this Convention the measurement requirements of sub-paragraphs (a) and (d) of this paragraph shall be deemed to be complied with, until the ladders and arrangements are replaced, if the actual measurements are not more than 10 per cent. less than the measurements specified in the said sub-paragraphs (a) and (d).

(3) Sufficient free passage to the means of access shall be left at the coamings.

(4) Shaft tunnels shall be equipped with adequate handhold and foothold on both sides.

(5) When a ladder is to be used in the hold of a vessel which is not decked it shall be the duty of the contractor undertaking the processes to provide such ladder. It shall be equipped at the top with hooks or with other means for firmly securing it.

(6) The workers shall not use, or be required to use, other means of access than the means specified or allowed by this Article.

(7) Ships existing at the date of ratification of this Convention shall be exempt from compliance with the measurements in paragraph (2) (a) and (d) and from the provisions of paragraph (4) of this Article for a period not exceeding four years from the date of ratification of this Convention.

*In addition, please state whether advantage has been taken of the exemption provided for in paragraph (7) of this Article in respect of ships existing at the date of ratification of this Convention.*

*Uruguay.* — The provisions of this Article, with the exception of paragraph 7,

are reproduced in § 4 of the Decree of 10 August 1938.

#### ARTICLE 6.

(1) While the workers are on a ship for the purpose of the processes, every hatchway of a cargo hold accessible to the workers which exceeds 5 feet (1 m. 50) in depth from the level of the deck to the bottom of the hold, and which is not protected to a clear height of 2 feet 6 inches (75 cm.) by the coamings, shall, when not in use for the passage of goods, coal or other material, either be securely fenced to a height of 3 feet (90 cm.) or be securely covered. National laws or regulations shall determine whether the requirements of this paragraph shall be enforced during meal times and other short interruptions of work.

(2) Similar measures shall be taken when necessary to protect all other openings in a deck which might be dangerous to the workers.

*In addition please indicate any provisions contained in national laws or regulations for the purpose of determining whether the requirements of paragraph (1) of this Article shall be enforced during meal times and other short interruptions of work.*

*Uruguay.* — The provisions of this Article are reproduced in § 5 of the Decree of 10 August 1938. There is, however, no provision concerning the application of the requirements of paragraph 1 during meal times and other short interruptions of work.

#### ARTICLE 7.

When the processes have to be carried on on a ship, the means of access thereto and all places on board at which the workers are employed or to which they may be required to proceed in the course of their employment shall be efficiently lighted.

The means of the lighting shall be such as not to endanger the safety of the workers nor to interfere with the navigation of other vessels.

*Uruguay.* — The provisions of this Article are reproduced in § 6 of the Decree of 10 August 1938.

#### ARTICLE 8.

In order to ensure the safety of the workers when engaged in removing or replacing hatch coverings and beams used for hatch coverings,

(1) hatch coverings and beams used for hatch coverings shall be maintained in good condition ;

(2) hatch coverings shall be fitted with adequate hand grips, having regard to their size and weight, unless the construction of the hatch or the hatch coverings is of a character rendering the provision of hand grips unnecessary ;

(3) beams used for hatch coverings shall have suitable gear for removing and replacing them of such a character as to render it unnecessary for workers to go upon them for the purpose of adjusting such gear ;

(4) all hatch coverings and fore and aft and thwart-ship beams shall, in so far as they are not interchangeable, be kept plainly marked to indicate the deck and hatch to which they belong and their position therein ;

(5) hatch coverings shall not be used in the construction of cargo stages or for any other purpose which may expose them to damage.

*Uruguay.* — The provisions of this Article are reproduced in § 7 of the Decree of 10 August 1938.

#### ARTICLE 9.

Appropriate measures shall be prescribed to ensure that no hoisting machine, or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition.

In particular,

(1) before being taken into use, the said machines, fixed gear on board ship accessory thereto as defined by national laws or regulations, and chains and wire ropes used in connection therewith, shall be adequately examined and tested, and the safe working load thereof certified, in the manner prescribed and by a competent person acceptable to the national authorities;

(2) after being taken into use, every hoisting machine, whether used on shore or on board ship, and all fixed gear on board ship accessory thereto as defined by national laws or regulations shall be thoroughly examined or inspected as follows:

(a) to be thoroughly examined every four years and inspected every twelve months: derricks, goose necks, mast bands, derrick bands, eyebolts, spans and any other fixed gear the dismantling of which is specially difficult;

(b) to be thoroughly examined every twelve months: all hoisting machines (e.g. cranes, winches), blocks, shackles and all other accessory gear not included in (a).

All loose gear (e.g. chains, wire ropes, rings, hooks) shall be inspected on each occasion before use unless they have been inspected within the previous three months.

Chains shall not be shortened by tying knots in them and precautions shall be taken to prevent injury to them from sharp edges.

A thimble or loop splice made in any wire rope shall have at least three tucks with a whole strand of rope and two tucks with one half of the wires cut out of each strand; provided that this requirement shall not operate to prevent the use of another form of splice which can be shown to be as efficient as the form hereby prescribed.

(3) Chains and such similar gear as is specified by national laws or regulations (e.g. hooks, rings, shackles, swivels) shall, unless they have been subjected to such other sufficient treatment as may be prescribed by national laws or regulations, be annealed as follows under the supervision of a competent person acceptable to the national authorities:

(a) In the case of chains and the said gear carried on board ship:

(i) half inch (12½ mm.) and smaller chains or gear in general use once at least in every six months;

(ii) all other chains or gear (including span chains but excluding bridle chains attached to derricks or masts) in general use once at least in every twelve months;

Provided that in the case of such gear used solely on cranes and other hoisting appliances worked by hand, twelve months shall be substituted for six months in sub-paragraph (i) and two years for twelve months in sub-paragraph (ii);

Provided also that, if the competent authority is of opinion that owing to the size, design, material or infrequency of use of any of the said gear the requirements of this paragraph as to annealing are not necessary for the protection of the workers, it may, by certificate in writing (which it may at its discretion revoke), exempt such gear from the

said requirements subject to such conditions as may be specified in the said certificate.

(b) In the case of chains and the said gear not carried on board ship:

Measures shall be prescribed to secure the annealing of the said chains and gear.

(c) In the case of the said chains and gear, whether carried on board ship or not, which have been lengthened, altered or repaired by welding, they shall thereupon be tested and re-examined.

(4) Such duly authenticated records as will provide sufficient *prima facie* evidence of the safe condition of the machines and gear concerned shall be kept, on shore or on the ship as the case may be, specifying the safe working load and the dates and results of the tests and examinations referred to in paragraphs (1) and (2) of this Article and of the annealings or other treatment referred to in paragraph (3).

Such records shall, on the application of any person authorised for the purpose, be produced by the person in charge thereof.

(5) The safe working load shall be kept plainly marked on all cranes, derricks and chain slings and on any similar hoisting gear used on board ship as specified by national laws or regulations. The safe working load marked on chain slings shall either be in plain figures or letters upon the chains or upon a tablet or ring of durable material attached securely thereto.

(6) All motors, cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their position and construction they are equally safe to every worker employed as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship.

(7) Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while in process of being lifted or lowered.

(8) Appropriate measures shall be taken to prevent exhaust steam from and, so far as practicable, live steam to any crane or winch obscuring any part of the working place at which a worker is employed.

(9) Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support.

*In addition, please indicate*

(1) The arrangements made for securing that the tests, etc., mentioned in paragraphs (1) and (3) are carried out by "a competent person acceptable to the national authorities";

(2) The fixed gear on board ship which is required to be thoroughly examined or inspected in the manner prescribed by paragraph (2);

(3) The kinds of gear specified, and the "other sufficient treatment" prescribed, by national laws or regulations under paragraph (3).

(4) The measures which have been prescribed under paragraph (3) (b).

*Uruguay.* — The provisions of this Article are reproduced in § 8 of the Decree of 10 August 1938, except that the words "and the safe working load thereof certified" (paragraph (1)) are omitted.

#### ARTICLE 10.

Only sufficiently competent and reliable persons shall be employed to operate lifting or transporting machinery whether driven by mechanical power or otherwise, or to give signals to a driver of such machinery, or attend to cargo falls on winch ends or winch drums.

*Uruguay.* — The provisions of this Article are reproduced in § 9 of the Decree of 10 August 1938.

#### ARTICLE 11.

(1) No load shall be left suspended from any hoisting machine unless there is a competent person actually in charge of the machine while the load is so left.

(2) Appropriate measures shall be prescribed to provide for the employment of a signaller where this is necessary for the safety of the workers.

(3) Appropriate measures shall be prescribed with the object of preventing dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith.

(4) Before work is begun at a hatch the beams thereof shall either be removed or be securely fastened to prevent their displacement.

(5) Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on 'tween decks in dealing with coal or other bulk cargo.

(6) No stage shall be used in the processes unless it is substantially and firmly constructed, adequately supported and where necessary securely fastened.

No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

Stages shall where necessary be treated with suitable material to prevent the workers slipping.

(7) When the working space in a hold is confined to the square of the hatch, and except for the purpose of breaking out or making up slings,

(a) hooks shall not be made fast in the bands or fastenings of bales of cotton, wool, cork, gunny bags, or other similar goods;

(b) can-hooks shall not be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe.

(8) No gear of any description shall be loaded beyond the safe working load save in exceptional cases and then only in so far as may be allowed by national laws or regulations.

(9) In the case of shore cranes with varying capacity (e.g. raising and lowering jib with load capacity varying according to the angle) an automatic indicator or a table showing the safe working loads at the corresponding inclinations of the jib shall be provided on the crane.

*In addition, please indicate with reference to paragraph (8) in what exceptional cases gear may be loaded beyond the safe working load, and to what extent.*

*Uruguay.* — The provisions of this Article are reproduced in § 10 of the Decree of 10 August 1938.

#### ARTICLE 12.

National laws or regulations shall prescribe such precautions as may be deemed necessary to ensure the proper protection of the workers, having regard to the circumstances of each case, when they have to deal with or work in proximity to goods which are in themselves dangerous to life or health by reason either of their inherent nature or of their condition at the time, or work where such goods have been stowed.

*Please indicate in detail the precautions prescribed by national laws or regulations in pursuance of this Article.*

*Where this has not already been done, please forward the texts of the relevant legislation, administrative regulations, etc.*

*Uruguay.* — § 19 of the Decree of 10 August 1938 requires all workers employed in loading and unloading goods with sharp edges to wear boots with double soles; § 20 requires workers employed in loading caustic soda to wear high boots and gloves.

#### ARTICLE 13.

At docks, wharves, quays and similar places which are in frequent use for the processes, such facilities as having regard to local circumstances shall be prescribed by national laws or regulations shall be available for rapidly securing the rendering of first-aid and in serious cases of accident removal to the nearest place of treatment. Sufficient supplies of first-aid equipment shall be kept permanently on the premises in such a condition and in such positions as to be fit and readily accessible for immediate use during working hours. The said supplies shall be in charge of a responsible person or persons, who shall include one or more persons competent to render first-aid, and whose services shall also be readily available during working hours.

At such docks, wharves, quays and similar places as aforesaid appropriate provision shall also be made for the rescue of immersed workers from drowning.

*Uruguay.* — § 11 of the Decree of 10 August 1938 provides that in places used for the operations in question the national port authority shall instal such first-aid stations as it considers necessary. These stations will be under the supervision of the national port authority and a permanent supply of first-aid material appropriate to the local circumstances must be kept by them.

#### ARTICLE 14.

Any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing whatsoever required to be provided under this Convention shall not be removed or interfered with by any person except when duly authorised or in case of necessity, and if removed shall be restored at the end of the period for which its removal was necessary.

*Uruguay.* — The provisions of this Article are reproduced in § 12 of the Decree of 10 August 1938.

#### ARTICLE 15.

It shall be open to each Member to grant exemptions from or exceptions to the provisions of this Convention in respect of any dock, wharf, quay or similar place at which the processes are only occasionally carried on or the traffic is small and

confined to small ships, or in respect of certain special ships or special classes of ships or ships below a certain small tonnage, or in cases where as a result of climatic conditions it would be impracticable to require the provisions of this Convention to be carried out.

The International Labour Office shall be kept informed of the provisions in virtue of which any exemptions and exceptions as aforesaid are allowed.

*Please describe the cases in which advantage has been taken of the exemptions or exceptions provided for in this Article.*

*If exemptions or exceptions have been granted in view of climatic conditions, please indicate the nature of those exemptions or exceptions and the grounds on which they have been granted.*

*Please forward the texts of all relevant legislation, administrative regulations, executive orders, etc.*

*Uruguay.* — Provisions similar to those of the first paragraph of this Article are contained in § 13 of the Decree of 10 August 1938. The authority empowered to grant exemptions is the National Institute of Labour and Related Services.

#### ARTICLE 16.

Except as herein otherwise provided, the provisions of this Convention which affect the construction or permanent equipment of the ship shall apply to ships the building of which is commenced after the date of ratification of the Convention, and to all other ships within four years after that date, provided that in the meantime the said provisions shall be applied so far as reasonable and practicable to such other ships.

*Uruguay.* — The provisions of this Article are not reproduced in the Decree of 10 August 1938.

#### ARTICLE 18.

Each Member undertakes to enter into reciprocal arrangements on the basis of this Convention with the other Members which have ratified this Convention, including more particularly the mutual recognition of the arrangements made in their respective countries for testing, examining and annealing and of certificates and records relating thereto;

Provided that, as regards the construction of ships and as regards plant used on ships and the records and other matters to be observed on board under the terms of this Convention, each Member is satisfied that the arrangements adopted by the other Member secure a general standard of safety for the workers equally effective as the standard required under its own laws and regulations;

Provided also that the Governments shall have due regard to the obligations of paragraph (11) of Article 405 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

*Please indicate the steps taken to carry out the provisions of this Article.*

*Please indicate any difficulties encountered in this respect.*

The reports supplied do not refer to this Article.

### III.

*Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace) is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

- (1) Except where owing to the local conditions the Convention is inapplicable, or
- (2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of this Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — Legislation which will enable the provisions of the Convention to be applied has been enacted in the following dependencies in addition to those already reported: *British Guiana* (Ordinance No. 3 of 1938), *Falkland Islands* (Ordinance No. 10 of 1937), *Tanganyika Territory* (Special Instructions to servants of the administration in charge of any Dock, Wharf or Quay and to servants responsible for testing lifting machinery), *Zanzibar* (Decree No. 25 of 1937 and Government Notice No. 1 of 1937, The Ports (Amendment) (No. 2) Rules, 1937). In the *Colony of Aden*, formerly under the administration of the Government of India, the Indian Dock Labourers Act, 1934, is still in force. Legislation which will give effect to the provisions of the Convention is in preparation or under consideration in the following dependencies: *Ceylon*, *Cyprus*, *Federated Malay States*, *Hong Kong*, *Jamaica*, *Malta*, *Sierra Leone*, *Straits Settlements*.

## IV.

*Article 17 of the Convention is as follows :*

In order to ensure the due enforcement of any regulations prescribed for the protection of the workers against accidents,

(1) The regulations shall clearly define the persons or bodies who are to be responsible for compliance with the respective regulations ;

(2) Provision shall be made for an efficient system of inspection and for penalties for breaches of the regulations ;

(3) Copies or summaries of the regulations shall be posted up in prominent positions at docks, wharves, quays and similar places which are in frequent use for the processes.

*Please indicate the measures taken in conformity with the various provisions of this Article.*

*Uruguay.* — Supervision of the enforcement of the Decree of 10 August 1938 is assigned to the National Institute of Labour and Related Services and the maritime authorities.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from inspectors' reports, and, if such statistics are available, information regarding the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, and the number, nature and causes of accidents reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Chile.* — The report states that reports of the maritime labour inspectorate and the industrial safety section show

that the provisions of the legislation applying the Convention are being complied with in a more or less satisfactory manner. The number of workers protected by the relevant legislation is 10,040. The total number of accidents in maritime work in general amounts to 1,169. No observations on the practical application of the Convention or of the regulations implementing it have been received from the employers' or workers' organisations concerned.

*China.* — The report states that no observations have been received from organisations of employers or workers.

*Great Britain.* — The report states that the provisions of the Convention have been embodied into the established industrial law of the United Kingdom and a high standard of observance is secured, although serious irregularities are reported from time to time and a number of prosecutions are necessary. Inspectors refer to an increasing interest in safety among dock workers, and safety committees have been set up by a number of dock authorities and associations of shipowners. The number of accidents involving three days' absence from work reported to the Factory Department during 1937 as occurring at docks, wharves and quays in Great Britain was 7,695, of which 94 were fatal ; in Northern Ireland the figure was 194, of which 5 were fatal. The chief causes of these accidents (Great Britain only) were as follows :

Power machinery :		
Lifting machinery	1,138	(33)*
Other	6	(2)
Transport :		
Railways (locomotives and rolling stock)	181	(5)
Other vehicles (excluding hand trucks, bogies, etc.)	96	(1)
Machinery not moved by mechanical power :		
Lifting machinery	35	
Other	8	
Use of hand tools	310	
Struck by falling body	1,709	(15)
Persons falling	1,295	(26)
Stepping on or striking against objects	348	(1)
Handling goods, etc.	2,149	(6)

Legal proceedings for breaches of the Docks Regulations were instituted in 48 cases and in the large majority convictions were secured. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night Work, women)*, Point VI. No observations were received from employers' or workers' organisations.

\* The figures in brackets are those of the fatal accidents included in the total.

*Mexico.* — The report does not refer to this point.

*Uruguay.* — The report states that no information is available owing to the shortness of the time that has elapsed since the Decree of 10 August 1938 was issued.

### 33. Convention concerning the age for admission of children to non-industrial employment.

Article 11 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered."

The Convention came into force on 6 June 1935. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Belgium. . . . .	6. 6. 1934	21. 10. 1938
Cuba . . . . .	24. 2. 1936	17. 11. 1938
Netherlands . . .	12. 7. 1935	1. 10. 1938
Spain. . . . .	22. 6. 1934	
Uruguay . . . . .	6. 6. 1933	9. 3. 1939

As in its previous report, the Government of *Cuba* states that Congress has not enacted legislation to give effect to the Convention. It points out, however, that Act No. 53 of 1935 limits the hours of work of young persons under 18 years of age in commercial establishments to seven a day, whereas the legal minimum wage is fixed at the same rate for adults and young persons, despite the shorter working day of the latter. The combined effect of these two measures is in practice that only young persons of 14 to 18 years of age are employed on the work specified in § 10 (2) of Decree No. 2513 of 1933 (for which the Decree limits hours of work to eight a day), viz., the work of messengers in State, provincial and municipal offices, the offices of commercial and

industrial undertakings, and of cable, telegraph and telephone and similar undertakings, and the sale and distribution of periodicals, reviews, programmes, and advertisements of cinemas and other public amusements or of industrial and commercial undertakings. The Government adds that the strict application of the legislation on compulsory school attendance likewise contributes to restrict the employment of young persons. In addition, the Government states that the employment of children of 14 years is virtually non-existent in *Cuba*, as the provisions of § 116 of the Health Ordinances in force since 1914 and of Decree No. 647 of 1934 prohibiting the employment of children under 14 years of age in factories and workshops are also applied in non-industrial activities. In view of the situation actually existing, a decree has been drafted to regulate the employment of young persons which is at present before the Minister of Labour for submission to the President of the Republic. This decree will supplement Legislative Decree No. 647 of 1934 concerning the minimum age of employment of children on industrial work, taking account also of the provisions of this Convention.

The report of the Government of *Spain* has not been received.

The Government of *Uruguay* states that the position in regard to this Convention has remained unchanged since the previous year.

#### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### *Belgium.*

Consolidated Act concerning the employment of women and children (for the text see Royal Order of 28 February 1919 (L.S. 1919, Bel. 2), amended by the Eight-Hour Day Act of 14 June 1921 (L.S. 1921, Bel. 1)).

Royal Order of 27 April 1927 concerning the employment of women and children: prohibition of the employment of children under the age of sixteen years in theatres, music halls, dancing establishments and night bars (L.S. 1927, Bel. 2).

*Cuba.*

Act of 26 July 1878 amended by the Royal Decree of 30 May 1879 prohibiting the employment of young persons under sixteen years of age in exhibitions of dangerous balancing tricks, feats of strength and bodily contortions.

See also introductory note.

*Netherlands.*

Labour Act of 1919 (codified text: L. S. 1930, Neth. 2) amended by the Act of 9 May 1935 (L. S. 1935, Neth. 2).

Decree of 25 September 1933 concerning employment of women and young persons (L. S. 1933, Neth. 4).

*Uruguay.*

See introductory note.

In addition,

(a) please state what decisions, if any, have been taken, in accordance with the last sub-paragraph of paragraph (1) of this Article, defining the line of division which separates the employments covered by this Convention from those dealt with in the three other Conventions mentioned, and indicate what methods were employed to consult the principal organisations of employers and workers concerned.

(b) please supply detailed information on the exemptions (if any) allowed under paragraph (3) of this Article, indicating in particular the precise definition of the term "family" which has been adopted for the purpose of such exemptions.

*Cuba.* — See introductory note.

## ARTICLE 2.

Children under fourteen years of age, or children over fourteen years who are still required by national laws or regulations to attend primary school, shall not be employed in any employment to which this Convention applies except as hereinafter otherwise provided.

*Cuba.* — See introductory note.

## ARTICLE 3.

(1) Children over twelve years of age may, outside the hours fixed for school attendance, be employed on light work;

(a) which is not harmful to their health or normal development;

(b) which is not such as to prejudice their attendance at school or their capacity to benefit from the instruction there given; and

(c) the duration of which does not exceed two hours per day on either school days or holidays, the total number of hours spent at school and on light work in no case to exceed seven per day.

(2) Light work shall be prohibited:

(a) on Sundays and legal public holidays;

(b) during the night, that is to say during a period of at least twelve consecutive hours comprising the interval between 8 p.m. and 8 a.m.

(3) After the principal organisations of employers and workers concerned have been consulted, national laws or regulations shall:

(a) specify what forms of employment may be considered to be light work for the purpose of this Article;

(b) prescribe the preliminary conditions to be complied with as safeguards before children may be employed in light work.

(4) Subject to the provisions of sub-paragraph (a) of paragraph (1) above,

(a) national laws or regulations may determine work to be allowed and the number of hours per day to be worked during the holiday time of children referred to in Article 2 who are fourteen years of age;

(b) in countries where no provision exists relating to compulsory school attendance, the time spent on light work shall not exceed four and a half hours per day.

In addition, if the employment of children over twelve years of age on light work, under the conditions laid down in this Article, is permitted, please state what methods were adopted for consulting the principal organisations of employers and workers for the purpose of paragraph (3).

## II.

*Please indicate in detail for the several provisions of each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

(1) This Convention shall apply to any employment not dealt with in the following Conventions adopted by the International Labour Conference at its First, Second and Third Sessions respectively:

Convention fixing the minimum age for admission of children to industrial employment (Washington, 1919);

Convention fixing the minimum age for admission of children to employment at sea (Genoa, 1920);

Convention concerning the age for admission of children to employment in agriculture (Geneva, 1921).

The competent authority in each country shall, after consultation with the principal organisations of employers and workers concerned, define the line of division which separates the employments covered by this Convention from those dealt with in the three aforesaid Conventions.

(2) This Convention shall not apply to:

(a) employment in sea-fishing;

(b) work done in technical and professional schools, provided that such work is essentially of an educative character, is not intended for commercial profit, and is restricted, approved and supervised by public authority.

(3) It shall be open to the competent authority in each country to exempt from the application of this Convention:

(a) employment in establishments in which only members of the employer's family are employed, except employment which is harmful, prejudicial or dangerous within the meaning of Articles 3 and 5 of this Convention;

(b) domestic work in the family performed by members of that family.

*Please indicate any application that may have been made of the provisions of paragraph (4).*

*(See also under Article 8).*

*Cuba.* — See introductory note.

#### ARTICLE 4.

In the interests of art, science or education national laws or regulations may, by permits granted in individual cases, allow exceptions to the provisions of Articles 2 and 3 of this Convention in order to enable children to appear in any public entertainment or as actors or supernumeraries in the making of cinematographic films;

Provided that:

(a) no such exception shall be allowed in respect of employment which is dangerous within the meaning of Article 5, such as employment in circuses, variety shows or cabarets;

(b) strict safeguards shall be prescribed for the health, physical development and morals of the children, for ensuring kind treatment of them, adequate rest, and the continuation of their education;

(c) children to whom permits are granted in accordance with this Article shall not be employed after midnight.

*(See also under Article 8).*

*Cuba.* — See introductory note.

#### ARTICLE 5.

A higher age or ages than those referred to in Article 2 of this Convention shall be fixed by national laws or regulations for admission of young persons and adolescents to any employment which, by its nature, or the circumstances in which it is to be carried on, is dangerous to the life, health or morals of the persons employed in it.

*(See also under Article 8).*

*Cuba.* — See introductory note.

#### ARTICLE 6.

A higher age or ages than those referred to in Article 2 of this Convention shall be fixed by national laws or regulations for admission of young persons and adolescents to employment for purposes of itinerant trading in the streets or in places to which the public have access, to regular employment at stalls outside shops or to employment in itinerant occupations, in cases where the conditions of such employment require that a higher age should be fixed.

*(See also under Article 8).*

*Cuba.* — See introductory note.

#### ARTICLE 8.

There shall be included in the annual reports to be submitted under Article 408 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace full information concerning all laws and regulations by which effect

is given to the provisions of this Convention, including:

(a) a list of the forms of employment which national laws or regulations specify to be light work for the purpose of Article 3;

(b) a list of the forms of employment for which, in accordance with Articles 5 and 6, national laws or regulations have fixed ages for admission higher than those laid down in Article 2;

(c) full information concerning the circumstances in which exceptions to the provisions of Articles 2 and 3 are permitted in accordance with the provisions of Article 4.

*Please supply the information required by this Article, in so far as it has not already been supplied with reference to the application of Articles 3, 4, 5 and 6.*

*Cuba.* — See introductory note.

#### ARTICLE 9 (*India only*).

The provisions of Articles 2, 3, 4, 5, 6 and 7 of this Convention shall not apply to India, but in India:

(1) the employment of children under ten shall be prohibited:

Provided that in the interests of art, science or education, national laws or regulations may, by permits, granted in individual cases, allow exceptions to the above provision in order to enable children to appear in any public entertainment or as actors or supernumeraries in the making of cinematographic films.

Provided also that should the age for the admission of children to factories not using power which are not subject to the Indian Factories Act be fixed by national laws or regulations at an age exceeding ten, the age so prescribed for admission to such factories shall be substituted for the age of ten for the purpose of this paragraph.

(2) Persons under fourteen years of age shall not be employed in any non-industrial employment which the competent authority, after consultation with the principal organisations of employers and workers concerned, may declare to involve danger to life, health or morals.

(3) An age above ten shall be fixed by national laws or regulations for admission of young persons and adolescents to employment for purposes of itinerant trading in the streets or in places to which the public have access, to regular employment at stalls outside shops or to employment in itinerant occupations, in cases where the conditions of such employment require that a higher age should be fixed.

(4) National laws or regulations shall provide for the due enforcement of the provisions of this Article and in particular shall provide penalties for breaches of the laws or regulations by which effect is given to the provisions of this Article.

(5) The competent authority shall, after a period of five years from the date of passing of legislation giving effect to the provisions of this Convention, review the whole position with a view to increasing the minimum age prescribed in this Convention, such review to cover the whole of the provisions of this Article.

Should legislation be enacted in India making attendance at school compulsory until the age of fourteen this Article shall cease to apply, and Articles 2, 3, 4, 5, 6 and 7 shall thenceforth be applicable to India.

The report does not contain any fresh information.



## III.

*Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace) is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

- (1) Except where owing to the local conditions the Convention is inapplicable, or
- (2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate, in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of this Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Netherlands.* — In Curaçao a Service for Social Affairs was set up on 15 March 1938 and is re-examining the Convention.

## IV.

*Article 7 of the Convention is as follows:*

In order to ensure the due enforcement of the provisions of this Convention, national laws or regulations shall:

- (a) provide for an adequate system of public inspection and supervision;
- (b) provide suitable means for facilitating the identification and supervision of persons under a specified age engaged in the employments and occupations covered by Article 6;
- (c) provide penalties for breaches of the laws or regulations by which effect is given to the provisions of this Convention.

*Please indicate the measures taken in conformity with the various provisions of this Article.*

*Cuba.* — See introductory note.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from inspectors' reports, and, if such statistics are available, information regarding the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Belgium.* — The report states that the Convention is applied in a manner satisfactory to all concerned and that no observations have been received from the employers' and workers' organisations.

*Cuba.* — See introductory note.

*Netherlands.* — See under Convention No 5 (Minimum Age, industry), Point VI.

*Uruguay.* — See introductory note.

## SEVENTEENTH SESSION (GENEVA, 1933).

**34. Convention concerning fee-charging employment agencies.**

Article 9 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 18 October 1936. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation were called upon to submit reports for the period 1 October 1937—30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Chile . . . . .	18.10.1935	2. 2.1939
Finland . . . . .	13. 1.1936	5.11.1938
Mexico . . . . .	21. 2.1938	26.11.1939
Spain . . . . .	27. 4.1935	
Sweden . . . . .	1. 1.1936	28.11.1938

The Government of *Mexico* states in its report<sup>1</sup> that, with a view to bringing the legislation into harmony with the provisions of the Convention, the Federal Labour Department, through its Social Welfare Office, issued Regulations respecting employment agencies.

The report of the Government of *Spain* has not yet been received.

## I

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

<sup>1</sup> The Convention was not in force for Mexico during the period 1 October 1937 to 30 September 1938.

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Chile.*

Legislative Decree No. 178 of 13 May 1931 to ratify the Labour Code (L.S. 1931, Chile 1).  
Decree No. 113 of 12 March 1926 concerning collective recruitment.

*Finland.*

Act of 23 July 1936 respecting employment exchanges (L. S. 1936, Fin. 2).  
Order of 23 July 1936 to implement the above Act.  
Order of 23 July 1936 concerning placings effected by the Society of Hospital Nurses.

*Mexico.*

Political Constitution of the United States of Mexico, 1917.  
Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).  
Regulations of 1935 respecting employment agencies.

*Sweden.*

Act of 18 April 1935 containing certain provisions respecting placing in employment (L. S. 1935, Swe. 1).  
Act of 12 March 1938 to amend paragraph 4 of the final provisions of the above Act.  
Royal Decree (of 28 June 1935) respecting the authorisation by the State of employment agencies for hospital nurses.

## II

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

1. For the purpose of this Convention the expression "fee-charging employment agency" means:

(a) employment agencies conducted with a view to profit, that is to say, any person, company,

institution, agency or other organisation which acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker for an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker; the expression does not include newspapers or other publications unless they are published wholly or mainly for the purpose of acting as intermediaries between employers and workers;

(b) employment agencies not conducted with a view to profit, that is to say, the placing services of any company, institution, agency or other organisation which, though not conducted with a view to deriving any pecuniary or other material advantage, levies from either employer or worker for the above services an entrance fee, a periodical contribution or any other charge.

2. This Convention does not apply to the placing of seamen.

*Mexico.* — The report states that the Social Welfare Office of the Federal Labour Department has been given the necessary information to enable it to organise the work of the employment agencies in accordance with the provisions of the Convention.

#### ARTICLE 2.

1. Fee-charging employment agencies conducted with a view to profit as defined in paragraph 1 (a) of the preceding Article shall be abolished within three years from the coming into force of this Convention for the Member concerned.

2. During the period preceding abolition

(a) there shall not be established any new fee-charging employment agency conducted with a view to profit;

(b) fee-charging employment agencies conducted with a view to profit shall be subject to the supervision of the competent authority and shall only charge fees and expenses on a scale approved by the said authority.

*Mexico.* — See under ARTICLE 1.

#### ARTICLE 3.

1. Exceptions to the provisions of paragraph 1 of Article 2 of this Convention may be allowed by the competent authority in exceptional cases, but only after consultation of the organisations of employers and workers concerned.

2. Exceptions may only be allowed in virtue of this Article for agencies catering for categories of workers exactly defined by national laws or regulations and belonging to occupations placing for which is carried on under special conditions justifying such an exception.

3. The establishment of new fee-charging employment agencies shall not be allowed in virtue of this Article after the expiration of the period of three years referred to in Article 2.

4. Every fee-charging employment agency for which an exception is allowed under this Article

(a) shall be subject to the supervision of the competent authority;

(b) shall be required to be in possession of a yearly licence renewable at the discretion of the competent authority during a period which shall not exceed ten years;

(c) shall only charge fees and expenses on a scale approved by the competent authority; and

(d) shall only place or recruit workers abroad if authorised so to do by its licence and if its operations are conducted under an agreement between the countries concerned.

*In particular, if exceptions have been allowed in virtue of this Article please supply information regarding the methods which were adopted for consulting the organisations of employers and workers for the purpose of the Article.*

*Please give information regarding the categories of workers for which fee-charging employment agencies are allowed and state what are the special conditions which justify the maintenance of such agencies in each case (cf. Article 7).*

*Please state whether any agreements have been concluded with other countries for the recruiting or placing of workers abroad in accordance with paragraph 4 (d) of this Article, forwarding the text of any such agreements.*

*Mexico.* — See under ARTICLE 1.

#### ARTICLE 4.

Fee-charging employment agencies not conducted with a view to profit as defined in paragraph 1 (b) of Article 1

(a) shall be required to have an authorisation from the competent authority and shall be subject to the supervision of the said authority;

(b) shall not make any charge in excess of the scale of charges fixed by the competent authority with strict regard to the expenses incurred; and

(c) shall only place or recruit workers abroad if permitted so to do by the competent authority and if their operations are conducted under an agreement between the countries concerned.

*Please state whether any agreements have been concluded with other countries for the recruitment or placing of workers abroad in accordance with paragraph (c) of this Article, forwarding the text of such agreements, if any.*

*Mexico.* — See under ARTICLE 1.

#### ARTICLE 5.

Fee-charging employment agencies as defined in Article 1 of this Convention and every person, company, institution, agency or other private organisation habitually engaging in placing shall, even though making no charge, make a declaration to the competent authority stating whether their placing services are given gratuitously or for remuneration.

*Mexico.* — See under ARTICLE 1.

#### ARTICLE 6.

National laws or regulations shall prescribe appropriate penalties, including the withdrawal when necessary of the licences and authorisations provided for by this Convention, for any violation of the above Articles or of any laws or regulations giving effect to them.

*Mexico.* — See under ARTICLE 1.

## ARTICLE 7.

There shall be included in the annual reports to be submitted under Article 408 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace all necessary information concerning the exceptions allowed under Article 3.

*Please supply the information required by this Article in so far as it has not been given under Article 3.*

*Mexico.* — See under ARTICLE 1.

## III.

*Article 35 of the Constitution of the International Labour Organisation is as follows :*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of the above Article of the Constitution, please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibilities of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The provisions of this Article do not concern the reporting countries.

## IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Mexico.* — The report states that the application of the legislation and regula-

tions is entrusted to the administrative authorities attached to the Federal Labour Department, in particular the Social Welfare Office.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from official reports, information regarding the number and nature of the contraventions reported, and any other particulars bearing on the practical application of the Convention.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Chile.* — The Government states in its report that the reports of the services concerned show that the legislation implementing the present Convention is satisfactorily applied. The Government is not able to supply any statistical information. No observations have been received from employers' or workers' organisations concerned regarding the practical application of the Convention or of the national legislation which implements it.

*Finland.* — The report states that no observations have been received from organisations of employers or workers concerning the application of the Convention.

*Mexico.* — See introductory note.

*Sweden.* — The Government refers to its report for last year in which it pointed out, *inter alia*, that, in connection with the placing of musicians and theatre artistes, the application of the Convention was likely to encounter difficulties, and adds

that, with a view to averting these difficulties for as long as possible, an Act was promulgated on 12 March 1938 authorising employment exchanges which were already in existence when the Act of 18 April 1935 came into force to continue their activities until the end of 1939 without being obliged to observe the conditions laid down with regard to international placing.

**35. Convention concerning compulsory old-age insurance for persons employed in industrial or commercial undertakings, in the liberal professions, and for out-workers and domestic servants.**

Article 25 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 18 July 1937. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Report received
Chile . . . . .	18.10.1935	3. 4.1939
Great Britain . . .	18. 7.1936	10. 3.1939

The *British* Government states in its report that provision is made for compulsory old-age insurance in Northern Ireland as well as in Great Britain. The two schemes are substantially the same, save for some minor differences in their administrative machinery.

I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Chile.*

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting compulsory insurance against sickness, invalidity and old age (L. S. 1926, Chile 1).

Decree No. 205 of 8 April 1925 issuing regulations under Act No. 4054.

Legislative Decree No. 203 of 14 July 1932 concerning the method of constituting the Council of the Compulsory Insurance Fund.

Legislative Decree No. 499 of 26 August 1932, specifying the powers of the Council and General Manager of the Compulsory Insurance Fund.

Legislative Decree No. 331 of 29 July 1932 including illegitimate children among the heirs entitled to refund of the contributions paid by their deceased insured parent.

Act No. 5067 of 1 March 1932 concerning the inspection service of the Compulsory Insurance Fund.

Act No. 5937 of 16 October 1937 increasing the maximum income compatible with liability to insurance.

Decree No. 308 of 12 July 1937 increasing the rates of the employer's and the State contributions for a term of one year.

Act No. 6172 of 22 February 1938 increasing the rate of the employers' contribution in order to finance workers' housing.

Act No. 6236 of 10 September 1938 increasing the rate of the State contribution in order to finance maternal and infant welfare services.

Act No. 6174 of 9 February 1938 establishing a preventive medical service for the insured population.

Decree No. 360 of 9 May 1938 issuing regulations under Act No. 6174.

*Great Britain.*

Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (L. S. 1936, G. B. 5).

Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland), 1936.

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (L. S. 1937, G. B. 1).

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act (Northern Ireland), 1937.

National Health Insurance Act, 1936 (L. S. 1936, G. B. 8).

National Health Insurance (Amendment) Act, 1938 (L. S. 1938, G. B. 2).

National Health Insurance (Amendment) Act (Northern Ireland), 1938.

Various Orders and Regulations concerning Contributory Pensions and National Health Insurance, dating from 1932 to 1938.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up or maintain a scheme of compulsory old-age insurance which shall be based on provisions at least equivalent to those contained in this Convention.

*Great Britain.* — The report states that at the time when the Convention was ratified there was already in force in Great Britain a scheme of compulsory old age insurance provided under the Widows', Orphans' and Old Age Contributory Pensions Acts, 1925 to 1935, and it is claimed that the provisions of these Acts (re-enacted in the Widows', Orphans' and Old Age Contributory Pensions Act, 1936) are at least equivalent to those contained in the Convention.

## ARTICLE 2.

1. The compulsory old-age insurance scheme shall apply to manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and to outworkers and domestic servants :

2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of

(a) workers whose remuneration exceeds a prescribed amount and, where national laws or regulations do not make this exception general in its application, any non-manual workers engaged in occupations which are ordinarily considered as liberal professions ;

(b) workers who are not paid a money wage ;

(c) young workers under a prescribed age and workers too old to become insured when they first enter employment ;

(d) outworkers whose conditions of work are not of a like nature to those of ordinary wage earners ;

(e) members of the employer's family ;

(f) workers whose employment is of such a nature that, its total duration being necessarily short, they cannot qualify for benefit, and persons engaged solely in occasional or subsidiary employment ;

(g) invalid workers and workers in receipt of an invalidity or old-age pension ;

(h) retired public officials employed for remuneration and persons possessing a private income, where the retirement pension or private income is at least equal to the old-age pension provided by national laws or regulations ;

(i) workers, who, during their studies, give lessons or work for remuneration in preparation for an occupation corresponding to such studies ;

(j) domestic servants employed in the households of agricultural employers.

3. Provided also that there may be exempted from liability to insurance persons who, by virtue of any law, regulations or special scheme, are or will become entitled to old-age benefits at least equi-

valent on the whole to those provided for in this Convention.

4. This Convention does not apply to seamen and sea fishermen.

*Please indicate how the scope of compulsory old age insurance is determined in so far as it applies to manual and non-manual workers, apprentices in industrial undertakings, in commercial undertakings, and in the liberal professions, outworkers, and domestic servants.*

*Please indicate whether and to what extent advantage has been taken of the exceptions provided for in the second paragraph of this Article, and in particular :*

1. *The remuneration limit within which the scope is determined, and, or the definition applied to non-manual workers engaged in occupations which are ordinarily considered as liberal professions (sub-paragraph a).*

2. *The lowest and highest age limits for workers who enter employment for the first time (sub-paragraph c).*

3. *The definition applied to employment of short duration, to occasional employment and to subsidiary employment (sub-paragraph i).*

4. *On what principles exceptions have been made as provided for in the other sub-paragraphs (b, d, e, and g to j) of paragraph 2 of this Article.*

*If advantage has been taken of the exemption provided for in paragraph 3 of this Article, please (1) indicate the classes of persons exempted ; (2) give a list of the statutes, regulations and orders which provide old age benefits for the said persons ; and (3) forward with the present report texts of the said statutes, regulations and orders.*

*Chile.* — Compulsory old age insurance applies to all workers and apprentices employed in industrial and commercial undertakings, in the liberal professions, and to outworkers and domestic servants. The following persons are not liable to insurance : (a) workers whose income exceeds 12,000 pesos a year ; (c) persons below employable age (12 years) and workers over 65 years ; (e) members of the employer's family who do not work under a contract ; (f) persons who, not ordinarily dependent on wages, are employed only occasionally ; (g) invalidity and old-age pensioners ; (h) persons receiving retirement pensions similar to those granted by the general scheme of compulsory insurance ; (i) persons other than apprentices who are training for a non-manual occupation, even when they receive remuneration. In virtue of special legislation separate provident schemes have been established for civil servants, salaried employees, the armed forces, railwaymen, municipal employees, etc., who are in consequence exempted from liability to the general scheme of compulsory insurance.

*Great Britain.* — 1. In accordance with § 2 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, the compulsory old age insurance scheme applies to all persons compulsorily insured under the National Health Insurance Act, 1936, and also to certain of the categories excepted from being insured under that Act. The scheme accordingly applies,

with some exceptions, to manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and to outworkers and domestic servants. (§ 2 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, was repealed but re-enacted with the same effect as regards compulsory old age insurance by § 8 of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937).

2. The persons engaged in such employments who are excepted from compulsory old age insurance are :

(a) (i) persons employed otherwise than by way of manual labour and at a rate of remuneration exceeding in value two hundred and fifty pounds a year; (paragraph (k) of Part II of the First Schedule to the National Health Insurance Act, 1936);

(ii) persons engaged as teachers who are covered by the Superannuation Acts for teachers in operation in England, Wales and Scotland, or teachers employed under similar conditions of employment; (paragraphs (e), (f), (g), (h) of Part II of the said First Schedule);

(b) (i) apprentices who receive no money payment in respect of their employment; (paragraph (a) of Part I of the said First Schedule);

(ii) persons engaged in employment in respect of which no wages or other money payment is made where the person employed is the child of or is maintained by the employer; (paragraph (j) of Part II of the said First Schedule);

(c) persons under the age of sixteen or over the age of sixty-five; (§§ 1 and 17 (2) respectively of the National Health Insurance Act, 1936);

(d) outworkers of one of the following classes :—

(i) persons to whom articles or materials are given out, but who are not themselves substantially engaged in the actual manipulation of those articles or materials;

(ii) persons whose employment as outworkers is of a casual nature, and who carry on business at premises occupied by them, and perform for the purpose of such business the work in respect of which they are outworkers;

(iii) blind persons to whom work is given out by or on behalf of any charitable or philanthropic institution and who are not wholly or mainly dependent for their livelihood on their earnings in respect of that work; (paragraph (c) of Part I of the said First Schedule and the National Health Insurance Outworkers Order 1937);

(e) (i) husbands engaged in the service of their wives, and wives engaged in the service of their husbands;

(ii) sons and daughters employed by their parents without money payment;

(iii) persons employed by relatives in any business of which, within a period of two years immediately preceding the date on which the employment began, the employed person was owner or part owner; (paragraphs (q), (j) and (r) of Part II of the said First Schedule, as amended by the National Health Insurance (Amendment) Act, 1938);

(f) persons engaged in :

(i) employment of a casual nature otherwise than for the purposes of the employer's trade or business; (paragraph (1) of Part II of the said First Schedule);

(ii) employment of any class which is specified in an order as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood; (paragraph (m) of Part II of the said First Schedule and the National Health Insurance Subsidiary Employments Orders, 1932 to 1938);

(iii) persons employed as agents paid by commission or fees or a share in the profits, who are mainly dependent for their livelihood on their earnings from such other occupation, or who are ordinarily employed as such agents by more than one employer, and their employment under no one of such employers is that on which they are mainly dependent for their livelihood; (paragraph (i) of Part II of the said First Schedule);

(g) no persons are specifically excepted from compulsory insurance on the grounds stated in this paragraph;

(h) (i) public officials in receipt of superannuation who have retired from one of the employments specified in paragraphs (b), (c) and (d) of Part II of the said First Schedule, and who, while employed, were not liable to compulsory insurance for any of the pensions under the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, unless they were on other grounds insured persons under that Act at the date of retirement; (§ 17 (5) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936);

(ii) persons who prove that they are in receipt of any pension or income of the annual value of twenty-six pounds or upwards not dependent on their personal exertions. (Such persons receive certificates of exemption from liability to insurance and may surrender them at any time); (§ 5 (1) (a) of the National Health Insurance Act, 1936, and § 16 (1) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936);

(i) persons employed in England or Wales as pupil teachers or student teachers in a public elementary school, or in Scotland in a state-aided school as students provisionally recognised for temporary

service as uncertificated teachers pending completion of training; (paragraphs (e) and (f) of Part II of the said First Schedule);

(j) no workers are specifically excepted from compulsory insurance on the grounds stated in this paragraph.

3. The classes of persons excepted from liability to compulsory insurance under this paragraph are persons engaged in:

(i) employment under the Crown or any local or other public authority where the Central Authority (i.e. the Minister of Health in the case of England and Wales, and the Department of Health for Scotland in the case of Scotland) certifies that the terms of the employment are such as to secure provision in respect of sickness, disablement and old age on the whole not less favourable than the benefits conferred by the National Health Insurance Act and the Widows', Orphans' and Old Age Contributory Pensions Act; (paragraph (b) of Part II of the First Schedule to the National Health Insurance Act, 1936, and § 12 (1) (d) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936);

(ii) employment as a clerk or other salaried official in the service of a railway or other statutory company where the Central Authority certifies that the terms of employment, including the employees' superannuation rights, are such as to secure provision in respect of sickness, disablement and old age on the whole not less favourable than the benefits conferred by the National Health Insurance Act and the Widows', Orphans' and Old Age Contributory Pensions Act; (paragraph (c) of Part II of the said First Schedule, and § 12 (1) (d) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936);

(iii) employment of a permanent character by statutory undertakers (i.e. persons authorised by Parliament to construct or carry on any gas, water or other undertaking of public utility), where the Central Authority certifies that the terms of employment including the employees' superannuation rights, are such as to secure benefits on the whole not less favourable than the benefits (other than additional benefits) conferred by the National Health Insurance Act and the Central Authority is also satisfied that the employees' superannuation rights are on the whole not less favourable than the benefits by way of old age pensions conferred by the Widows', Orphans' and Old Age Contributory Pensions Act; (paragraph (d) of Part II of the said First Schedule and § 12 (1) (e) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).

The equivalent benefits are not necessarily conferred by specific laws but are a matter of contractual obligation under the general law; that is to say, they are secured to the employed person under his

contract of employment and the Central Authority has to be satisfied that this is so before issuing its certificates.

### ARTICLE 3.

National laws or regulations shall, under conditions to be determined by them, either entitle persons formerly compulsorily insured who have not attained the pensionable age to continue their insurance voluntarily or entitle such persons to maintain their rights by the periodical payment of a fee for the purpose, unless the said rights are automatically maintained or, in the case of married women, the husband, if not liable to compulsory insurance, is permitted to insure voluntarily and thereby to qualify his wife for an old-age or widow's pension.

*Please indicate whether the rights of persons formerly in compulsory insurance are automatically maintained within the meaning of this Article, and if not, what opportunity the law grants to the said persons to maintain their rights and on what terms they can take advantage of that opportunity.*

*Chile.* — The report states that the national laws and regulations do not deal with this case.

*Great Britain.* — Persons formerly in compulsory insurance do not have their old age pension rights automatically continued to pensionable age but they may maintain those rights by becoming voluntary contributors if they satisfy certain conditions. These conditions are (a) that they have been engaged in employment, insurable for old age pension, for not less than one hundred and four weeks; and (b) that the application to become a voluntary contributor is made within the period during which the applicant retains the status of an insured person after the cessation of insurable employment. (See ARTICLE 6). (§ 9 of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937).

### ARTICLE 4.

An insured person shall be entitled to an old-age pension at an age which shall be determined by national laws or regulations but which, in the case of insurance schemes for employed persons, shall not exceed sixty-five.

*Please indicate the age for title to pension.*

*Chile.* — The old-age pension is granted at the age of 55, 60 or 65, as the insured person chooses at the time of his entry into insurance.

*Great Britain.* — The age for title to pension is sixty-five. Where, however, the prescribed minimum period of insurance has not been completed at age sixty-five a title to pension may be established at a later age. (§ 8 (1) and the first proviso to § 9 (1) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).



## ARTICLE 5.

The right to a pension may be made conditional upon the completion of a qualifying period, which may involve the payment of a minimum number of contributions since entry into insurance and during a prescribed period immediately preceding the happening of the event insured against.

*Please indicate whether the right to a pension is made conditional on the completion of a qualifying period and, if the law so requires, what is the minimum number of contributions prescribed and during what period they must be paid.*

*Chile.* — The right to an old-age pension is not conditional upon the completion of a qualifying period.

*Great Britain.* — The right to pension is conditional on at least five years insurance immediately before the date of title, the payment of 104 contributions since entry into insurance, and, with certain exceptions, the payment (or excusal for incapacity or unemployment) of 117 contributions during the last 3 contribution years (ending in July) before the date of title. (§ 9 (1) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).

## ARTICLE 6.

1. An insured person who ceases to be liable to insurance without being entitled to a benefit representing a return for the contributions credited to his account shall retain his rights in respect of these contributions :

2. Provided that national laws or regulations may terminate rights in respect of contributions on the expiry of a term which shall be reckoned from the date when the insured persons so ceased to be liable to insurance and which shall be either variable or fixed :

(a) where the term is variable, it shall not be less than one-third (less the periods for which contributions have not been credited) of the total of the periods for which contributions have been credited since entry into insurance.

(b) where the term is fixed, it shall in no case be less than eighteen months and rights in respect of contributions may be terminated on the expiry of the term unless, in the course thereof, a minimum number of contributions prescribed by national laws or regulations has been credited to the account of the insured person in virtue of either compulsory or voluntarily continued insurance.

*Please indicate whether an insured person who ceases to be liable to insurance retains indefinitely his rights in respect of contributions credited to his account.*

*If not please indicate in what way the said rights are limited and give information to show conformity either with sub-paragraph (a) or with sub-paragraph (b) of paragraph 2 of this Article.*

*Chile.* — An insured person who ceases to be liable to insurance retains his rights in respect of his contributions. Chilean legislation does not lay down any special term for the retention of rights in old-age insurance since the rate of the pension depends on the amount of the contributions paid by the insured person, irrespective of the time spent in insurance.

*Great Britain.* — An insured person ceasing to be liable to insurance does not retain indefinitely his rights in respect of contributions credited to his account but is granted a free period of insurance (which in no case is less than eighteen months) at the expiry of which his rights are terminated if he has not qualified for an extension of the period (see below). If during this period he is insurably employed for at least eight weeks in the course of two consecutive half-yearly periods (January to June and July to December), excluding the half-yearly period in which insurable employment first ceased, his rights are not terminated until the expiry of a further period of not less than eighteen months after insurable employment has again ceased.

It may be added that a person who, on ceasing employment, has been insured for at least ten years, has his pension rights extended indefinitely so long as he remains genuinely unemployed. In certain circumstances incapacity for work may also serve to prolong the period during which pension rights are maintained. (§§ 6, 7 and 9 of the National Health Insurance Act, 1936).

A person who, on cessation of insurable employment, becomes a voluntary contributor (see Article 3 above) must maintain a minimum annual credit of twenty-six contributions. In certain circumstances weeks of incapacity count as contributions for this purpose. (§ 10 of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937).

## ARTICLE 7.

1. The pension shall, whether or not dependent on the time spent in insurance, be a fixed sum or a percentage of the remuneration taken into account for insurance purposes or vary with the amount of the contributions paid.

2. Where the pension varies with the time spent in insurance and its award is made conditional upon the completion by the insured person of a qualifying period, the pension shall, unless a minimum rate is guaranteed, include a fixed sum or fixed portion not dependent on the time spent in insurance ; where the pension is awarded without any condition as to the completion of a qualifying period, provision may be made for a guaranteed minimum rate of pension.

3. Where contributions are graduated according to remuneration, the remuneration taken into account for this purpose shall also be taken into account for the purpose of computing the pension, whether or not the pension varies with the time spent in insurance.

*Please indicate whether or not the pension is dependent on the time spent in insurance.*

1. *If the time spent in insurance is not taken into account, please indicate the amount of the pension.*

2. *If the pension is dependent at least in part on the time spent in insurance, please indicate what are its constituent elements :*

(a) *if it includes a fixed sum or portion, please indicate its amount ;*

(b) *please indicate how the portion which varies with the time spent in insurance is calculated ;*

(c) *please indicate whether there is a guaranteed minimum rate of pension and if so, the rate.*

*Chile.* — The pension varies with the pensionable age chosen by the insured person and the amount of the contributions paid. Each year's contribution is considered as a single premium purchasing a life annuity beginning at the pensionable age; the pension is constituted by the sum of these partial deferred annuities.

*Great Britain.* — The amount of pension is not dependent on the time spent in insurance but is ordinarily at the rate of ten shillings a week. (§ 1 (1) (c) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).

In certain exceptional cases, where the greater part of the working life has been spent in one of the employments (specified above under paragraph 3 of Article 2) which are excepted from liability to old age insurance or where a certificate of exemption (as in (h) (ii) of paragraph 2 of Article 3 above) is surrendered after age 45, but nevertheless the statutory conditions for award of pension become subsequently satisfied, the amount of pension may be less than ten shillings a week. (§ 16 (3) and 17 (5)).

#### ARTICLE 8.

1. The right to benefits may be forfeited or suspended in whole or in part if the person concerned has acted fraudulently towards the insurance institution.

2. The pension may be suspended in whole or in part while the person concerned

(a) is in employment involving compulsory insurance;

(b) is entirely maintained at the public expense; or

(c) is in receipt of another periodical cash benefit payable by virtue of any law or regulations concerning compulsory social insurance, pensions or workmen's compensation for accidents or occupational diseases.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — Chilean legislation makes no provision for the forfeiture or suspension of pensions once they have been awarded.

*Great Britain.* — 1. A pension may be suspended as a means of recovering amounts that have been fraudulently obtained but the right to benefit in the future is not forfeited by reason of the fraud. (§ 37 (4) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).

2. (a) A pension is not suspended during employment.

(b) A pension is (with certain exceptions) suspended where the person concerned becomes an inmate of a poor law institution otherwise than for the purpose of obtaining medical or surgical treatment, is detained in a mental hospital or in prison without the option of a fine, or is maintained in any place as a rate-aided person

of unsound mind. (Third Schedule to the Widows', Orphans' and Old Age Contributory Pensions Act, 1936);

(c) A pension is not suspended under this paragraph except where the person concerned is in receipt of a dependants pension of at least an equal amount in respect of the death of some other person attributable to or connected with the service of that other person:

(i) in the naval, military or air forces or

(ii) during the late war. If, however, the other person was the son or stepson of the person concerned and his death occurred during the late war, the pension of the person concerned is not suspended. (§§ 25 (1) and 42 (1) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).

#### ARTICLE 9.

1. The insured persons and their employers shall contribute to the financial resources of the insurance scheme.

2. National laws or regulations may exempt from liability to pay contributions

(a) apprentices and young workers under a prescribed age;

(b) workers who are not paid a money wage or whose wages are very low.

3. Contributions from employers may be dispensed with under laws or regulations concerning schemes of national insurance not restricted in scope to employed persons.

4. The public authorities shall contribute to the financial resources or to the benefits of insurance schemes covering employed persons in general or manual workers.

5. National laws or regulations which, at the time of the adoption of this Convention, do not require contributions from insured persons may continue not to require such contributions.

*Please indicate the conditions under which the insured persons and their employers contribute to the financial resources of the insurance scheme, and in particular the amount or the rate of their respective contributions.*

*Please indicate the way in which the public authorities contribute to the financial resources or to the benefits of the insurance scheme.*

*Chile.* — Insured persons contribute 2 per cent. of their wages, employers 4 per cent., and the State 1 ½ per cent. In the provinces of Tarapaca, Antofagasta and Magallanes, and in mining undertakings, these rates are increased to 3, 5 and 2 ½ per cent. respectively. These contributions finance not only old-age insurance, but also sickness, maternity, invalidity and funeral insurance.

*Great Britain.* — Insured persons and their employers are required to pay contributions towards the cost of the pensions payable under the combined contributory scheme of widows', orphans' and old age pensions in force in Great Britain. The employer is required to pay, in the first instance, both the contribution payable by himself and by the employee, and is

entitled to recover from the employee by deduction from his wages or otherwise the amount of the employee's contribution.

The existing rates of contributions for all contributory pensions, payable in respect of compulsorily insured persons under the age of sixty-five, are as follows:

	Rate of contribution per week	Payable by the	
		Employer	Employee
Contributions in case of men ..	11 d.	5 ½ d.	5 ½ d.
Contributions in case of women	5 ½ d.	2 ½ d.	3 ½ d.

The contribution made by the State towards the cost of the contributory scheme for widows', orphans' and old age pensions is by way of annual grants. For the year ended 31 March 1938, the grant was the sum of sixteen million pounds and this grant will be increased annually by the sum of one million pounds until the year ending 31 March 1943. Furthermore, the finances of the contributory pensions scheme are only liable for the cost of pensions up to the age of seventy, the cost of pensions after that age (which are automatically continued at the same rate) being entirely borne by the State. In the year ended 31 March 1938, this further contribution amounted to nearly thirty million pounds making the total State contribution approximately forty-six million pounds. (§§ 11, 12, 13 and 14 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, and the First Schedule thereto).

#### ARTICLE 10.

1. The insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by State insurance funds:

2. Provided that national laws or regulations may also entrust its administration to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities.

3. The funds of insurance institutions and State insurance funds shall be administered separately from the public funds.

4. Representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws or regulations, which may likewise decide as to the participation of representatives of employers and of the public authorities.

5. Self-governing insurance institutions shall be under the administrative and financial supervision of the public authorities.

*Please indicate the constitution and the functions of the institutions entrusted with the administration of the insurance scheme and their particular nature (whether they are institutions founded by the public authorities and not conducted with a view to profit, whether they are State insurance funds, or whether they are institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities).*

*Please indicate the measures taken to give effect to paragraph 3 of this Article.*

*Please indicate the conditions under which the representatives of insured persons and, where the law so provides, the representatives of employers and of public authorities, participate in the management of the insurance institutions.*

*Please indicate what are the authorities entrusted with the administrative and financial supervision of the self-governing insurance institutions.*

*Chile.* — The insurance scheme is administered by an independent institution called the Compulsory Insurance Fund, possessing legal personality and not conducted with a view to profit. The funds of the institution are administered separately from public funds. The institution is managed by a council consisting of the Minister of Health, three representatives of insured persons, three representatives of employers, and one representative of the medical profession nominated by the President of the Republic. This council appoints a general manager to discharge the practical business of the institution. The Council also draws up regulations for the management of insurance moneys and the administration of benefits. A department of the Ministry of Health supervises the operations of all the provident institutions in Chile.

*Great Britain.* — The insurance scheme is administered by the State, that is to say, by the Ministry of Health in England and Wales, and by the Department of Health in Scotland. The State insurance funds are administered separately from the public funds. (§§ 14 and 44 (4) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936).

#### ARTICLE 11.

1. The insured person or his legal representatives shall have a right of appeal in any dispute concerning benefits.

2. Such disputes shall be referred to special tribunals which shall include judges, whether professional or not, who are specially cognisant of the purposes of insurance and the needs of insured persons or are assisted by assessors chosen as representative of insured persons and employers respectively.

3. In any dispute concerning liability to insurance or the rate of contribution, the employed person and, in the case of schemes providing for an employers' contribution, his employer shall have a right of appeal.

*Please indicate whether the law grants to the insured person or his legal representatives a right of appeal in case of dispute concerning benefits.*

*Please indicate the constitution of the special tribunals which deal with disputes concerning benefits.*

*Please indicate whether the law grants to the employed person or to his employer a right of appeal in case of dispute concerning liability to insurance or the rate of contribution.*

*Chile.* — Chilean legislation gives the insured person or his legal representatives

a right of appeal from a decision of the Compulsory Insurance Fund to the Labour Courts which are also competent to decide disputes relating to liability to insurance and the rate of contribution.

*Great Britain.* — The insured person or his legal representative has a right of appeal to independent Referees against any decision of the Central Authority affecting his pension rights except as regards matters which fall to be determined in accordance with provisions of the National Health Insurance Act. The Referees are selected from a panel of persons with legal qualifications appointed by the National Health Insurance Joint Committee. The decisions of the Referees are final and conclusive. (§ 30 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, as re-enacted by § 14 of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937. For the constitution of the National Health Insurance Joint Committee see § 160 of the National Health Insurance Act, 1936).

Disputes concerning liability to insurance or the rate of contribution are determined by the Central Authority administering the National Health Insurance and Contributory Pensions schemes. Any person whether employee or employer, who is aggrieved by the decision of the Central Authority has the right of appeal to a judge of the High Court on any question of law. The decision of the judge is final. (§ 161 of the National Health Insurance Act, 1936).

#### ARTICLE 12.

1. Foreign employed persons shall be liable to insurance and to the payment of contributions under the same conditions as nationals.

2. Foreign insured persons and their dependants shall be entitled under the same conditions as nationals to the benefits derived from the contributions credited to their account.

3. Foreign insured persons and their dependants shall, if nationals of a Member which is bound by this Convention and the laws or regulations of which therefore provide for a State subsidy towards the financial resources or benefits of the insurance scheme in conformity with Article 9, also be entitled to any subsidy or supplement to or fraction of a pension which is payable out of public funds:

4. Provided that national laws or regulations may restrict to nationals the right to any subsidy or supplement to or fraction of a pension which is payable out of public funds and granted solely to insured persons who have exceeded a prescribed age at the date when the laws or regulations providing for compulsory insurance come into force.

5. Any restrictions which may apply in the event of residence abroad shall only apply to pensioners and their dependants who are nationals of any Member bound by this Convention and reside in the territory of any Member bound thereby to the extent to which they apply to nationals of the country in which the pension has been acquired: Provided that any subsidy or supplement

to or fraction of a pension which is payable out of public funds may be withheld.

*Please indicate whether and under what conditions foreign employed persons and their dependants are treated on a footing of equality with nationals*

(a) in respect of liability to insurance and payment of contributions (paragraph 1);

(b) in respect of benefits derived from contributions credited to their account (paragraph 2);

(c) in respect of subsidies or supplements to or fractions of pensions payable out of public funds (paragraphs 3 and 4);

(d) in respect of restrictions, if any, which apply in case of residence abroad (paragraph 5).

*Chile.* — Foreign employed persons have the same rights and obligations as nationals.

*Great Britain.* — Foreign employed persons are treated in all respects on a footing of equality with nationals.

#### ARTICLE 13.

1. The insurance of employed persons shall be governed by the law applicable at their place of employment.

2. In the interest of continuity of insurance exceptions may be made to this rule by agreement between the Members concerned.

*If agreements have been made providing for exceptions from the rule laid down in the first paragraph of this Article, please forward copies of the said agreements.*

*Chile.* — The report does not mention any agreements under this Article.

*Great Britain.* — The insurance of employed persons in Great Britain is governed by a uniform law applicable at their place of employment. No agreements have been made with other Members providing for exception from this rule.

#### ARTICLE 14.

Any Member may prescribe special provisions for frontier workers whose place of employment is in its territory and whose place of residence is abroad.

*If special provisions have been made for frontier workers, please indicate their principal elements.*

*Chile.* — Chilean legislation contains no provisions relating to frontier workers.

*Great Britain.* — The report states that this Article is not of application to Great Britain. Northern Ireland has, however, a land frontier with Eire, and this Article therefore applies. Persons resident in Eire who are employed in Northern Ireland are insured for all the purposes of the Contributory Pensions Scheme in Northern Ireland, but the receipt of an old age pension by such a person is conditional on his having been resident in the United Kingdom for a period of two years at some time prior to the date at which his right to the pen-

sion would otherwise have accrued. Arrangements have been made for the payment at post offices in Eire of pensions payable under the Contributory Pensions Acts in Northern Ireland to persons resident in Eire.

#### ARTICLE 15.

In countries which, at the time when this Convention first comes into force, have no laws or regulations providing for compulsory old-age insurance, an existing non-contributory pension scheme which guarantees an individual right to a pension under the conditions defined in Articles 16 to 22 hereinafter shall be deemed to satisfy the requirements of this Convention.

*If, in order to apply the Convention, recourse is had to Articles 15 to 22, please indicate whether the scheme of non-contributory pensions existing before 18 July 1937 guarantees an individual right to a pension under the conditions defined in Articles 16 to 22.*

*Chile.* — There is no non-contributory pension scheme in Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 16.

Pensions shall be awarded at an age which shall be determined by national laws or regulations but which shall not exceed sixty-five.

*Please indicate the age award of a pension.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 17.

The right to a pension may be made conditional upon the claimant's having been resident in the territory of the Member for a period immediately preceding the making of the claim. This period shall be determined by national laws or regulations but shall not exceed ten years.

*Please indicate the length of the residence period required for right to a pension.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 18.

1. A claimant shall be entitled to a pension if the annual value of his means does not exceed a limit which shall be fixed by national laws or regu-

lations with due regard to the minimum cost of living.

2. Means up to a level which shall be determined by national laws or regulations shall be exempted for the purpose of the assessment of means.

*Please indicate the upper limit of the annual value of means beyond which a right to a pension cannot arise, and also the amount of the means exempted within the meaning of paragraph 2 of this Article.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 19.

The rate of pension shall be an amount which, together with any means of the claimant in excess of the means exempted, is at least sufficient to cover the essential needs of the pensioner.

*Please indicate the amount of the pension and how it is calculated in relation to the means in excess of those exempted.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 20.

1. A claimant shall have a right of appeal in any dispute concerning the award of a pension or the rate thereof.

2. The appeal shall lie to an authority other than the authority which gave the decision in the first instance.

*Please indicate whether the law grants a claimant a right of appeal in case of dispute concerning the award of a pension or the rate thereof and to what authority.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 21.

1. Foreigners who are nationals of a Member bound by this Convention shall be entitled to pensions under the same conditions as nationals:

2. Provided that national laws or regulations may make the award of a pension to foreigners conditional upon their having been resident in the territory of the Member for a period which shall not exceed by more than five years the period of residence prescribed for nationals.

*Please indicate under what conditions foreigners are entitled to pensions and what period of residence is required, if any.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 22.

1. The right to a pension may be forfeited or suspended in whole or in part if the person concerned :

(a) has been sentenced to imprisonment for a criminal offence ;

(b) has obtained or attempted to obtain a pension by fraud ; or

(c) has persistently refused to earn his living by work compatible with his strength and capacity.

2. The pension may be suspended in whole or in part while the person concerned is entirely maintained at the public expense.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — The report states that this Article is not applicable to Chile.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows :*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — No legislation has been specially enacted in any of the colonial dependencies to give effect to the four Conventions concerning insurance (1933) which have been ratified by the Government of Great Britain. In the very large majority of cases the application of the Conventions would not be practicable in the present stage of development.

#### IV.

*Please indicate whether decisions of courts of law or administrative decisions have been given regarding the application of the Convention. If so, please forward the text of those decisions which deal with questions of principle.*

*Chile.* — The report states that the labour courts have not issued any judgments concerning the application of the Convention. It is an ordinary occurrence for the Compulsory Insurance Fund to issue administrative decisions, but in general these do not deal with questions of principle.

*Great Britain.* — The report states that no decisions of courts of law or administrative decisions have been given regarding the application of the Convention.

#### V.

*Please furnish any other information available concerning the manner in which the Convention is applied, whether by a compulsory old-age insurance, or by a scheme of non-contributory pensions.*

*If statistics are available concerning the application of compulsory old-age insurance (or non-contributory old-age pension) please furnish details also concerning the application of the law especially on the following points :*

##### *A. Compulsory old-age insurance.<sup>1</sup>*

##### *1. Scope :*

*Total number of insured persons engaged during or at the end of the last annual period in undertakings or occupations to which this Convention applies. (Please indicate whether the figures are taken from statistics or whether they are based on an estimate).*

<sup>1</sup> *Re old-age insurance only, if possible ; if not, re invalidity, old-age and survivor insurance jointly.*

2. *Number of pensioners at the beginning of the last annual period, of new pensions awarded and of pensions which ceased to be paid during the said period.*
3. *Total expenditure :*
  - (a) *in respect of old-age pensions ;*
  - (b) *in respect of other benefits in cash (e.g. additional benefits) granted to*
    - (i) *persons who have attained or exceeded the pensionable age ;*
    - (ii) *persons ceasing to be insured before acquiring the right to a pension (e.g. refund of contributions) ;*
  - (c) *in respect of benefits in kind ;*
  - (d) *in respect of administrative expenses ;*
  - (e) *in respect of placing to reserve.*
4. *Total receipts :*
  - (a) *contributions from employers ;*
  - (b) *contributions from insured persons ;*
  - (c) *contributions from the public authorities.*

#### *B. Non-contributory old-age pensions.*

1. *Total number of pensioners at the beginning and at the end of the last annual period.*
2. *Total amount of expenditure on pensions during the last annual period. Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention, or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Chile.* — The Government appends to its report a memorandum prepared by the General Management of the Compulsory Insurance Fund, giving statistics relevant to the application of Conventions Nos. 35, 36, 37 and 38 as a whole. The following information relating to the second half of 1938 is taken from this memorandum :

(1) The total number of insured persons who were contributors (including intermittent contributors) is estimated at 1,250,000 ; Chilean legislation however provides for the retention by some of the persons who have ceased to contribute of rights to certain of the benefits to which the Conventions refer : the total number of insured persons, contributing and non-contributing, at 30 June 1938, was 1,413,709. (2) The number of invalidity pensioners at 1 July 1938 was 2,087, the number of new pensions awarded during

the second half of 1938 was 398, and the number of pensions which ceased to be paid during the same period was 131. The number of old-age pensioners at 1 July 1938 was 20, the number of new pensions awarded during the second half of 1938 was 1, and the number of pensions which ceased to be paid during the same period was also 1 ; the small number of old-age pensions is due to the fact that, at the present stage, the great majority of persons entitled to pensions exercise their statutory right to take a lump sum representing the actuarial reserve of the pension in lieu of the pension : the number of such lump sums awarded during the period 1 July 1937-30 June 1938 was 4,257 (a figure for the second half of 1938 is not yet available. (3) The total expenditure in the second half of 1938 was in respect of invalidity pensions 1,922,044.59 pesos, in respect of old-age pensions 1,725.12 pesos, and in respect of the lump sums representing the actuarial reserves of old-age pensions 1,500,785.75 pesos. The cost of administering invalidity and old-age insurance cannot be separated from the general administrative expenses of the Compulsory Insurance Fund. The sums accumulated as reserves, mainly in respect of liabilities for future pensions, amounted to 436,939,857.85 pesos up to 31 December 1938 ; the reserves for invalidity pensions and for old-age pensions cannot be given separately. (4) From the total income of the Compulsory Insurance Fund a premium of so much per insured person is set aside for invalidity insurance. Old-age pensions are financed by the insured person's contributions (repayable to his heirs in case of death prior to the award of a pension) ; these contributions amounted to 21,709,117.03 pesos for the second half of 1938. The report states that no observations have been received from organisations of employers or workers concerned regarding the practical fulfilment of the conditions prescribed by the Conventions or the application of Chilean legislation implementing the Conventions.

*Great Britain.* — The scheme of compulsory insurance for old age insurance has been in operation in Great Britain since 4 January 1926, and is generally acceptable to employers and employees. Indeed it is recognised as an indispensable contribution to the social services of the country.

The report states that since the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, applies to serving soldiers, sailors and airmen, seamen and sea fishermen, and persons employed in agricultural undertakings, in addition to persons employed in industrial or commercial undertakings, in the liberal professions, outworkers and domestic servants, and since the benefits provided under the Act

include widows' pensions and orphans' pensions in addition to old age pensions, it is not possible to furnish separate statistical information with reference only to the persons and, in every instance, to the benefits covered by the Convention. The statistics given below refer to Great Britain; the figures in brackets refer to Northern Ireland.

Except in the case of 1 below, the statistics include persons who are or have been voluntary contributors. The number of such contributors at the 31 December 1937, was about 732,000 (6,550). The financial statistics are mainly in respect of the year ended 31 March 1938, but include certain figures relating to the year ended 31 March 1937.

1. Scope :

Estimated number of insured persons engaged at 31 December 1937, in undertakings or occupations to which this Convention applies : 17,027,000 (397,000).

(This figure includes a number of persons temporarily remaining insured after cessation of employment.)

2. Number of pensioners at 1 January 1937 :

1,876,000 (53,650) <sup>1</sup> ;

New pensions awarded during 1937 : 213,000 (5,950) ;

Pensions which ceased to be paid during 1937 : 130,000 (4,150) <sup>1</sup> ;

3. Total estimated expenditure :

(a) in respect of old age pensions : £50,750,000 (£ 1,003,000) <sup>2</sup>.

(b) in respect of other benefits in cash : Nil.

(c) in respect of benefits in kind : Nil.

(d) in respect of administrative expenses : £1,400,000 (£36,000) <sup>3</sup>.

(e) in respect of placing to reserve : Nil.

4. Total receipts :

(a) contributions from employers : £16,000,000 (£279,000) <sup>3</sup>.

(b) contributions from insured persons : £16,500,000 (£288,000) <sup>3</sup>.

(c) contributions from the public authorities : £44,500,000 (£1,013,000) <sup>3</sup>.

The amount stated at 4 (c) above does not agree with the total State contribution quoted in Article 9 because the accounts of the contributory pensions scheme are only credited each year with an amount sufficient to enable the actual liabilities of the scheme in that year to be met.

No observations have been received from organisations of employers or workers regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention.

<sup>1</sup> These figures include a number (which cannot be stated) of persons over the age of seventy who were in receipt of widows' pensions prior to attaining that age.

<sup>2</sup> This figure includes an amount (which cannot be stated) in respect of persons over the age of seventy who were in receipt of widows' pensions prior to attaining that age.

<sup>3</sup> These figures relate to widows', orphans' and old age pensions.

### 36. Convention concerning compulsory old-age insurance for persons employed in agricultural undertakings.

Article 25 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered."

The Convention came into force on 18 July 1937. The following tables shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period :

COUNTRIES	Date of registration of ratification	Reports received
Chile . . . . .	18.10.1935	3. 4. 1939
Great Britain . . .	18. 7. 1936	10. 3. 1939

The *British* Government states in its report that provision is made for compulsory old-age insurance in Northern Ireland as well as in Great Britain. The two schemes are substantially the same, save for some minor differences in their administrative machinery.

#### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report. Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

#### Chile.

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting compulsory insurance against sickness, invalidity and old age (L. S. 1926, Chile 1).

Decree No. 205 of 8 April 1925 issuing regulations under Act No. 4054.



Legislative Decree No. 203 of 14 July 1932 concerning the method of constituting the Council of the Compulsory Insurance Fund.

Legislative Decree No. 499 of 26 August 1932, specifying the powers of the Council and General Manager of the Compulsory Insurance Fund.

Legislative Decree No. 331 of 29 July including illegitimate children among the heirs entitled to refund of the contributions paid by their deceased insured parent.

Act No. 5067 of 1 March 1932 concerning the inspection service of the Compulsory Insurance Fund.

Act No. 5937 of 16 October 1937 increasing the maximum income compatible with liability to insurance.

Decree No. 308 of 12 July 1937 increasing the rates of the employer's and the State contributions for a term of one year.

Act No. 6172 of 22 February 1938 increasing the rate of the employer's contribution in order to finance workers' housing.

Act No. 6236 of 10 September 1938 increasing the rate of the State contribution in order to finance maternal and infant welfare services.

Act No. 6174 of 9 February 1938 establishing a preventive medical service for the insured population.

Decree No. 360 of 9 May 1938 issuing regulations under Act No. 6174.

#### *Great Britain.*

Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (L. S. 1936, G. B. 5).

Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland), 1936.

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (L. S. 1937, G. B. 1).

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act (Northern Ireland), 1937.

National Health Insurance Act, 1936 (L. S. 1936, G. B. 8).

National Health Insurance (Amendment) Act, 1938 (L. S. 1938, G. B. 2).

National Health Insurance (Amendment) Act (Northern Ireland), 1938.

Various Orders and Regulations concerning Contributory Pensions and National Health Insurance, dating from 1932 to 1938.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures under which each Article is applied.*

### ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up or maintain a scheme of compulsory old-age insurance which shall be based on provisions at least equivalent to those contained in this Convention.

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 1.

*Great Britain.* — See under Convention No. 35 (Old-age insurance, industry, etc.), Article 1.

### ARTICLE 2.

1. The compulsory old-age insurance scheme shall apply to manual and non-manual workers, including apprentices, employed in agricultural undertakings, and to domestic servants employed in the households of agricultural employers:

2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of

(a) workers whose remuneration exceeds a prescribed amount and, where national laws or regulations do not make this exception general in its application, any non-manual workers engaged in occupations which are ordinarily considered as liberal professions;

(b) workers who are not paid a money wage;

(c) young workers under a prescribed age and workers too old to become insured when they first enter employment;

(d) outworkers whose conditions of work are not of a like nature to those of ordinary wage earners;

(e) members of the employer's family;

(f) workers whose employment is of such a nature that, its total duration being necessarily short, they cannot qualify for benefit, and persons engaged solely in occasional or subsidiary employment;

(g) invalid workers and workers in receipt of an invalidity or old-age pension;

(h) retired public officials employed for remuneration and persons possessing a private income, where the retirement pension or private income is at least equal to the old-age pension provided by national laws or regulations;

(i) workers who, during their studies, give lessons or work for remuneration in preparation for an occupation corresponding to such studies.

3. Provided also that there may be exempted from liability to insurance persons who, by virtue of any law, regulations or special scheme, are or will become entitled to old-age benefits at least equivalent on the whole to those provided for in this Convention.

*Please indicate how the scope of compulsory old-age insurance is determined, in so far as it applies to manual and non-manual workers and apprentices in agricultural undertakings, and domestic servants in the employment of agricultural employers.*

*Please indicate whether and to what extent advantage has been taken of the exceptions provided for in the second paragraph of this Article, and in particular:*

1. the remuneration limit within which the scope is determined and, or the definition applied to non-manual workers engaged in occupations which are ordinarily considered as liberal professions (sub-paragraph a);

2. the lowest and highest age limits for workers who enter employment for the first time (sub-paragraph c);

3. the definition applied to employment of short duration, to occasional employment, and to subsidiary employment (sub-paragraph f);

4. on what principles exceptions have been made as provided for in the other sub-paragraphs (b, d, e and g to i) of paragraph 2 of this Article.

*If advantage has been taken of the exemption provided for in paragraph 3 of this Article, please*

1. *indicate the classes of persons exempted ;*
2. *give a list of the statutes, regulations and orders which provide old-age benefits for the said persons, and*
3. *forward with the present report texts of the said statutes, regulations and orders.*

*Chile.* — The report states that compulsory old-age insurance applies to all workers, apprentices and domestic servants in the service of agricultural employers in the same way as to workers in industry and commerce. See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 2.

*Great Britain.* — The report states that the provisions of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, apply to persons employed in agricultural undertakings in the same way as to persons employed in industrial or commercial undertakings. The scheme accordingly applies, with some exceptions, to manual and non-manual workers, including apprentices, employed in agricultural undertakings, and to domestic servants employed in the households of agricultural employers.

(b) Persons engaged in employment in respect of which no wages or other money payment is made where the employer is the occupier of an agricultural holding and the employed person is employed thereon, are excepted from compulsory old-age insurance. (§ (j) of Part II of the First Schedule to the National Health Insurance Act, 1936). See also under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 2.

### ARTICLE 3.

National laws or regulations shall, under conditions to be determined by them either entitle persons formerly compulsorily insured who have not attained the pensionable age to continue their insurance voluntarily or entitle such persons to maintain their rights by the periodical payment of a fee for the purpose, unless the said rights are automatically maintained or, in the case of married women, the husband, if not liable to compulsory insurance, is permitted to insure voluntarily and thereby to qualify his wife for an old-age or widows' pension.

*Please indicate whether the rights of persons formerly in compulsory insurance are automatically maintained within the meaning of this Article, and if not, what opportunity the law grants to the said persons to maintain their rights and on what terms they can take advantage of that opportunity.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 3.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 3.

### ARTICLE 4.

An insured person shall be entitled to an old-age pension at an age which shall be determined by national laws or regulations but which, in the case of insurance schemes for employed persons, shall not exceed sixty-five.

*Please indicate the age for title to pension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 4.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 4.

### ARTICLE 5.

The right to a pension may be made conditional upon the completion of a qualifying period, which may involve the payment of a minimum number of contributions since entry into insurance and during a prescribed period immediately preceding the happening of the event insured against.

*Please indicate whether the right to a pension is made conditional on the completion of a qualifying period and, if the law so requires, what is the minimum number of contributions prescribed and during what period they must be paid.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 5.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 5.

### ARTICLE 6.

1. An insured person who ceases to be liable to insurance without being entitled to a benefit representing a return for the contributions credited to his account shall retain his rights in respect of these contributions :

2. Provided that national laws or regulations may terminate rights in respect of contributions on the expiry of a term which shall be reckoned from the date when the insured person so ceased to be liable to insurance and which shall be either variable or fixed :—

(a) where the term is variable, it shall not be less than one-third (less the periods for which contributions have not been credited) of the total of the periods for which contributions have been credited since entry into insurance.

(b) where the term is fixed, it shall in no case be less than eighteen months and rights in respect of contributions may be terminated on the expiry of the term unless, in the course thereof, a minimum number of contributions prescribed by national laws or regulations has been credited to the account of the insured person in virtue of either compulsory or voluntarily continued insurance.

*Please indicate whether an insured person who ceases to be liable to insurance retains indefinitely his rights in respect of contributions credited to his account.*

*If not, please indicate in what way the said rights are limited and give information to show conformity either with sub-paragraph (a) or with sub-paragraph (b) of paragraph 2 of this Article.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 6.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 6.

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 8.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 8.

#### ARTICLE 7.

1. The pension shall, whether or not dependent on the time spent in insurance, be a fixed sum or a percentage of the remuneration taken into account for insurance purposes or vary with the amount of the contributions paid.

2. Where the pension varies with the time spent in insurance and its award is made conditional upon the completion by the insured person of a qualifying period, the pension shall, unless a minimum rate is guaranteed, include a fixed sum or fixed portion not dependent on the time spent in insurance; where the pension is awarded without any condition as to the completion of a qualifying period, provision may be made for a guaranteed minimum rate of pension.

3. Where contributions are graduated according to remuneration, the remuneration taken into account for this purpose shall also be taken into account for the purpose of computing the pension, whether or not the pension varies with the time spent in insurance.

*Please indicate whether or not the pension is dependent on the time spent in insurance.*

1. If the time spent in insurance is not taken into account, please indicate the amount of the pension.

2. If the pension is dependent at least in part on the time spent in insurance, please indicate what are its constituent elements:

(a) if it includes a fixed sum or portion, please indicate its amount;

(b) please indicate how the portion which varies with the time spent in insurance is calculated;

(c) please indicate whether there is a guaranteed minimum rate of pension and if so, the rate.

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 7.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 7.

#### ARTICLE 8.

1. The right to benefits may be forfeited or suspended in whole or in part if the person concerned has acted fraudulently towards the insurance institution.

2. The pension may be suspended in whole or in part while the person concerned

(a) is in employment involving compulsory insurance;

(b) is entirely maintained at the public expense; or

(c) is in receipt of another periodical cash benefit payable by virtue of any law or regulations concerning compulsory social insurance, pensions or workmen's compensation for accidents or occupational diseases.

*Please indicate the grounds of forfeit or suspension.*

#### ARTICLE 9.

1. The insured persons and their employers shall contribute to the financial resources of the insurance scheme.

2. National laws or regulations may exempt from liability to pay contributions

(a) apprentices and young workers under a prescribed age;

(b) workers who are not paid a money wage or whose wages are very low;

(c) workers in the service of an employer who pays contributions assessed on a basis which is not dependent on the number of workers employed.

3. Contributions from employers may be dispensed with under laws or regulations concerning schemes of national insurance not restricted in scope to employed persons.

4. The public authorities shall contribute to the financial resources or to the benefits of insurance schemes covering employed persons in general or manual workers.

5. National laws or regulations which, at the time of the adoption of this Convention, do not require contributions from insured persons may continue not to require such contributions.

*Please indicate the conditions under which the insured persons and their employers contribute to the financial resources of the insurance scheme, and in particular the amount or the rate of their respective contributions.*

*Please indicate the way in which the public authorities contribute to the financial resources or to the benefits of the insurance scheme.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 9.

*Great Britain.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 9.

#### ARTICLE 10.

1. The insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by State insurance funds:

2. Provided that national laws or regulations may also entrust its administration to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities.

3. The funds of insurance institutions and State insurance funds shall be administered separately from the public funds.

4. Representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws or regulations, which may likewise decide as to the participation of representatives of employers and of the public authorities.

5. Self-governing insurance institutions shall be under the administrative and financial supervision of the public authorities.

*Please indicate the constitution and the functions of the institutions entrusted with the administration of the insurance scheme and their particular nature (whether they are institutions founded by the public authorities and not conducted with a view to profit, whether they are State insurance funds, or whether they are institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities).*

*Please indicate the measures taken to give effect to paragraph 3 of this Article.*

*Please indicate the conditions under which the representatives of insured persons and, where the law so provides, the representatives of employers and of public authorities, participate in the management of the insurance institutions.*

*Please indicate what are the authorities entrusted with the administrative and financial supervision of the self-governing insurance institutions.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 10.*

*Great Britain. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 10.*

#### ARTICLE 11.

1. The insured person or his legal representatives shall have a right of appeal in any dispute concerning benefits.

2. Such disputes shall be referred to special tribunals which shall include judges, whether professional or not, who are specially cognisant of the purposes of insurance and the needs of insured persons or are assisted by assessors chosen as representative of insured persons and employers respectively.

3. In any dispute concerning liability to insurance or the rate of contribution, the employed person, and, in the case of schemes providing for an employers' contribution, his employer shall have a right of appeal.

*Please indicate whether the law grants to the insured person or his legal representatives a right of appeal in case of dispute concerning benefits.*

*Please indicate the constitution of the special tribunals which deal with disputes concerning benefits.*

*Please indicate whether the law grants to the employed person or to his employer a right of appeal in the case of dispute concerning liability to insurance or the rate of contribution.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 11.*

*Great Britain. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 11.*

#### ARTICLE 12.

1. Foreign employed persons shall be liable to insurance and to the payment of contributions under the same conditions as nationals.

2. Foreign insured persons and their dependants shall be entitled under the same conditions as

nationals to the benefits derived from the contributions credited to their account.

3. Foreign insured persons and their dependants shall, if nationals of a Member which is bound by this Convention and the laws or regulations of which therefore provide for a State subsidy towards the financial resources or benefits of the insurance scheme in conformity with Article 9, also be entitled to any subsidy or supplement to or fraction of a pension which is payable out of public funds :

4. Provided that national laws or regulations may restrict to nationals the right to any subsidy or supplement to or fraction of a pension which is payable out of public funds and granted solely to insured persons who have exceeded a prescribed age at the date when the laws or regulations providing for compulsory insurance come into force.

5. Any restrictions which may apply in the event of residence abroad shall only apply to pensioners and their dependants who are nationals of any Member bound by this Convention and reside in the territory of any Member bound thereby to the extent to which they apply to nationals of the country in which the pension has been acquired : Provided that any subsidy or supplement to or fraction of a pension which is payable out of public funds may be withheld.

*Please indicate whether and under what conditions foreign employed persons and their dependants are treated on a footing of equality with nationals*

(a) *in respect of liability to insurance and payment of contributions (paragraph 1) ;*

(b) *in respect of benefits derived from contributions credited to their account (paragraph 2) ;*

(c) *in respect of subsidies or supplements to or fractions of pensions payable out of public funds (paragraphs 3 and 4) ;*

(d) *in respect of restrictions, if any, which apply in case of residence abroad (paragraph 5).*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 12.*

*Great Britain. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 12.*

#### ARTICLE 13.

1. The insurance of employed persons shall be governed by the law applicable at their place of employment.

2. In the interest of continuity of insurance, exceptions may be made to this rule by agreement between the Members concerned.

*If agreements have been made providing for exceptions from the rule laid down in the first paragraph of this Article please forward copies of the said agreements.*

*Chile. — See under Convention No. 35 (Old-age industry, insurance, etc.), ARTICLE 13.*

*Great Britain. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 13.*

## ARTICLE 14.

Any Member may prescribe special provisions for frontier workers whose place of employment is in its territory and whose place of residence is abroad.

*It special provisions have been made for frontier workers, please indicate their principal elements.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 14.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 15.

In countries which, at the time when this Convention first comes into force, have no laws or regulations providing for compulsory old-age insurance, an existing non-contributory pension scheme which guarantees an individual right to a pension under the conditions defined in Articles 16 to 22 hereinafter shall be deemed to satisfy the requirements of this Convention.

*If, in order to apply the Convention, recourse is had to Articles 15 to 22, please indicate whether the scheme of non-contributory pensions existing before 18 July 1937 guarantees an individual right to a pension under the conditions defined in Articles 16 to 22.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 15.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 16.

Pensions shall be awarded at an age which shall be determined by national laws or regulations but which shall not exceed sixty-five.

*Please indicate the age for award of a pension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 16.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 17.

The right to a pension may be made conditional upon the claimant's having been resident in the territory of the Member for a period immediately preceding the making of the claim. This period shall be determined by national laws or regulations but shall not exceed ten years.

*Please indicate the length of the residence period required for right to a pension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 17.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 18.

1. A claimant shall be entitled to a pension if the annual value of his means does not exceed a limit which shall be fixed by national laws or regulations with due regard to the minimum cost of living.

2. Means up to a level which shall be determined by national laws or regulations shall be exempted for the purpose of the assessment of means.

*Please indicate the upper limit of the annual value of means beyond which a right to a pension cannot arise, and also the amount of the means exempted within the meaning of paragraph 2 of this Article.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 18.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 19.

The rate of pension shall be an amount which, together with any means of the claimant in excess of the means exempted, is at least sufficient to cover the essential needs of the pensioner.

*Please indicate the amount of the pension and how it is calculated in relation to the means in excess of those exempted.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 19.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 20.

1. A claimant shall have a right of appeal in any dispute concerning the award of a pension or the rate thereof.

2. The appeal shall lie to an authority other than the authority which gave the decision in the first instance.

*Please indicate whether the law grants a claimant a right of appeal in case of dispute concerning the award of a pension or the rate thereof and to what authority.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 20.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 21.

1. Foreigners who are nationals of a Member bound by this Convention shall be entitled to pensions under the same conditions as nationals :

2. Provided that national laws or regulations may make the award of a pension to foreigners conditional upon their having been resident in the territory of the Member for a period which shall not exceed by more than five years the period of residence prescribed for nationals.

*Please indicate under what conditions foreigners are entitled to pensions and what period of residence is required, if any.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 21.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## ARTICLE 22.

1. The right to a pension may be forfeited or suspended in whole or in part if the person concerned

(a) has been sentenced to imprisonment for a criminal offence ;

(b) has obtained or attempted to obtain a pension by fraud ; or

(c) has persistently refused to earn his living by work compatible with his strength and capacity.

2. The pension may be suspended in whole or in part while the person concerned is entirely maintained at the public expense.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 22.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## III.

*Article 35 of the Constitution of the International Labour Organisation is as follows :*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

(1) Except where, owing to the local conditions, the convention is inapplicable ; or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions have been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — No legislation has been specially enacted in any of the colonial dependencies to give effect to the four (1933) Conventions concerning insurance which have been ratified by the Government of Great Britain. In the very large majority of cases application of the Conventions would not be practicable in the present stage of development.

## IV.

*Please indicate whether decisions of courts of law or administrative decisions have been given regarding the application of the Convention. If so, please forward the text of those decisions which deal with questions of principle.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), Point IV.

*Great Britain.* — The report states that no decisions of courts of law or administrative decisions have been given regarding the application of the Convention.

## V.

*Please furnish any other information available concerning the manner in which the Convention is applied, whether by a compulsory old-age insurance, or by a scheme of non-contributory pensions.*

*If statistics are available concerning the application of compulsory old-age insurance (or non-contributory old-age pension) please furnish details also concerning the application of the law especially on the following points :*

**A. Compulsory old-age insurance.<sup>1</sup>****1. Scope:**

Total number of insured persons engaged during or at the end of the last annual period in undertakings or occupations to which this Convention applies. (Please indicate whether the figures are taken from statistics or whether they are based on an estimate).

2. Number of pensioners at the beginning of the last annual period, of new pensions awarded and of pensions which ceased to be paid during the said period.

**3. Total expenditure:**

- (a) in respect of old-age pensions;
- (b) in respect of other benefits in cash (e.g. additional benefits) granted to
  - (i) persons who have attained or exceeded the pensionable age;
  - (ii) persons ceasing to be insured before acquiring the right to a pension (e.g. refund of contributions);
- (c) in respect of benefits in kind;
- (d) in respect of administrative expenses;
- (e) in respect of placing to reserve.

**4. Total receipts:**

- (a) contributions from employers;
- (b) contributions from insured persons;
- (c) contributions from the public authorities.

**B. Non-contributory old-age pensions.**

1. Total number of pensioners at the beginning and the end of the last annual period.

2. Total amount of expenditure on pensions during the last annual period. Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), Point V.

*Great Britain.* — See under Convention No. 35 (Old-age insurance, industry, etc.), Point V. The information supplied therein applies equally to persons employed in agricultural undertakings.

**37. Convention concerning compulsory invalidity insurance for persons employed in industrial or commercial undertakings, in the liberal professions, and for out-workers and domestic servants.**

Article 26 of the Convention provides that it "shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter the Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 18 July 1937. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938 and which, in accordance with Article 22 of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for a part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Chile . . . . .	18.10.1935	3. 4.1939
Great Britain . . .	18. 7.1936	10. 3.1939

The *British* Government states in its report that the National Health Insurance Scheme in Northern Ireland is identical with that in force in Great Britain, except for some difference in administrative machinery.

The National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937, provides that boys and girls who, between school leaving age and age 16 are employed within the meaning of the National Health Insurance Act, 1936, shall be entitled to medical benefit under the National Health Insurance Act as if they were insured persons. They are not entitled to any of the other benefits of the National Health Insurance Scheme.

Weekly contributions are payable by juvenile contributors and their employers, and the cost of providing them with medical benefit is met out of the produce of these contributions, together with a State grant which is a fixed proportion of the cost of the benefit and its administration.

This Act did not come into force until 4 April 1938 so that the statistics furnished in Part V of this report do not include any sums received by way of contributions or expended on medical benefit and administration in respect of these juvenile contributors.

<sup>1</sup> Re old-age insurance only, if possible; if not, re invalidity, old-age and survivor insurance jointly.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report. Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Chile.*

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting compulsory insurance against sickness, invalidity and old age (L. S. 1926, Chile 1).

Decree No. 205 of 8 April 1925 issuing regulations under Act No. 4054.

Legislative Decree No. 203 of 14 July 1932 concerning the method of constituting the Council of the Compulsory Insurance Fund.

Legislative Decree No. 499 of 26 August 1932, specifying the powers of the Council and General Manager of the Compulsory Insurance Fund.

Legislative Decree No. 331 of 29 July 1932 including illegitimate children among the heirs entitled to refund of the contributions paid by their deceased insured parent.

Act No. 5067 of 1 March 1932 concerning the inspection service of the Compulsory Insurance Fund.

Act No. 5937 of 16 October 1937 increasing the maximum income compatible with liability to insurance.

Decree No. 308 of 12 July 1937 increasing the rates of the employer's and the State contributions for a term of one year.

Act No. 6172 of 22 February 1938 increasing the rate of the employer's contribution in order to finance workers' housing.

Act No. 6236 of 10 September 1938 increasing the rate of the State contribution in order to finance maternal and infant welfare services.

Act No. 6174 of 9 February 1938 establishing a preventive medical service for the insured population.

Decree No. 360 of 9 May 1938 issuing regulations under Act No. 6174.

*Great Britain.*

National Health Insurance Act, 1936 (L. S. 1936, G. B. 8).

National Health Insurance (Amendment) Act, 1937 (L. S. 1937, G. B. 4).

National Health Insurance (Amendment) Act, 1938 (L. S. 1938, G. B. 2).

National Health Insurance (Amendment) Act (Northern Ireland), 1938.

Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (L. S. 1936, G. B. 5).

Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland), 1936.

Widows', Orphans', and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (L. S. 1937, G. B. 1).

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, (Northern Ireland), 1937.

Various Orders and Regulations dating from 1932 to 1938.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up or maintain a scheme of compulsory invalidity insurance which shall be based on provisions at least equivalent to those contained in this Convention.

*Great-Britain.* — The report states that at the time when the Convention was ratified there was already in force in Great Britain a scheme of compulsory invalidity insurance provided under the National Health Insurance Acts, 1924 to 1935, which have since been consolidated in the National Health Insurance Act, 1936, and it is claimed that the provisions of these Acts are at least equivalent to those contained in the Convention.

## ARTICLE 2.

1. The compulsory invalidity insurance scheme shall apply to manual and non-manual workers, including apprentices, employed in agricultural undertakings, and domestic servants employed in the households of agricultural employers:

2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of

(a) workers whose remuneration exceeds a prescribed amount and, where national laws or regulations do not make this exception general in its application, any non-manual workers engaged in occupations which are ordinarily considered as liberal professions;

(b) workers who are not paid a money wage;

(c) young workers under a prescribed age and workers too old to become insured when they first enter employment;

(d) outworkers whose conditions of work are not of a like nature to those of ordinary wage earners;

(e) members of the employer's family;

(f) workers whose employment is of such a nature that, its total duration being necessarily short, they cannot qualify for benefit, and persons engaged solely in occasional or subsidiary employment;

(g) invalid workers and workers in receipt of an invalidity or old-age pension;

(h) retired public officials employed for remuneration and persons possessing a private income, where the retirement pension or private income is at least equal to the invalidity pension provided by national laws or regulations;

(i) workers who, during their studies, give lessons or work for remuneration in preparation for an occupation corresponding to such studies.

(j) domestic servants employed in the households of agricultural employers.

3. Provided also that there may be exempted from liability to insurance persons who, by virtue of any law, regulations or special scheme, are or will become entitled to invalidity benefits at least equivalent on the whole to those provided for in this Convention.



*Please indicate how the scope of compulsory invalidity insurance is determined, in so far as it applies to manual and non-manual workers, and apprentices in agricultural undertakings, and domestic servants in the employment of agricultural employers.*

*Please indicate whether and to what extent advantage has been taken of the exceptions provided for in the second paragraph of this Article, and in particular:*

1. *The remuneration limit within which the scope is determined and/or the definition applied to non-manual workers engaged in occupations which are ordinarily considered as liberal professions (sub-paragraph a) ;*

2. *The lowest and highest age limits for workers who enter employment for the first time (sub-paragraph c) ;*

3. *The definition applied to employment of short duration, to occasional employment, and to subsidiary employment (sub-paragraph f) ;*

4. *On what principles exceptions have been made as provided for in the other sub-paragraphs (b, d, e and g to i) of paragraph 2 of this Article.*

*If advantage has been taken of the exemption provided for in paragraph 3 of this Article, please*

(1) *indicate the classes of persons exempted ;*

(2) *give a list of the statutes, regulations and orders which provide invalidity benefits for the said persons ; and*

(3) *forward with the present report texts of the said statutes, regulations and orders.*

*Chile.* — Compulsory invalidity insurance has the same scope as compulsory old-age insurance. See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 2.

*Great Britain.* — 1. In accordance with §§1 and 2 of the National Health Insurance Act, 1936, all persons, with certain exceptions; of the age of sixteen or upwards who are engaged in employment under any contract of service or apprenticeship, or as outworkers, are compulsorily insurable.

2. The persons engaged in such employment who are excepted from compulsory invalidity insurance are:

(a) (i) persons employed otherwise than by way of manual labour and at a rate of remuneration exceeding in value two hundred and fifty pounds a year; (paragraph (k) of Part II of the First Schedule to the National Health Insurance Act, 1936);

(ii) persons engaged as teachers who are covered by the Superannuation Acts for Teachers in operation in England, Wales and Scotland, or teachers employed under similar conditions of employment (paragraphs (e), (f), (g) and (h) of Part II of the said First Schedule);

(b) (i) Apprentices who receive no money payment in respect of their employment (paragraph (a) of Part I of the said First Schedule);

(ii) persons engaged in employment in respect of which no wages or other money payment is made where the person employed is the child of or is maintained by the employer (paragraph (j) of Part II of the said First Schedule);

(c) persons under the age of sixteen (§ 1 of the National Health Insurance Act, 1936) or over the age of sixty-five (§17(2) of the National Health Insurance Act, 1936;

(d) outworkers of one of the following classes:

(i) persons to whom articles or materials are given out, but who are not themselves substantially engaged in the actual manipulation of those articles or materials;

(ii) persons whose employment as outworkers is of a casual nature, and who carry on business at premises occupied by them, and perform for the purpose of such business the work in respect of which they are outworkers;

(iii) blind persons to whom work is given out by or on behalf of any charitable or philanthropic institution, and who are not wholly or mainly dependent for their livelihood on their earnings in respect of that work (paragraph (c) of Part I of the said First Schedule);

(e) (i) husbands engaged in the service of their wives, and wives engaged in the service of their husbands;

(ii) sons and daughters employed by their parents without money payment;

(iii) persons employed by relatives in any business of which, within a period of two years immediately preceding the date on which the employment began, the employed person, was owner or part owner (paragraphs (q), (j) and (r) respectively of Part II of the said First Schedule as amended by the National Health Insurance (Amendment) Act, 1938];

(f) persons engaged in:

(i) employment of a casual nature otherwise than for the purpose of the employer's trade or business (paragraph (I) of Part II of the said First Schedule);

(ii) employment of any class which is specified in an order as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood (paragraph (m) of Part II of the First Schedule);

(iii) employment as agents paid by commission or fees or a share in the profits, who are mainly dependent for their livelihood on their earnings from some other occupation, or who are ordinarily employed as such agents by more than one employer, and their employment under no one of such employers is that on which they are mainly dependent for their livelihood; (paragraph (i) of Part II of the said First Schedule);

(g) No persons are specifically excepted from compulsory insurance on the grounds stated in this paragraph.

(h) (i) public officials in receipt of superannuation who have retired from one of the employments specified in §§ (b), (c) and (d) of Part II of the said First

Schedule and who; while so employed, were not liable to compulsory insurance for any of the pensions under the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, unless they were on other grounds insured persons that under Act at the date of retirement (§ 10 (3) of the National Health Insurance Act, 1936, and § 17 (5) (a) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936);

(ii) persons who prove that they are in receipt of any pension or income of the annual value of twenty-six pounds or upwards not dependent on their personal exertions (§ 5 (1) (a) of the National Health Insurance Act, 1936);

(i) persons employed in England or Wales as pupil teachers or student teachers in a public elementary school, or in Scotland in a State-aided school as students provisionally recognised for temporary service as uncertificated teachers pending completion of training (paragraphs (e) and (f) of Part II of the said First Schedule);

(j) As there is not a separate insurance scheme for persons employed in agricultural undertakings this paragraph is not applicable.

3. The following persons are also excepted from compulsory invalidity insurance:

(i) persons engaged in employment under the Crown or any local or other public authority where the Central Authority (i.e. the Minister of Health in the case of England and Wales, and the Department of Health for Scotland in the case of Scotland) certifies that the terms of the employment are such as to secure provision in respect of sickness and disablement on the whole not less favourable than the benefits conferred by the National Health Insurance Acts (paragraphs (b), (c) and (d) of Part II of the said First Schedule);

(ii) persons engaged in employment as clerks or other salaried officials in the service of a railway or other statutory company where the Central Authority certifies that the terms of the employment, including the employees' superannuation rights, are such as to secure provision in respect of sickness and disablement on the whole not less favourable than the corresponding benefits conferred by the National Health Insurance Acts (paragraph (c) of Part II of the said First Schedule);

(iii) persons engaged in employment of a permanent character by statutory undertakers (i.e. persons authorised by Parliament to construct, work, or carry on any gas, water or other undertaking of public utility), where the Central Authority, being satisfied that contributions will not be payable in respect of such persons under the Widows', Orphans' and Old Age Contributory Pensions Acts for the purpose of securing for them contributory

old age pensions, certifies that the terms of the employment, including the employee's superannuation rights, are such as to secure to the persons so engaged benefits on the whole not less favourable than the normal benefits provided by the National Health Insurance Acts (paragraph (d) of Part II of the said First Schedule).

The equivalent benefits are not necessarily conferred by specific laws but are a matter of contractual obligation under the general law; that is to say, they are secured to the worker under his contract of employment and the Central Authority has to be satisfied that this is so before issuing his certificate.

### ARTICLE 3.

National laws or regulations shall, under conditions to be determined by them, either entitle persons formerly compulsorily insured who are not in receipt of a pension to continue their insurance voluntarily or entitle such persons to maintain their rights by the periodical payment of a fee for the purpose, unless the said rights are automatically maintained or, in the case of married women, the husband, if not liable to compulsory insurance, is permitted to insure voluntarily and thereby to qualify his wife for an old-age or widow's pension.

*Place indicate whether the rights of persons formerly in compulsory insurance are automatically maintained within the meaning of this Article, and, if not, what opportunity the law grants to the said persons to maintain their rights and on what terms they can take advantage of that opportunity.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 3.

*Great Britain.* — An insured person (other than a married woman), who ceases to be insurably employed, may continue insurance voluntarily if he has been insurably employed for 104 weeks since date of last entry into insurance and makes the necessary application within the time prescribed, i.e., normally within the period during which the applicant retains the status of an insured person (see under ARTICLE 6).

An insured married woman who ceases to be insurably employed cannot continue her insurance voluntarily in order to maintain her rights to sickness, disablement and other health insurance benefits. Until 1937 her husband, if uninsured, was permitted to insure voluntarily and thereby to qualify his wife for an old age or widow's pension. As from 3 January 1938, however, under the provisions of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937, this right was withdrawn in respect of married women ceasing to be insurably employed on or after that date, but the Act provided in lieu thereof that such

married women may continue their insurance voluntarily for contributory pension purposes in order to qualify for old age pensions (§§ 3 (1), 4 and 127 (2) of the National Health Insurance Act, 1936; § 9 of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937).

#### ARTICLE 4.

1. An insured person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to an invalidity pension:

2. Provided that national laws or regulations which secure to insured persons medical treatment and attendance throughout invalidity and, if invalidity terminates in death, secure pensions at the full rate to widows without any condition as to age or invalidity and to orphans, may make the award of an invalidity pension conditional upon the insured person's being unable to perform remunerative work.

3. In the case of special schemes for non-manual workers, an insured person who suffers from incapacity which renders him unable to earn an appreciable remuneration in the occupation in which he was ordinarily engaged or in a similar occupation shall be entitled to an invalidity pension.

*Please indicate how the invalidity giving title to a pension is defined.*

*Chili.* — Insured persons who become absolutely incapacitated for work are entitled to invalidity pensions. In practice a person is deemed to be absolutely incapacitated for work when he has lost two-thirds of the normal capacity.

*Great Britain.* — Persons who are insured under the National Health Insurance Acts and satisfy the necessary qualifying conditions are entitled to receive periodical payments (referred to as disablement benefit) while rendered incapable of work by some specific disease or by bodily or mental disablement commencing after the termination of the period during which sickness benefit may continue.

(§ 32 (1) (c) of the National Health Insurance Act, 1936);

The expression "incapable of work" is in general interpreted as "incapable of performing remunerative work", and accordingly the scheme has to be considered in relation to paragraph 2 of the Article. Persons compulsorily insured under the National Health Insurance Acts are entitled, so long as they remain in insurance, to medical treatment and attendance, (§ 32 (1) (a) of the National Health Insurance Act, 1936) and, if the invalidity terminates in death, pensions at the full rate are secured to their widows without conditions as to age or invalidity and to their orphans, subject to the provisions of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936.

#### ARTICLE 5.

1. Notwithstanding the provisions of Article 6, the right to a pension may be made conditional upon the completion of a qualifying period, which may involve the payment of a minimum number of contributions since entry into insurance and during a prescribed period immediately preceding the happening of the event insured against.

2. The duration of the qualifying period shall not exceed 60 contribution months, 250 contribution weeks or 1,500 contribution days.

3. Where the completion of the qualifying period involves the payment of a prescribed number of contributions during a prescribed period immediately preceding the happening of the event insured against, periods for which benefit has been paid in respect of temporary incapacity for work or of unemployment shall be reckoned as contribution periods to such extent and under such conditions as may be determined by national laws or regulations.

*Please indicate whether the right to a pension is made conditional on the completion of a qualifying period and, if the law so requires, what is the minimum number of contributions prescribed and during what period they must be paid, and also give particulars of the measures taken to give effect to paragraph 3 of this Article.*

*Chile.* — The right to a pension is made conditional on the completion of a qualifying period of two years and the payment of 24 monthly contributions.

*Great Britain.* — A person insured under the National Health Insurance Acts is not entitled to disablement benefit unless and until one hundred and four weeks have elapsed since his entry into insurance and one hundred and four weekly contributions have been paid by or in respect of him.

(§ 46 (b) of the National Health Insurance Act, 1936);

#### ARTICLE 6.

1. An insured person who ceases to be liable to insurance without being entitled to a benefit representing a return for the contributions credited to his account shall retain his rights in respect of these contributions:

2. Provided that national laws or regulations may terminate rights in respect of contributions on the expiry of a term which shall be reckoned from the date when the insured person so ceased to be liable to insurance and which shall be either variable or fixed:

(a) where the term is variable, it shall not be less than one-third (less the periods for which contributions have not been credited) of the total of the periods for which contributions have been credited since entry into insurance.

(b) where the term is fixed, it shall in no case be less than eighteen months and rights in respect of contributions may be terminated on the expiry of the term unless, in the course thereof, a minimum number of contributions prescribed by national laws or regulations has been credited to the account of the insured person in virtue of either compulsory or voluntarily continued insurance.

*Please indicate whether an insured person who ceases to be liable to insurance retains indefinitely his rights in respect of contributions credited to his account.*

*If not, please indicate in what way the said rights are limited and give information to show conformity either with sub-paragraph (a) or with sub-paragraph (b) of paragraph 2 of this Article.*

*Chile.* — An insured who ceases to be liable to insurance retains his rights in respect of his contributions. Chilean legislation does not prescribe any definite term for the retention of rights, the contributions remaining valid as long as the person concerned can be deemed to be insured.

*Great Britain.* — An insured person, who ceases to be insurably employed, retains the status of an insured person and remains entitled to all benefits subject to the ordinary conditions during a "free insurance period" of not less than 18 months following the cessation of the insurable employment.

Incapacity for work may in certain circumstances serve to extend the "free insurance period".

Moreover, at the end of a "free insurance period" an insured person (other than a voluntary contributor) who had been insured for at least ten years when his "free insurance period" started, may have his insurance further extended so long as he is available for but unable to obtain insurable employment. During this "extended insurance period" he remains entitled to all benefits except sickness and disablement benefits.

A voluntary contributor must maintain a minimum credit of 45 contributions (including weeks of sickness) in each year (this minimum credit is reduced to 26 for contributors who have been insured for ten years on attaining age 60, in the case of men, or 55, in the case of women).

If this minimum credit is not maintained for any year the person ceases to be entitled to pay contributions as a voluntary contributor, but remains in insurance during a "free insurance period" of not less than 18 months from the date of the last contribution paid.

If during a "free insurance period" a person is insurably employed for at least 8 weeks in the course of two consecutive half-yearly periods (January to June; July to December) following that in which the "free insurance period" commenced, he becomes entitled to a new "free insurance period" on cessation of employment.

(§§6 to 11 and 20 (1) of the National Health Insurance Act, 1936).

#### ARTICLE 7.

1. The pension shall, whether or not dependent on the time spent in insurance, be a fixed sum or a percentage remuneration taken into account for insurance purposes or vary with the amount of the contributions paid.

2. Where the pension varies with the time spent in insurance and its award is made conditional upon the completion by the insured person of a qualifying period, the pension shall, unless a minimum rate is guaranteed, include a fixed sum or fixed portion not dependent on the time spent in insurance.

3. Where contributions are graduated according to remuneration, the remuneration taken into

account for this purpose shall also be taken into account for the purpose of computing the pension, whether or not the pension varies with the time spent in insurance.

*Please indicate whether or not the pension is dependent on the time spent in insurance.*

1. *If the time spent in insurance is not taken into account, please indicate the amount of the pension.*

2. *If the pension is dependent in part on the time spent in insurance, please indicate what are its constituent elements;*

(a) *if the pension includes a guaranteed minimum rate, please indicate the rate;*

(b) *if not, but if it includes a fixed sum or portion, please indicate its amount;*

(c) *please indicate how the portion which varies with the time spent in insurance is calculated.*

*Chile.* — The invalidity pension is equal to the average wage which the insured person received during the year preceding his incapacity, provided that he had belonged to the Compulsory Insurance Fund for 10 years or more; to 75 per cent. of the same wage if he had belonged for 5 years or more; and to 50 per cent. of the same wage in other cases. No provision is made for a guaranteed minimum.

*Great Britain.* — The ordinary rates of disablement benefit, which are not dependent on the time spent in insurance, are seven shillings and six pence a week for a man, five shillings a week for a married woman and six shillings a week for an unmarried woman or widow. (§44 of the National Health Insurance Act, 1936.)

These rates may be increased in the case of the members of an Approved Society which, on valuation of its assets and liabilities, is found to have a surplus which is not Required to meet future liabilities. (§104 of and the Third Schedule to the National Health Insurance Act, 1936).

#### ARTICLE 8.

Insurance institutions shall be authorised, under conditions which shall be determined by national laws or regulations, to grant benefits in kind for the purpose of preventing, postponing, alleviating or curing invalidity to persons who are in receipt of or may be entitled to claim a pension on the ground of invalidity.

*Please indicate what benefits in kind are authorised and under what conditions.*

*Chile.* — Invalidity pensioners do not receive benefits in kind.

*Great Britain.* — As stated in connection with Article 4 persons compulsorily insured under the National Health Insurance Acts are entitled, so long as they remain in insurance, to medical benefit; that is, medical treatment and attendance. Voluntary contributors whose total income from all sources does not exceed £250 a year are also entitled to medical benefit. (§§32 (1) (a) and 34 (2) of the National Health Insurance Act, 1936).

If on a valuation of its assets and liabilities, an Approved Society is found to have a surplus which is not required to meet future liabilities, such surplus may be applied in whole or in part by the Society, to provide for those of its members who have completed a qualifying period of membership (2½ years on average), additional treatment benefits such as, dental treatment, ophthalmic treatment, provision of medical and surgical appliances, treatment in hospitals and convalescent homes, etc. (§ 104 of and the Third Schedule to the National Health Insurance Act, 1936).

#### ARTICLE 9.

1. The right to benefits may be forfeited or suspended in whole or in part if the person concerned

(a) has brought about his invalidity by a criminal offence or wilful misconduct; or

(b) has acted fraudulently towards the insurance institution.

2. The pension may be suspended in whole or in part while the person concerned

(a) is entirely maintained at the public expense or by a social insurance institution;

(b) refuses without valid reason to comply with the doctor's orders or the instructions relating to the conduct of invalids or voluntarily and without authorisation removes himself from the supervision of the insurance institution;

(c) is in receipt of another periodical cash benefit payable by virtue of any law or regulations concerning compulsory social insurance, pensions or workmen's compensation for accidents or occupational diseases; or

(d) is in employment involving compulsory insurance or, in the case of special schemes for non-manual workers, is in receipt of remuneration exceeding a prescribed rate.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — There is no right to pension in cases compensated under the Workmen's Compensation Act and in cases in which the invalidity is due to the intentional act, criminal offence or serious fault of the person concerned.

*Great Britain.* — 1. Approved Societies are empowered to make rules suspending payment of disablement benefit:

(a) where the incapacity is due to the insured person's wilful misconduct, except in the case of incapacity due to pregnancy of an unmarried woman,

(b) where the insured person is guilty of any imposition or attempted imposition in respect of any benefit provided under the National Health Insurance Acts. (§ 64 (1) and (2) of the National Health Insurance Act, 1936).

2. Disablement benefit is not payable:

(a) during any period when the insured person is an inmate of any workhouse, hospital (including mental hospital), asylum, convalescent home or infirmary, supported by any public authority or out of any public funds or by a charity or voluntary subscriptions.

During such a period, if the person has any dependants, the benefit is paid or applied in whole or in part to or for the advantage of these dependants. If he has no dependants the benefit may, with his consent, be applied towards defraying any expenses for which he may be or become liable or may be paid in whole or in part to the institution. (§ 55 (1) and (2) of the National Health Insurance Act, 1936).

In so far as the benefit is not so paid, it accrues until the person leaves the institution. The amount is then payable to him (or to his next of kin if he dies) subject to a maximum of £50. Any balance in excess of £50 is paid to the Central Fund. (§ 55 (3) of the National Health Insurance Act, 1936).

(b) during any period when the insured person is suspended from benefits for a breach of the rules relating to behaviour during sickness. (§ 64 (1) of the National Health Insurance Act, 1936).

(c) where the insured person has received or recovered any compensation or damages under the Workmen's Compensation Acts, or under any scheme certified thereunder, or under the Employers Liability Act, 1880, or at common law, in respect of the injury or disease by which the person is rendered incapable of work. Where, however, the weekly sum, or the weekly value of any lump sum, payable by way of compensation or damages is less than the weekly rate of benefit, such part of the benefit is paid, as, together with the weekly sum or the weekly value of the lump sum, is equal to the benefit. (§ 51 (1) (a) of the National Health Insurance Act, 1936).

3. Disablement benefit is reduced by seven shillings and sixpence a week during any period when an insured person, disabled in consequence of the war of 1914-1918, is in receipt of a pension in respect of disablement in the highest degree, or of an allowance in lieu thereof, unless and until, since leaving naval, military or other pensionable service, he has been insurably employed or engaged in some regular occupation during one hundred and four weeks and one hundred and four weekly contributions have been paid in respect of him. (§ 132 (1) of the National Health Insurance Act, 1936).

#### ARTICLE 10.

1. The insured persons and their employers shall contribute to the financial resources of the insurance scheme.

2. National laws or regulations may exempt from liability to pay contributions

(a) apprentices and young workers under a prescribed age;

(b) workers who are not paid a money wage or whose wages are very low;

(c) workers in the service of an employer who pays contributions assessed on a basis which is not dependent on the number of workers employed.

3. Contributions from employers may be dispensed with under laws or regulations concerning schemes of national insurance not restricted in scope to employed persons.

4. The public authorities shall contribute to the financial resources or to the benefits of insurance schemes covering employed persons in general or manual workers.

5. National laws or regulations which, at the time of the adoption of this Convention, do not require contributions from insured persons may continue not to require such contributions.

*Please indicate the conditions under which the insured persons and their employers contribute to the financial resources of the insurance scheme, and in particular the amount or the rate of their respective contributions.*

*Please indicate the way in which the public authorities contribute to the financial resources or to the benefits of the insurance scheme.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 9.

*Great Britain.* — Insured persons and their employers are required to pay contributions towards the cost of the benefits provided under the National Health Insurance Act. (§§ 12, 14 and 15 of the National Health Insurance Act, 1936).

The employer is required to pay, in the first instance, both the contributions payable by himself and by the employee, and is entitled to recover from the employee by deduction from his wages or otherwise the amount of the employee's contribution. (§ 18 of the National Health Insurance Act, 1936).

The weekly contributions payable under the National Insurance Act are as follows :

	Em- ployer	Em- ployee	Total
In the case of men			
(a) ordinarily	4½d.	4½d.	9d.
(b) where the insured person is over the age of eighteen and			
(i) the rate of remuneration exceeds 3/- but does not exceed 4/- a working day	5½d.	3½d.	9d.
(ii) the rate of remuneration does not exceed 3/- a week	9d.	—	9d.
In the case of women			
(a) ordinarily	4½d.	4d.	8½d.
(b) where the insured person is over the age of eighteen and			
(i) the rate of remuneration exceeds 3/- but does not exceed 4/- a working day	5½d.	3d.	8½d.
(ii) the rate of remuneration does not exceed 3/- a week	8½d.	—	8½d.

(§14 of and Second Schedule to the National Health Insurance Act, 1936.)

In the case of men one-seventh and in the case of women one-fifth of the cost of the benefits provided under the scheme and of the cost of administration of those benefits is defrayed out of moneys provided by Parliament. (§12 of the National Health Insurance Act, 1936).

#### ARTICLE 11.

1. The insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by State insurance funds :

2. Provided that national laws or regulations may also entrust its administration to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities.

3. The funds of insurance institutions and State insurance funds shall be administered separately from the public funds.

4. Representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws or regulations, which may likewise decide as to the participation of representatives of employers and of the public authorities.

5. Self-governing insurance institutions shall be under the administrative and financial supervision of the public authorities.

*Please indicate the constitution and the functions of the institutions entrusted with the administration of the insurance scheme and their particular nature (whether they are institutions founded by the public authorities and not conducted with a view to profit, whether they are State insurance funds, or whether they are institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities).*

*Please indicate the measures taken to give effect to paragraph 3 of this Article.*

*Please indicate the conditions under which the representatives of insured persons and, where the law so provides, the representatives of employers and of public authorities, participate in the management of the insurance institutions.*

*Please indicate what are the authorities entrusted with the administrative and financial supervision of the self-governing insurance institutions.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 10.

*Great Britain.* — Disablement and additional benefits are administered [§45 of the National Health Insurance Act, 1936] by and through Societies approved by the Central Authority (i.e. the Minister of Health or the Department of Health for Scotland) such approval being subject to the satisfaction of the following conditions :

(a) It must not be a society carried on for profit ;

(b) Its constitution must provide to the satisfaction of the Central Authority for its affairs being subject to the absolute control of its members being insured persons or, if the rules of the Society so provide, of its members whether insured persons or not, and for the election and remo-

val of the committee of management or other governing body of the Society, in case of a Society whose affairs are managed by delegates elected by members, by those delegates, and in other cases in such manner as will secure absolute control by its members. (§ 73 of the National Health Insurance Act, 1936).

Such an Approved Society is required to make proper provision by rules to the satisfaction of the Central Authority for the government of the Society (§79 of the National Health Insurance Act, 1936) and to keep its accounts in such form as may be prescribed by the Central Authority, and to submit them to audit by auditors appointed by the Treasury, and to submit to have its assets and liabilities valued by valuers appointed by the Treasury. (§ 101 of the National Health Insurance Act, 1936).

Provision is made for the disablement benefit of insured persons who are not members of Approved Societies to be administered by an through the Insurance Committees (see below), or, in the case of those persons who prove that the state of their health is such that they cannot obtain admission to an Approved Society, by the Central Authority. (§§ 45, 122, 123 and 131 (1) (d) of the National Health Insurance Act, 1936).

Medical benefit is administered [§34 (1) of the National Health Insurance Act, 1936] by insurance committees, which are set up for each county or county borough. The constitution and functions of these committees are laid down in the National Health Insurance Act, 1936 [§§91, 92, 94, 96, 97, 98 and 99] and they are required to keep proper books and accounts in the prescribed form and to submit them to audit. (§ 117 of the National Health Insurance Act, 1936).

#### ARTICLE 12.

1. The insured person or his legal representatives shall have a right of appeal in any dispute concerning benefits.

2. Such disputes shall be referred to special tribunals which shall include judges, whether professional or not, who are specially cognisant of the purposes of insurance and the needs of insured persons or are assisted by assessors chosen as representative of insured persons and employers respectively.

3. In any dispute concerning liability to insurance or the rate of contribution, the employed person and, in the case of schemes providing for an employer's contribution, his employer shall have a right of appeal.

*Please indicate whether the law grants to the insured person or his legal representatives a right of appeal in case of dispute concerning benefits.*

*Please indicate the constitution of the special tribunals which deal with disputes concerning benefits.*

*Please indicate whether the law grants to the employed person or to his employer a right of appeal in case of dispute concerning liability to insurance or the rate of contribution.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 11.

*Great Britain.* — The question whether a person is insurable or not is to be determined by the Central Authority, but, if a person is aggrieved by the decision of the Central Authority, he may appeal therefrom on any question of law to a Judge of the High Court (in Scotland, the Court of Session), whose decision is final. (§§ 161 and 193 of the National Health Insurance Act, 1936).

If a person is dissatisfied with a decision of his Approved Society on a question affecting his title to benefit, he has the right to appeal against that decision and his appeal must be decided, in accordance with the rules of the Society. If either party is dissatisfied with the decision given on appeal, that party may appeal from the decision to the Central Authority.

If a person is dissatisfied with a decision of an Insurance Committee on a question affecting his title to benefit, he has the right to appeal against that decision to the Central Authority. Any decision given by the Central Authority or by a referee appointed by that Authority is final and conclusive. (§ 163 of the National Health Insurance Act, 1936).

#### ARTICLE 13.

1. Foreign employed persons shall be liable to insurance and to the payment of contributions under the same conditions as nationals.

2. Foreign insured persons and their dependants shall be entitled under the same conditions as nationals to the benefits derived from the contributions credited to their account.

3. Foreign insured persons and their dependants shall, if nationals of a Member which is bound by this Convention and the laws or regulations of which therefore provide for a State subsidy towards the financial resources or benefits of the insurance scheme in conformity with Article 10, also be entitled to any subsidy or supplement to or fraction of a pension which is payable out of public funds :

4. Provided that national laws or regulations may restrict to nationals the right to any subsidy or supplement to or fraction of a pension which is payable out of public funds and granted solely to insured persons who have exceeded a prescribed age at the date when the laws or regulations providing for compulsory insurance come into force.

5. Any restrictions which may apply in the event of residence abroad shall only apply to pensioners and their dependants who are nationals of any Member bound by this Convention and reside in the territory of any Member bound thereby to the extent to which they apply to nationals of the country in which the pension has been acquired ; Provided that any subsidy or supplement to or fraction of a pension which is payable out of public funds may be withheld.



*Please indicate whether and under what conditions foreign employed persons and their dependants are treated on a footing of equality with nationals*

(a) *in respect of liability to insurance and payment of contributions (paragraph 1) ;*

(b) *in respect of benefits derived from contributions credited to their account (paragraph 2) ;*

(c) *in respect of subsidies or supplements to or fractions of pensions payable out of public funds (paragraph 3 and 4) ;*

(d) *in respect of restrictions, if any, which apply in case of residence abroad (paragraph 5) ;*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 12.*

*Great Britain. — The National Health Insurance Acts make no distinction between British and Foreign employed persons.*

#### ARTICLE 14.

1. The insurance of employed persons shall be governed by the law applicable at their place of employment.

2. In the interest of continuity of insurance exceptions may be made to this rule by agreement between the Members concerned.

*If agreements have been made providing for exceptions from the rule laid down in the first paragraph of this Article, please forward copies of the said agreements.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 13.*

*Great Britain. — The law relating to the provision of health insurance benefits is applicable to all insured persons employed in Great Britain but special provision is made whereby persons insured under the National Health Insurance Acts in operation in Eire who become resident and employed in Great Britain may continue as explained below, to be entitled to disablement benefit from Eire.*

The position of such persons is governed by reciprocal arrangements made with Eire under §67 of the National Health Insurance Act, 1936.

Under these arrangements, which are embodied in an Order (copy attached), these persons continue to be treated as insured under the law in operation in Eire either until they join Approved Societies in Great Britain or until the expiration of a certain period since the date on which they became resident and employed in Great Britain. The arrangements apply *mutatis mutandis* to persons insured in Great Britain who become resident and employed in Eire.

#### ARTICLE 15.

Any Member may prescribe special provisions for frontier workers whose place of employment is in its territory and whose place of residence is abroad.

*If special provisions have been made for frontier workers, please indicate their principal elements.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 14.*

*Great Britain. — The report states that this article is not of application to Great Britain.*

Northern Ireland has a land border with Eire, however, and this article of the Convention therefore applies. By virtue of the Reciprocal Arrangements referred to in the Great Britain Report on Article 14, persons who are employed in Eire and resident in Northern Ireland, or vice versa, are treated as insured in the country of residence. The contribution in respect of such persons are payable under the legislation in force in the country where the employment takes place, and under cross-accounting arrangements the appropriate sums are transferred to the country of residence in support of the insurance rights conferred in that country.

#### ARTICLE 16.

In countries which, at the time when this Convention first comes into force, have no laws or regulations providing for compulsory invalidity insurance, an existing non-contributory pension scheme which guarantees an individual right to a pension under the conditions defined in Articles 17 to 23 hereinafter shall be deemed to satisfy the requirements of this Convention.

*If, in order to apply the Convention, recourse is had to Articles 16 to 23, please indicate whether the scheme of non-contributory pensions existing before 18 July 1937 guarantees an individual right to a pension under the conditions defined in Articles 18 to 23.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 15.*

*Great Britain. — The report states that this Article is not applicable to Great Britain.*

#### ARTICLE 17.

A person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to a pension.

*Please indicate how the invalidity giving title to a pension is defined.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 16.*



*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 18.

The right to a pension may be made conditional upon the claimant's having been resident in the territory of the Member for a period immediately preceding the making of the claim. This period shall be determined by national laws or regulations but shall not exceed five years.

*Please indicate the length of the residence period required for right to a pension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 17.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 19.

1. A claimant shall be entitled to a pension if the annual value of his means does not exceed a limit which shall be fixed by national laws or regulations with due regard to the minimum cost of living.

2. Means up to a level which shall be determined by national laws or regulations shall be exempted for the purpose of the assessment of means.

*Please indicate the upper limit of the annual value of means beyond which a right to a pension cannot arise, and also the amount of the means exempted within the meaning of paragraph 2 of this Article.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 18.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 20.

The rate of pension shall be an amount which, together with any means of the claimant in excess of the means exempted, is at least sufficient to cover the essential needs of the pensioner.

*Please indicate the amount of the pension and how it is calculated in relation to the means in excess of those exempted.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 19.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 21.

1. A claimant shall have a right of appeal in any dispute concerning the award of a pension or the rate thereof.

2. The appeal shall lie to an authority other than the authority which gave the decision in the first instance.

*Please indicate whether the law grants a claimant a right of appeal in case of dispute concerning the award of a pension or the rate thereof and to what authority.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 20.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 22.

1. Foreigners who are nationals of a Member bound by this Convention shall be entitled to pensions under the same conditions as nationals:

2. Provided that national laws or regulations may make the award of a pension to foreigners conditional upon their having been resident in the territory of the Member for a period which shall not exceed by more than five years the period of residence prescribed for nationals.

*Please indicate under what conditions foreigners are entitled to pensions and what period of residence is required, if any.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 21.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

#### ARTICLE 23.

1. The right to a pension may be forfeited or suspended in whole or in part if the person concerned

(a) has brought about his invalidity by a criminal offence or wilful misconduct;

(b) has obtained or attempted to obtain a pension by fraud;

(c) has been sentenced to imprisonment for a criminal offence; or

(d) has persistently refused to earn his living by work compatible with his strength and capacity.

2. The pension may be suspended in whole or in part while the person concerned is entirely maintained at the public expense.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 22.

*Great Britain.* — The report states that this Article is not applicable to Great Britain.

## III.

*Article 35 of the Constitution of the International Labour Organisation is as follows :*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — No legislation has been specially enacted in any of the colonial dependencies to give effect to the four 1933 Conventions concerning insurance which have been ratified by the Government of Great Britain. In the very large majority of cases the application of the Conventions would not be practicable in the present stage of development.

## IV.

*Please indicate whether decisions of courts of law or administrative decisions have been given regarding the application of the Convention. If so, please forward the text of those decisions which deal with questions of principle.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.), Point IV.

*Great Britain.* — The report states that no decisions by Courts of Law and no administrative decisions have been given regarding the application of the Convention.

## V.

*Please furnish any other information available concerning the manner in which the Convention is applied, whether by a compulsory invalidity insurance scheme or by a scheme of non-contributory pensions.*

*If statistics are available concerning the application of compulsory invalidity insurance (or non-contributory invalidity pensions), please furnish details also concerning the application of the law especially on the following points :*

*A. Compulsory invalidity insurance.<sup>1</sup>*

1. *Scope :*

*Total number of insured persons engaged during or at the end of the last annual period in undertakings or occupations to which this Convention applies. (Please indicate whether the figures are taken from statistics or whether they are based on an estimate).*

2. *Number of pensioners at the beginning of the last annual period, of new pensions awarded and of pensions which ceased to be paid during the said period.*

3. *Total expenditure :*

(a) *in respect of invalidity pensions ;*

(b) *in respect of other benefits in cash (e.g. additional benefits) granted to persons ceasing to be insured before acquiring the right to a pension (e.g. refund of contributions) ;*

(c) *in respect of benefits in kind ;*

(d) *in respect of administrative expenses ;*

(e) *in respect of placing to reserve.*

4. *Total receipts :*

(a) *contributions from employers ;*

(b) *contributions from insured persons ;*

(c) *contributions from the public authorities.*

*B. Non-contributory invalidity pensions.*

1. *Total number of pensioners at the beginning and at the end of the last annual period.*

2. *Total amount of expenditure on pensions during the last annual period.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

<sup>1</sup> *Re invalidity insurance only, if possible ; if not, re invalidity, old-age and survivor insurance jointly.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, Point V.

*Great Britain.* — The report states that, since the National Health Insurance Acts apply to serving soldiers, sailors and airmen, seamen and sea fishermen and persons employed in agricultural undertakings, in addition to persons employed in industrial or commercial undertakings, in the liberal professions, outworkers and domestic servants, and since the benefits provided in the Acts include medical, sickness and maternity benefits in addition to disablement benefit, it is not possible to furnish separate statistical information in regard only to the persons and, in every instance, to the benefits covered by the Convention. Moreover, disablement benefit is not paid as a pension, but is paid at intervals, normally weekly, on receipt on evidence of continuing incapacity. It is accordingly not possible to furnish any information as to the number of persons in receipt of disablement benefit. The statistics given below refer to Great Britain; the figures in brackets refer to Northern Ireland.

*Figures at 31 December 1937.*

1. *Scope.*

Number of persons insurably employed or in a "free insurance period" following cessation of employment (see under ARTICLE 6 of the Convention)

16,988,000 (381,660)

Number of voluntary contributors

731,000 (6,550)

Number of insured persons who have ceased to be employed and remain entitled to certain of the benefits provided under the National Health Insurance Scheme, but are no longer entitled to disablement benefit . . .

742,000 (9,200)

Number of insured persons over age 65 who are entitled to benefits in kind referred to at 2 (c) below but not to sickness and disablement benefits

1,366,000 (29,550)

Number of persons who are exempted from insurance under the provisions referred to in paragraph h (i) of the report on Article 2, and are entitled to medical benefit but not to any of the other benefits provided under the National Health Insurance Scheme

15,000 (240)

Total number of insured persons at 31 December 1937

19,842,000 (427,200)

2. *Total expenditure during the year ended 31 December 1937:*

(a) in respect of disablement benefit (including increases provided out of surpluses) (See under ARTICLE 7)

£6,451,000 (£190,000)

(b) in respect of other cash benefits, i.e. sickness benefit

£11,587,000 (£268,000)

(c) in respect of benefits in kind, i.e. medical benefits and additional treatment benefits provided out of surpluses) (See under ARTICLE 8)

£14,292,000 (£277,000)

(d) in respect of administrative expenses covering the whole of National Health Insurance Scheme (including cost of Central Administration)

£5,697,000 (£135,000)

3. *Total receipts during the year ended 31 December 1937:*

(a) Contributions

from employers £14,921,000 (£268,000)

(b) Contributions

from employees £14,368,000 (£264,000)

(c) Contribution by Exchequer. (Including cost of Central Administration)

£7,232,000 (£166,000)

(d) Interest on accumulated funds and sundry other receipts

£6,374,000 (£163,000)

4. *Total Financial Resources as at 31 December 1937.* £138,075,000 (£1,837,000) of which £135,443,000 (1,799,000) was invested and the remainder was in hand or at the Bank.

The National Health Insurance Scheme has been in operation in Great Britain since July 1912, and is now generally acceptable to employers and employees, and is recognised as an important contribution to the social services. The Central Authority has a staff of Inspectors, one of whose functions is to enforce compliance with the National Health Insurance Acts, and evasion of the payment of contributions due under the Acts is practically negligible. The Central Authority maintains very amicable relationships with the Approved Societies and the Insurance Committees, and also with the doctors and chemists, through whom medical treatment is provided. In the case of the Approved Societies there are two councils, one for England and Wales and one for Scotland, on which the various types of Societies are represented, to give advice and assistance to the Central Authorities, while similar bodies have been set up representative of doctors and chemists.

See also introductory note.

38. *Convention concerning compulsory invalidity insurance for persons employed in agricultural undertakings.*

Article 26 of the Convention provides that it "shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Secretary-General. Thereafter, the Convention shall come into force for any

Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 18 July 1937. The following table shows the States Members which had ratified the Convention unconditionally before 1 July 1938, and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Report received
Chile . . . . .	18.10.1935	3. 4.1939
Great Britain . . .	18. 7.1936	10. 3.1939

For the general information supplied by the Government of *Great Britain*, see under *Convention No. 37 (Invalidity insurance, industry, etc.)*, introductory note.

## I

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Chile.

Decree No. 34 of 22 January 1926 promulgating the text of Act No. 4054 respecting compulsory insurance against sickness, invalidity and old age (L. S. 1926, Chile 1).

Decree No. 205 of 8 April 1925 issuing regulations under Act No. 4054.

Legislative Decree No. 203 of 14 July 1932 concerning the method of constituting the Council of the Compulsory Insurance Fund.

Legislative Decree No. 499 of 26 August 1932, specifying the powers of the Council and General Manager of the Compulsory Insurance Fund.

Legislative Decree No. 331 of 29 July 1932 including illegitimate children among the heirs entitled to refund of the contributions paid by their deceased insured parent.

Act No. 5067 of 1 March 1932 concerning the inspection service of the Compulsory Insurance Fund.

Act No. 5937 of 16 October 1937 increasing the maximum income compatible with liability to insurance.

Decree No. 308 of 12 July 1937 increasing the rates of the employer's and the State contributions for a term of one year.

Act No. 6172 of 22 February 1938 increasing the rate of the employer's contribution in order to finance workers' housing.

Act No. 6236 of 10 September 1938 increasing the rate of the State contribution in order to finance maternal and infant welfare services.

Act No. 6174 of 9 February 1938 establishing a preventive medical service for the insured population.

Decree No. 360 of 9 May 1938 issuing regulations under Act No. 6174.

### Great Britain.

National Health Insurance Act, 1936 (L. S. 1936, G. B. 8).

National Health Insurance (Amendment) Act, 1937 (L. S. 1937, G. B. 4).

National Health Insurance (Amendment) Act, 1938 (L. S. 1938, G. B. 2).

National Health Insurance (Amendment) Act (Northern Ireland), 1938.

Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (L. S. 1936, G. B. 5).

Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland), 1936.

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (L. S. 1937, G. B. 1).

Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, Northern Ireland, 1937.

Various Orders and Regulations dating from 1932 to 1938.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures under which each Article is applied.*

### ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up or maintain a scheme of compulsory invalidity insurance which shall be based on provisions at least equivalent to those contained in this Convention.

*Great Britain.* — See under *Convention No. 37 (Invalidity insurance, industry, etc.)*, ARTICLE 1.

### ARTICLE 2.

1. The compulsory invalidity insurance scheme shall apply to manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and to outworkers and domestic servants:

2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of

(a) workers whose remuneration exceeds a prescribed amount and, where national laws or regulations do not make this exception general in

its application, any non-manual workers engaged in occupations which are ordinarily considered as liberal professions ;

(b) workers who are not paid a money wage ;

(c) young workers under a prescribed age and workers too old to become insured when they first enter employment ;

(d) outworkers whose conditions of work are not of a like nature to those of ordinary wage earners ;

(e) members of the employer's family ;

(f) workers whose employment is of such a nature that, its total duration being necessarily short, they cannot qualify for benefit, and persons engaged solely in occasional or subsidiary employment ;

(g) invalid workers and workers in receipt of an invalidity or old-age pension ;

(h) retired public officials employed for remuneration and persons possessing a private income, where the retirement pension or private income is at least equal to the invalidity pension provided by national laws or regulations ;

(i) workers who, during their studies, give lessons or work for remuneration in preparation for an occupation corresponding to such studies ;

3. Provided also that there may be exempted from liability to insurance persons who, by virtue of any law, regulations or special scheme, are or will become entitled to invalidity benefits at least equivalent on the whole to those provided for in this Convention.

*Please indicate how the scope of compulsory invalidity insurance is determined in so far as it applies to manual and non-manual workers, and apprentices in industrial undertakings, in commercial undertakings, and in the liberal professions, outworkers, and domestic servants.*

*Please indicate whether and to what extent advantage has been taken of the exceptions provided for in the second paragraph of this Article, and in particular :*

1. *The remuneration limit within which the scope is determined, and or the definition applied to non-manual workers engaged in occupations which are ordinarily considered as liberal professions (sub-paragraph a).*

2. *The lowest and highest age limits for workers who enter employment for the first time (sub-paragraph c).*

3. *The definition applied to employed of short duration, to occasional employment and to subsidiary employment (sub-paragraph f).*

4. *On what principles exceptions have been made as provided for in the other sub-paragraphs (b, d, e, and g to i) of paragraph 2 of this Article.*

*If advantage has been taken of the exemption provided for in paragraph 3 of this Article, please (1) indicate the classes of persons exempted ; (2) give a list of the statutes, regulations and orders which provide invalidity benefits for the said persons ; and (3) forward with the present report texts of the said statutes, regulations and orders.*

*Chile.* — Compulsory invalidity insurance has the same scope as compulsory old-age insurance. See under *Convention No. 36 (Old-age insurance, agriculture)*, ARTICLE 2.

*Great Britain.* — The report states that the provisions of the National Health Insurance Acts apply to persons employed in agricultural undertakings in the same way as to persons employed in industrial or commercial undertakings. Paragraph (j) of Part II of the first Schedule to the

National Health Insurance Act excepts from compulsory insurance persons engaged in employment in respect of which no wages or other money payment is made, where the employer is the occupier of an agricultural holding. See also under *Convention No. 37 (Invalidity insurance, industry, etc.)*, ARTICLE 2.

### ARTICLE 3.

National laws or regulations shall, under conditions to be determined by them, either entitle persons formerly compulsorily insured who are not in receipt of a pension to continue their insurance voluntarily or entitle such persons to maintain their rights by the periodical payment of a fee for the purpose, unless the said rights are automatically maintained or, in the case of married women, the husband, if not liable to compulsory insurance, is permitted to insure voluntarily and thereby to qualify his wife for an old-age or widow's pension.

*Please indicate whether the rights of persons formerly in compulsory insurance are automatically maintained within the meaning of this Article, and, if not, what opportunity the law grants to the said persons to maintain their rights and on what terms they can take advantage of that opportunity.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 3.

*Great Britain.* — See under *Convention No. 37 (Invalidity insurance, industry, etc.)*, ARTICLE 3.

### ARTICLE 4.

1. An insured person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to an invalidity pension :

2. Provided that national laws or regulations which secure to insured persons medical treatment and attendance throughout invalidity and, if invalidity terminates in death, secure pensions at the full rate to widows without any conditions as to age or invalidity and to orphans, may make the award of an invalidity pension conditional upon the insured person's being unable to perform remunerative work.

3. In the case of special schemes for non-manual workers, an insured person who suffers from incapacity which renders him unable to earn an appreciable remuneration in the occupation in which he was ordinarily engaged or in a similar occupation shall be entitled to an invalidity pension.

*Please indicate how the invalidity giving title to a pension is defined.*

*Chile.* — See under *Convention No. 37 (Invalidity insurance, industry, etc.)*, ARTICLE 4.

*Great Britain.* — See under *Convention No. 37 (Invalidity insurance, industry, etc.)*, ARTICLE 4.

## ARTICLE 5.

1. Notwithstanding the provisions of Article 6, the right to a pension may be made conditional upon the completion of a qualifying period, which may involve the payment of a minimum number of contributions since entry into insurance and during a prescribed period immediately preceding the happening of the event insured against.

2. The duration of the qualifying period shall not exceed 60 contribution months, 250 contribution weeks or 1,500 contribution days.

3. Where the completion of the qualifying period involves the payment of a prescribed number of contributions during a prescribed period immediately preceding the happening of the event insured against, periods for which benefit has been paid in respect of temporary incapacity for work or of unemployment shall be reckoned as contribution periods to such extent and under such conditions as may be determined by national laws or regulations.

*Please indicate whether the right to a pension is made conditional on the completion of a qualifying period and, if the law so requires, what is the minimum number of contributions prescribed and during what period they must be paid, and also give particulars of the measures taken to give effect to paragraph 3 of this Article.*

*Chile. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 5.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 5.*

## ARTICLE 6.

1. An insured person who ceases to be liable to insurance without being entitled to a benefit representing a return for the contributions credited to his account shall retain his rights in respect of these contributions:

2. Provided that national laws or regulations may terminate rights in respect of contributions on the expiry of a term which shall be reckoned from the date when the insured person so ceased to be liable to insurance and which shall be either variable or fixed:

(a) where the term is variable, it shall not be less than one-third (less the periods for which contributions have not been credited) of the total of the periods for which contributions have been credited since entry into insurance.

(b) where the term is fixed, it shall in no case be less than eighteen months and rights in respect of contributions may be terminated on the expiry of the term unless, in the course thereof, a minimum number of contributions prescribed by national laws or regulations has been credited to the account of the insured person in virtue of either compulsory or voluntarily continued insurance.

*Please indicate whether an insured person who ceases to be liable to insurance retains indefinitely his rights in respect of contributions credited to his account.*

*If not, please indicate in what way the said rights are limited and give information to show conformity either with sub-paragraph (a) or with sub-paragraph (b) of paragraph 2 of this Article.*

*Chile. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 6.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 6.*

## ARTICLE 7.

1. The pension shall, whether or not dependent on the time spent in insurance, be a fixed sum or a percentage of the remuneration taken into account for insurance purposes or vary with the amount of the contributions paid.

2. Where the pension varies with the time spent in insurance and its award is made conditional upon the completion by the insured person of a qualifying period, the pension shall, unless a minimum rate is guaranteed, include a fixed sum or fixed portion not dependent on the time spent in insurance.

3. Where contributions are gratuated according to remuneration, the remuneration taken into account for this purpose shall also be taken into account for the purpose of computing the pension, whether or not the pension varies with the time spent in insurance.

*Please indicate whether or not the pension is dependent on the time spent in insurance.*

1. *If the time spent in insurance is not taken into account, please indicate the amount of the pension;*

2. *If the pension is dependent in part on the time spent in insurance, please indicate what are its constituent elements;*

(a) *if the pension includes a guaranteed minimum rate, please indicate the rate;*

(b) *if not, but if it includes a fixed sum or portion, please indicate its amount;*

(c) *please indicate how the portion which varies with the time spent in insurance is calculated.*

*Chile. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 7.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 7.*

## ARTICLE 8.

Insurance institutions shall be authorised, under conditions which shall be determined by national laws or regulations, to grant benefits in kind for the purpose of preventing, postponing, alleviating or curing invalidity to persons who are in receipt of or may be entitled to claim a pension on the ground of invalidity.

*Please indicate what benefits in kind are authorised and under what conditions.*

*Chile. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 8.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 8.*

## ARTICLE 9.

1. The right to benefits may be forfeited or suspended in whole or in part if the person concerned

(a) has brought about his invalidity by a criminal offence or wilful misconduct; or

(b) has acted fraudulently towards the insurance institution.

2. The pension may be suspended in whole or in part while the person concerned

(a) is entirely maintained at the public expense or by a social insurance institution;

(b) refuses without valid reason to comply with the doctor's orders or the instructions relating to the conduct of invalids or voluntarily and without authorisation removes himself from the supervision of the insurance institution;

(c) is in receipt of another periodical cash benefit payable by virtue of any law or regulations concerning compulsory social insurance, pensions or workmen's compensation for accidents or occupational diseases; or

(d) is in employment involving compulsory insurance or, in the case of special schemes for non-manual workers, is in receipt of remuneration exceeding a prescribed rate.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — See under Convention No. 37 (*Invalidity insurance, industry, etc.*), ARTICLE 9.

*Great Britain.* — See under Convention No. 37 (*Invalidity insurance, industry, etc.*), ARTICLE 9.

## ARTICLE 10.

1. The insured persons and their employers shall contribute to the financial resources of the insurance scheme.

2. National laws or regulations may exempt from liability to pay contributions

(a) apprentices and young workers under a prescribed age;

(b) workers who are not paid a money wage or whose wages are very low.

3. Contributions from employers may be dispensed with under laws or regulations concerning schemes of national insurance not restricted in scope to employed persons.

4. The public authorities shall contribute to the financial resources or to the benefits of insurance schemes covering employed persons in general or manual workers.

5. National laws or regulations which, at the time of the adoption of this Convention, do not require contributions from insured persons may continue not to require such contributions.

*Please indicate the conditions under which the insured persons and their employers contribute to the financial resources of the insurance scheme, and in particular the amount or the rate of their respective contributions.*

*Please indicate the way in which the public authorities contribute to the financial resources or to the benefits of the insurance scheme.*

*Chile.* — See under Convention No. 35 (*Old-age insurance, industry, etc.*), ARTICLE 9.

*Great Britain.* — See under Convention No. 37 (*Invalidity insurance, industry, etc.*), ARTICLE 10.

## ARTICLE 11.

1. The insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit or by State insurance funds:

2. Provided that national laws or regulations may also entrust its administration to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities.

3. The funds of insurance institutions and State insurance funds shall be administered separately from the public funds.

4. Representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws or regulations, which may likewise decide as to the participation of representatives of employers and of the public authorities.

5. Self-governing insurance institutions shall be under the administrative and financial supervision of the public authorities.

*Please indicate the constitution and the functions of the institutions entrusted with the administration of the insurance scheme and their particular nature (whether they are institutions founded by the public authorities and not conducted with a view to profit, whether they are State insurance funds, or whether they are institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities).*

*Please indicate the measures taken to give effect to paragraph 3 of this Article.*

*Please indicate the conditions under which the representatives of insured persons and, where the law so provides, the representatives of employers and of public authorities, participate in the management of the insurance institutions.*

*Please indicate what are the authorities entrusted with the administrative and financial supervision of the self-governing insurance institutions.*

*Chile.* — See under Convention No. 35 (*Old-age insurance, industry, etc.*), ARTICLE 10.

*Great Britain.* — See under Convention No. 37 (*Invalidity insurance, industry, etc.*), ARTICLE 11.

## ARTICLE 12.

1. The insured person or his legal representatives shall have a right of appeal in any dispute concerning benefits.

2. Such disputes shall be referred to special tribunals which shall include judges, whether professional or not, who are specially cognisant of the purposes of insurance and the needs of insured persons or are assisted by assessors chosen as representative of insured persons and employers respectively.

3. In any dispute concerning liability to insurance or the rate of contribution, the employed person and, in the case of schemes providing for an employer's contribution, his employer shall have a right of appeal.

*Please indicate whether the law grants to the insured person or his legal representatives a right of appeal in case of dispute concerning benefits.*

*Please indicate the constitution of the special tribunals which deal with disputes concerning benefits.*

*Please indicate whether the law grants to the employed person or to his employer a right of appeal in case of dispute concerning liability to insurance or the rate of contribution.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 11.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 12.*

#### ARTICLE 13.

1. Foreign employed persons shall be liable to insurance and to the payment of contributions under the same conditions as nationals.

2. Foreign insured persons and their dependants shall be entitled under the same conditions as nationals to the benefits derived from the contributions credited to their account.

3. Foreign insured persons and their dependants shall, if nationals of a Member which is bound by this Convention and the laws or regulations of which therefore provide for a State subsidy towards the financial resources or benefits of the insurance scheme in conformity with Article 10, also be entitled to any subsidy or supplement to or fraction of a pension which is payable out of public funds:

4. Provided that national laws or regulations may restrict to nationals the right to any subsidy or supplement to or fraction of a pension which is payable out of public funds and granted solely to insured persons who have exceeded a prescribed age at the date when the laws or regulations providing for compulsory insurance come into force.

5. Any restrictions which may apply in the event of residence abroad shall only apply to pensioners and their dependants who are nationals of any Member bound by this Convention and reside in the territory of any Member bound thereby to the extent to which they apply to nationals of the country in which the pension has been acquired: Provided that any subsidy or supplement to or fraction of a pension which is payable out of public funds may be withheld.

*Please indicate whether and under what conditions foreign employed persons and their dependants are treated on a footing of equality with nationals*

(a) *in respect of liability to insurance and payment of contributions (paragraph 1);*

(b) *in respect of benefits derived from contributions credited to their account (paragraph 2);*

(c) *in respect of subsidies or supplements to or fractions of pensions payable out of public funds (paragraphs 3 and 4);*

(d) *in respect of restrictions, if any, which apply in case of residence abroad (paragraph 5).*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 12.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 13.*

#### ARTICLE 14.

1. The insurance of employed persons shall be governed by the law applicable at their place of employment.

2. In the interest of continuity of insurance, exceptions may be made to this rule by agreement between the Members concerned.

*If agreements have been made providing for exceptions from the rule laid down in the first paragraph of this Article, please forward copies of the said agreements.*

*Chile. — See under Convention No. 35 (Old-age, insurance, industry, etc.), ARTICLE 13.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), ARTICLE 14.*

#### ARTICLE 15.

Any Member may prescribe special provisions for frontier workers whose place of employment is in its territory and whose place of residence is abroad.

*If special provisions have been made for frontier workers, please indicate their principal elements.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 14.*

*Great Britain. — The report states that this Article is not applicable in Great Britain.*

#### ARTICLE 16.

In countries which, at the time when this Convention first comes into force, have no laws or regulations providing for compulsory invalidity insurance, an existing non-contributory pension scheme which guarantees an individual right to a pension under the conditions defined in Articles 17 to 23 hereinafter shall be deemed to satisfy the requirements of this Convention.

*If, in order to apply the Convention, recourse is had to Articles 16 to 23, please indicate whether the scheme of non-contributory pensions existing before 18 July 1937 guarantees an individual right to a pension under the conditions defined in Articles 17 to 23.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), ARTICLE 15.*

*Great Britain. — The report states that this Article is not applicable in Great Britain.*

#### ARTICLE 17.

A person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to a pension.

*Please indicate how the invalidity giving title to a pension is defined.*



*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 16.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

#### ARTICLE 18.

The right to a pension may be made conditional upon the claimant's having been resident in the territory of the Member for a period immediately preceding the making of the claim. This period shall be determined by national laws or regulations but shall not exceed five years.

*Please indicate the length of the residence period required for right to a pension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 17.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

#### ARTICLE 19.

1. An claimant shall be entitled to a pension if the annual value of his means does not exceed a limit which shall be fixed by national laws or regulations with due regard to the minimum cost of living.

2. Means up to a level which shall be determined by national laws or regulations shall be exempted for the purpose of the assessment of means.

*Please indicate the upper limit of the annual value of means beyond which a right to a pension cannot arise, and also the amount of the means exempted within the meaning of paragraph 2 of this Article.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 18.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

#### ARTICLE 20.

The rate of pension shall be an amount which, together with any means of the claimant in excess of the means exempted, is at least sufficient to cover the essential needs of the pensioner.

*Please indicate the amount of the pension and how it is calculated in relation to the means in excess of those exempted.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 19.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

#### ARTICLE 21.

1. A claimant shall have a right of appeal in any dispute concerning the award of a pension or the rate thereof.

2. The appeal shall lie to an authority other than the authority which gave the decision in the first instance.

*Please indicate whether the law grants a claimant a right of appeal in case of dispute concerning the award of a pension or the rate thereof and to what authority.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 20.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

#### ARTICLE 22.

1. Foreigners who are nationals of a Member bound by this Convention shall be entitled to pensions under the same conditions as nationals :

2. Provided that national laws or regulations may make the award of a pension to foreigners conditional upon their having been resident in the territory of the Member for a period which shall not exceed by more than five years the period of residence prescribed for nationals.

*Please indicate under what conditions foreigners are entitled to pensions and what period of residence is required, if any.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 21.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

#### ARTICLE 23.

1. The right to a pension may be forfeited or suspended in whole or in part if the person concerned

(a) has brought about his invalidity by a criminal offence or wilful misconduct ;

(b) has obtained or attempted to obtain a pension by fraud ;

(c) has been sentenced to imprisonment for a criminal offence ; or

(d) has persistently refused to earn his living by work compatible with his strength and capacity.

2. The pension may be suspended in whole or in part while the person concerned is entirely maintained at the public expense.

*Please indicate the grounds of forfeit or suspension.*

*Chile.* — See under *Convention No. 35 (Old-age insurance, industry, etc.)*, ARTICLE 22.

*Great Britain.* — The report states that this Article is not applicable in Great Britain.

### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows :*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — No legislation has been specially enacted in any of the colonial dependencies to give effect to the four (1933) Conventions concerning insurance which have been ratified by the Government of Great Britain. In the very large majority of cases the application of the Conventions would not be practicable in the present stage of development.

### IV.

*Please indicate whether decisions of courts of law or administrative decisions have been given regarding the application of the Convention. If so, please forward the text of those decisions which deal with questions of principle.*

*Chile.* — See under Convention No. 35 (Old-age insurance, industry, etc.) Point IV.

*Great Britain.* — The report states that no decisions by Courts of law and no administrative decisions have been given regarding the application of the Convention.

### V.

*Please furnish any other information available concerning the manner in which the Convention is applied, whether by a compulsory invalidity insurance scheme or by a scheme of non-contributory pensions.*

*If statistics are available concerning the application of compulsory invalidity insurance (or non-contributory invalidity pensions) please furnish details also concerning the application of the law especially on the following points :*

#### A. Compulsory invalidity insurance.<sup>1</sup>

##### 1. Scope :

*Total number of insured persons engaged during or at the end of the last annual period in undertakings or occupations to which this Convention applies. (Please indicate whether the figures are taken from statistics or whether they are based on an estimate).*

##### 2. Number of pensioners at the beginning of the last annual period, of new pensions awarded and of pensions which ceased to be paid during the said period.

##### 3. Total expenditure :

- (a) *in respect of invalidity pensions ;*
- (b) *in respect of other benefits in cash (e.g. additional benefits) granted to persons ceasing to be insured before acquiring the right to a pension (e.g. refund of contributions) ;*
- (c) *in respect of benefits in kind ;*
- (d) *in respect of administrative expenses ;*
- (e) *in respect of placing to reserve.*

##### 4. Total receipts :

- (a) *contributions from employers ;*
- (b) *contributions from insured persons ;*
- (c) *contributions from the public authorities.*

#### B. Non-contributory invalidity pensions.<sup>1</sup>

##### 1. Total number of pensioners at the beginning and at the end of the last annual period.

##### 2. Total amount of expenditure on pensions during the last annual period.

<sup>1</sup> *Re invalidity insurance only, if possible ; if not, re invalidity, old age and survivor insurance jointly.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Chile. — See under Convention No. 35 (Old-age insurance, industry, etc.), Point V.*

*Great Britain. — See under Convention No. 37 (Invalidity insurance, industry, etc.), Point V. The information supplied therein applies equally to persons employed in agricultural undertakings.*

EIGHTEENTH SESSION (GENEVA, 1934).

41. Convention concerning employment of women during the night (revised).

Article 10 of the Convention provides that it "shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered by the Secretary-General. Thereafter, the Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

The Convention came into force on 22 November 1936. The following table shows the States Members for which the Convention was in force before 1 July 1938, and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Brazil <sup>1</sup> . . . . .	8. 6. 1936	28. 2. 1939
Estonia . . . . .	21. 12. 1935	11. 10. 1938
Great Britain . . .	25. 1. 1937	28. 12. 1938
Greece <sup>2</sup> . . . . .	30. 5. 1936	21. 3. 1939
Hungary . . . . .	18. 12. 1936	1. 11. 1938
India <sup>3</sup> . . . . .	22. 11. 1935	16. 12. 1938
Ireland . . . . .	15. 3. 1937	8. 12. 1938
Netherlands . . .	9. 12. 1935	1. 10. 1938
Switzerland . . . .	4. 6. 1936	1. 11. 1938
Union of South Africa . .	28. 5. 1935	22. 11. 1938
* * *	* * *	* * *
Burma <sup>4</sup> . . . . .	22. 11. 1935	30. 1. 1939

<sup>1</sup> Brazil has denounced Convention No. 4.  
<sup>2</sup> Greece has denounced Convention No. 4.  
<sup>3</sup> India has ratified this Convention but has not denounced Convention No. 4.  
<sup>4</sup> See the introduction to the present volume, p. 4.

For the general information supplied by the Government of Brazil in its letter of 23 February 1939, see under *Convention No. 3 (Childbirth)*, introductory note.  
 See also under *Convention No. 4 (Night work, women, 1919)*, introductory note.

The report of the *British* Government states that the Hours of Employment (Conventions) Act, 1936 (the relevant sections of which came into force on 25 January, 1938) brought the law of the country into conformity in all respects with the requirements of the Convention. The other Acts mentioned in the list thereunder have a restrictive effect as indicated under Part II, Articles 4 and 6.

The Government of *Hungary* denounced Convention No. 4 and ratified Convention No. 41 on 18 December 1936. The latter Convention therefore came into force for Hungary on 18 December 1937. During the period 1 October 1937-30 September 1938, Conventions No. 4 and No. 41 were applied successively in Hungary, and the information supplied by the Government concerning the application of the regulations on night work of women during 1937 is given in the summary of the report furnished for *Convention No. 4 (Night work, women)*.

In *Ireland* Convention No. 4 was in force up to 14 March 1938; the report on Convention No. 41 relates to the period from 15 March 1938, the date when the Convention came into force for Ireland, up to 30 September 1938.

For the *Netherlands*, see also under *Convention No. 4 (Night work, women, 1919)*, introductory note.

The Convention came into force in *Switzerland* on 4 June 1937. On certain points, however, the report of the Swiss Government refers to its earlier reports concerning *Convention No. 4*. See also under *Convention No. 6 (Night work, young persons, 1919)*, introductory note.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Brazil.*

Decree No. 21,417 of 17 May 1932 regulating the conditions of employment of women in industrial and commercial undertakings (L. S. 1932, Braz. 5).

Decree No. 21,364 of 4 May 1932 regulating hours of work in industry (L. S. 1932, Braz. 3).

See also introductory note.

*Estonia.*

Act of 20 May 1924 relating to the employment of children, young persons and women in industrial undertakings, amended by the Act of 19 November 1929 and the Act of 13 November 1935 (L. S. 1924, Est. 1; L. S. 1929, Est. 5; and L. S. 1935, Est. 8).

*Great Britain.*

Hours of Employment (Convention) Act, 1936 (L. S. 1936, G. B. 2).

Factory and Workshop Act, 1901<sup>1</sup>, superseded by the Factories Act, 1937 (L. S. 1937, G. B. 2), which came into force on 1 July 1938.

Coal Mines Act, 1911.

*Greece.*

Act No. 4029 of 24 January/6 February 1912 concerning the work of women and minors (B. B. Vol. VII, 1912, p. 285).

Royal Decree of 14/27 August 1913 issued in application of Act No. 4029 (B. B. Vol. IX, 1914, p. 219).

Royal Decree of 25 September/8 October 1913 respecting the night employment of women in factories and workshops for packing fish in boxes (preserved fish) (B. B. Vol. IX, 1914, p. 225).

Act No. 4819 of 14 July 1930 concerning the organisation of the factory inspection service (L. S. 1930, Gr. 9).

Decree of 4 July 1925 respecting the employment of women over the age of eighteen years at night in dairies (L. S. 1925, Gr. 3).

Decree of 30 August 1927 respecting the employment of women at night in factories and workshops for the packing of dried and green figs (preserved figs) (L. S. 1927, Gr. 3 A).

Decree of 20 February 1932 respecting the employment of women over the age of eighteen years at night in the preparation and packing of grapes and raisins (L. S. 1932, Gr. 1).

Legislative Decree of 30 October 1935 ratifying the revised Convention No. 41.

Decree of 28 April 1937 to extend the eight-hour day to weaving and spinning mills, ropewalks, hosiery factories and flannel and knitted goods factories (L. S. 1937, Gr. 3).

*Hungary.*

Act No. V of 1928 on the protection of children, young persons and women employed in industrial and certain other undertakings (L. S. 1928, Hung. 1).

Order No. 150,443 of 30 December 1930 by the Minister for Commerce on the application of §§ 1-3, 8, 12-16, 18-20, 22-24, and 30 of Act No. V of 1928 (L. S. 1930, Hung. 5).

Order No. 33,469 of 2 June 1933 by the Minister for Commerce on the night rest-period of 11 hours for young persons and women employed in brick-works (L. S. 1933, Hung. 5).

Act. No. 1 of 1937 to ratify the Convention concerning employment of women during the night (revised, 1934).

*India.*

Factories Act No. XXV of 1934 (L. S. 1934, Ind. 2) amended by Act No. XI of 1935 (L. S. 1936, Ind. 3 B, annex) and Act No. VIII of 1936 (L. S. 1936, Ind. 3 A).

*Ireland.*

Employment of Women, Young Persons and Children Act, 1920 (L. S. 1920, G. B. 9).

Conditions of Employment Act, 1936 (L. S. 1936, I. F. S. 1).

*Netherlands.*

Labour Act of 1919 as subsequently amended (L. S. 1930, Neth. 2 B).

Order of 8 September 1936 to issue public administrative regulations in pursuance of §§ 22 (2) and (3), 23, 25, 31 (1) and (7), 68 (11) and 91 of the Labour Act of 1919: hours of work in factories and workshops (L. S. 1936, Neth. 2).

Mining Regulations of 1906 amended by the Decrees of 9 February 1917 and 7 October 1922 (L. S. 1922, Neth. 4).

*Switzerland.*

Federal Act of 18 June 1914/27 June 1919 relating to work in factories (B.B. Vol. IX, 1914, p. 269, and L. S. 1919, Switz. 3).

Federal Act of 31 March 1922 relating to the employment of young persons and women in industry (L.S. 1922, Switz. 2).

Administrative Order of 3 October 1919/7 September 1923 under the Factory Act (L. S. 1919, Switz. 4, and 1923, Switz. 3).

Administrative Order of 15 June 1923 respecting the application of the Federal Act relating to the employment of young persons and women in industry (L. S. 1923, Switz. 1 A).

Order of 9 October 1936, regulating employment in the watch-making industry outside factories, prolonged by Order of 9 December 1937 (L. S. 1936, Switz. 1).

*Union of South Africa.*

Factories Act, No. 28 of 1918 (L. S. 1931, S. A. 2 B).

Factories (Amendment) Act, No. 26 of 1931 (L. S. 1931, S. A. 2 A).

Wage Act, No. 44 of 1937.

Industrial Conciliation Act, No. 36 of 1937.

Mines and Works Act, No. 12 of 1911 (L. S. 1931, S. A. 1 B).

<sup>1</sup> Still in force in Northern Ireland; see under Point II, Article 6.

*Burma.*

Factories Act No. XXV of 1934 (L. S. 1934, Ind. 2) amended by Act No. XI of 1935 (L. S. 1936, Ind. 3 B, annex) and Act No. VIII of 1936 (L. S. 1936, Ind. 3 A).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly :

(a) Mines, quarries, and other works for the extraction of minerals from the earth ;

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed ; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind ;

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

*In addition, please state what decisions, if any, have been taken in regard to the last paragraph of Article 1.*

*Great Britain.* — Under § 4 (1) of the Hours of Employment (Conventions) Act, 1936, "industrial undertaking" has the meaning assigned thereto in the Convention. The report states that no decisions defining the line which separates industry from commerce and agriculture have so far been given by the competent authority, which would be the Courts of Law.

*Hungary.* — § 1 of Act No. V of 1928 applies the provisions concerning night work of women to the works and undertakings covered by Act No. XVII of 1884 instituting an Industrial Code and the amending Act No. XII of 1922, including all building undertakings, to mining and metal-working and allied or subsidiary undertakings, to industrial undertakings in connection with State monopolies, to manufacture and repair shops of railway and shipping undertakings and of the State postal, telegraph and telephone administration, irrespective of whether such undertakings are owned by the State, local authorities or private persons. In connection with Convention No. 4, the report stated that the line of demarcation

between industry and agriculture already drawn by Act No. XVII of 1884 was maintained unchanged by Act No. V of 1928, which excluded from its scope agricultural and forestry production, live-stock raising, fishing, horticulture, vine-growing, silkworm-raising and bee-keeping (§ 2), and by Order No. 150,443, which provides that industries connected with these branches of production are likewise excluded from the operation of the Act provided that they are restricted to the preparation or sale of the raw materials furnished by the undertakings with which they are connected. The report added that these provisions have proved quite sufficient and that no doubt exists about the line of demarcation.

*Ireland.* — As regards paragraph (a), mines are covered by the Employment of Women, Young Persons and Children Act, 1920, and quarries by the Conditions of Employment Act, 1936 ; as regards (b) and (c), these undertakings are covered by the Conditions of Employment Act. Agricultural and commercial work are defined by § 3 of the Act of 1936 and excluded from its scope.

*Switzerland.* — See under *Convention No. 5 (Minimum age, industry), point II, Article 1.*

## ARTICLE 2.

1. For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

2. Provided that, where there are exceptional circumstances affecting the workers employed in a particular industry or area, the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of women employed in that industry or area, the interval between eleven o'clock in the evening and six o'clock in the morning may be substituted for the interval between ten o'clock in the evening and five o'clock in the morning.

3. In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

*In addition, please state whether in the circumstances provided for in the second paragraph of this Article, the interval between 11 p.m., and 6 a.m. has been substituted for the standard night interval, and if so, what methods were adopted for consulting the organisations of employers and workers concerned.*

*Please also state whether, in the circumstances provided for in the third paragraph of this Article, the term "night" has been provisionally declared to signify a period of only ten hours.*

*Estonia.* — The report states that no recourse has been had to the provisions of paragraph 2 of this Article.

*Great Britain.* — The definition of "night" contained in this Article is applied by § 1 (1) of the Hours of Employment (Conventions) Act, 1936: "No women shall be employed at night in any industrial undertaking except to the extent to which, and in the cases in which, such employment is permitted under the provisions of the Night Work (Women) Convention (Revised), 1934", of. The report states that no action has been taken under the second paragraph of the Article.

*Hungary.* — § 12 of Act No. V of 1928 and § 8 of the Order of 1930 stipulate that women must be allowed a period of uninterrupted rest during the night of at least eleven hours, including the period between 10 p.m. and 5 a.m. These provisions also apply to women employed in making bricks and stacking bricks by hand, under Order No. 334,469 of 1933 repealing § 33 of the Order of 1930, which contained special provisions concerning women so employed. The report states that the Government has not yet had recourse to the provisions of paragraph 2 of this Article.

*Ireland.* — As regards mines, the Act of 1920 reproduces the provisions of Convention No. 4. § 46 of the Conditions of Employment Act, 1936, provides that "it shall not be lawful for any employer to permit any woman to do for him any industrial work at any time between the hour of 10 p.m. on any day and the hour of 8 a.m. on the following day or to permit any women to commence to do for him any industrial work on any day until after the expiration of eleven hours from the time at which she ceased to do industrial work on the previous day." § 12 of the Act provides that "the Minister shall, in the exercise of every or any power of making regulations conferred on him by this Act, have due regard to the provisions of the several international Conventions for the time being ratified by and binding on the Government." The report states that no substitution of the interval between 11 p.m. and 6 a.m. for the interval between 10 p.m. and 5 a.m. has been made in the circumstances provided for in paragraphs 2 and 3 of this Article.

*Switzerland.* — §§ 27 and 35 of the Order of the Federal Council regulating employment in the watch-making industry outside factories defines "night" as the period between 8 p.m. and 6 a.m. § 35 stipulates that for female workers the night rest period must be at least eleven consecutive hours.

### ARTICLE 3.

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof,

other than an undertaking in which only members of the same family are employed.

*In particular, please state whether for the purposes of the application of this Article and irrespective of the exemption provided for in Article 8, the term "women" is interpreted in your country as covering all women employed in industrial undertakings without distinction as to the nature of their duties.*

*Great Britain.* — § 1 (1) of the Hours of Employment (Conventions) Act, 1936, gives effect to this Article (see under Article 2). The report states that in practice the Convention is regarded as applying to industrial employees but not to persons engaged in office and similar work of a commercial character or other classes of persons such as doctors and welfare workers whose employment may be incidental to the business of carrying on an industrial undertaking but is not of an industrial character.

*Hungary.* — § 12 of Act No. V of 1928 prohibits the employment of women during the night and the Order of 1933 similarly prohibits such employment in brick-works. The legislation makes no distinction between public and private undertakings (see under Article 1) and makes no exception in favour of undertakings in which only members of the same family are employed. The report for 1936-37 on Convention No. 4 stated that for the purpose of the application of this Article, the term "women", as interpreted in Hungary, covered all women employed in industrial undertakings whatever their duties.

*Ireland.* — See under Articles 2 and 8. The report states that the term "women" includes all women employed on industrial work. As regards mines, the Employment of Women, Young Persons and Children Act of 1920 reproduces the provisions of Convention No. 4.

*Switzerland.* — The Federal Council's Order regulating employment in the watch-making industry outside factories goes further than the Convention requires, prohibiting night work not only in small undertakings but also in family undertakings (§ 27).

### ARTICLE 4.

Article 3 shall not apply:

(a) In cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character.

(b) In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

*As regards paragraph (a) please state whether your legislation, etc., imposes any conditions subject to which employers are allowed to take advantage of this exception.*

*As regards paragraph (b) please give particulars of the processes carried on in your country (stating whether only in certain areas and at certain periods) to which this exception is applicable, as well as the conditions, if any, subject to which your legislation, etc., allows employers to take advantage of it.*

**Great Britain.** — The exceptions contained in this Article are applied by § 1 (1) of the Hours of Employment (Conventions) Act, 1936, to the night employment of women generally (see above under *Article 2*). As regards the manufacturing industries, the exceptions apply only to a limited extent, because the Factory Acts, in regulating the hours of employment of women (§ 70*b*), indirectly restrict their employment at night to a greater extent than the Hours of Employment (Conventions) Act. Broadly speaking the effect of the Factory Acts is that, even in cases covered by the exceptions in Article 4, employment of women throughout the night would be prohibited, though in a few cases the eleven-hour period might be somewhat curtailed through the working of overtime. The conditions of working overtime are complex, but it would not as a rule be permissible to employ women later than 9 p.m. (§§ 73 (2) (*b*), 92 (1), 93 (1)). There is a special exception for the preserving, canning or curing of fish or the preparing of fish for sale and the preserving or canning of fruit or vegetables during June, July, August and September, where such process require to be carried out without delay in order to prevent goods from being spoiled (Act of 1937, § 94). The conditions under which advantage may be taken of this special exception have not been finally settled, but draft regulations have been recently issued as to fruit and vegetables. Further, § 80 of the Factories Act 1937 provides that in the event of accidents or breakdown of machinery or plant or other unforeseen emergency, the Secretary of State may by order suspend as respects any factory any of the provisions of the Act relating to the hours and holidays of women and young persons for such period as may be specified in the Order, but only so far as may be necessary to avoid serious interference with the ordinary working of the factory and not so as to conflict with any enactment giving effect to an international Convention restricting the employment of women or young persons in factories. Such an Order could be made subject to conditions. The report states that no such Order has so far been made. The exception contained in Article 4 does not apply at all to mines and quarries under the Mines and Quarries Acts, in view of the restrictions on the hours of employment of women imposed under those Acts.

**Hungary.** — (*a*) § 15 of the Act of 1928 and § 26 of the Order of 1930 provide that the owner of an undertaking may employ at night women of more than eighteen

years of age, on condition that he reports the fact, if such employment is absolutely indispensable to cope with an imminent catastrophe or natural calamity, to make good a disturbance of the operation of the undertaking or repair damage caused by a natural calamity, in case of interruption of working caused by natural forces which cannot be foreseen and is not periodic, or to combat an epidemic. The facts must be reported within 24 hours from the time at which the night work begins. § 30 of the Order requires the report to be sent by registered post to the competent authority or to the Labour Inspector. The information given in the report is entered in a special register, showing the number of women employed at night, the reason for the night-work, etc. The employer must notify the same authorities when the night-work ends. (*b*) § 14 of Act No. V of 1928 provides that the competent Minister may, by an order of general application, permit women of over 18 years of age to be employed at night, on conditions prescribed by the order and subject to prior notification, in undertakings working on raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the materials from loss. In such undertakings, women may not work more than 60 hours a week nor more than 10 hours each night. The Minister may by the same order make regulations concerning the employment of women applying either generally or only to certain forms of work. In virtue of this provision, § 21 of the Order of 1930 authorises night work by women over 18 years of age (1) in fruit, vegetable and fish preserving undertakings, during the peak period; (2) in silkworm-breeding establishments during the period of collecting the cocoons, in June and July, for not more than six weeks in the aggregate; (3) in glue factories on the work of melting and cutting the glue when this must be done at night, during the hot season, from 15 May to 30 June and from 1 to 15 September; (4) in dairy undertakings supplying milk for consumption by the public, on the washing of cans and bottles and the filling of bottles. The report on Convention No. 4 stated that no other exception is authorised.

**Ireland.** — § 54 of the Conditions of Employment Act, 1936, provides that an employer must satisfy a Court that the employment was necessary or reasonably proper by reason of some emergency. The non-application of Article 3 in the cases mentioned in paragraph (*b*) can be effected by means of regulations made, after consultation with representatives of employers and workers, under § 29, or by permits, for a limited period, under § 30 of the Act. As regards mines, the Act of 1920 reproduces the provisions of Convention No. 4. The report adds that no



advantage was taken of the exception provided for under (b) of this Article during the period under review.

*Netherlands.* — The report states that, in accordance with the exceptions provided for by the Labour Act, 1919, three women worked between 10 p.m. and 2 a.m. in skewering herrings; in one commune two of these women worked one hour each during the night and the third woman, in another commune, worked a total of 16½ hours between 10 p.m. and 2 a.m.

*Switzerland.* — See *Summary of Annual Reports, 1937, Convention No. 4 (Night work, women)*, Article 4. The report states that the Government is not aware of the granting of any exceptions, as provided by the Convention, during the period under review. § 40 of the Order regulating employment in the watch and clock making industry outside factories provides that when the head of an undertaking finds himself unavoidably prevented from observing the provisions relating to hours of work he must as soon as possible notify the local or district authority, which will submit the facts in important cases to the central cantonal authority for consideration.

*Union of South Africa.* — The report furnishes particulars of exemptions granted between 1 September 1937 and 31 August 1938, the data for September 1937 having been omitted from the last report, and the data for September 1938 being not yet available. Exemptions were for bacon curing, bakery and confectionery, fruit canning and printing. None allowed employment before 5 o'clock in the morning and only one allowed employment after 10 o'clock in the evening, namely, until midnight. This last applied, for 5 months, to the employment of 450 women in the fruit canning industry.

#### ARTICLE 5 (*India and Siam only*).

In India and Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

*India.* — No fresh information.

#### ARTICLE 6.

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

*In addition, please give particulars of the processes carried on in your country (stating whether only in certain areas and at certain periods) to which the exception provided for in this Article is applicable, as well as the conditions, if any, subject to which your legislation, etc., allows employers to take advantage of it.*

*Great Britain.* — The exception contained in this Article is applied by § 1 (1) of the Hours of Employment (Conventions) Act, 1936, to the night employment of women generally (see under Article 2). As regards the manufacturing industries, the indirect effect of the Factory Acts (see under Article 4) is to prevent advantage being taken of this Article save in very exceptional cases. Such cases are not confined to any specified processes. The Article does not apply to mines and quarries under the Mines and Quarries Acts in view of the restrictions on the hours of employment of women imposed under those Acts. In Northern Ireland, where the Factory and Workshop Act of 1901 is still in force, the position is at present not the same, see *Summary of Annual Reports, 1933, Convention No. 4 (Night work, women)* ARTICLE 6.

*Hungary.* — § 13 of Act No. V of 1928 provides that in undertakings influenced by the seasons and, in exceptional circumstances, in other undertakings the competent authorities may permit the night period during which work is suspended to be reduced from eleven to ten hours for women over 18 years of age. § 12 of the Order of 1930 defines what are undertakings influenced by the seasons and stipulates that before granting permission the competent authority must satisfy itself as to the reason therefor. § 13 sets out the exceptional circumstances justifying permission, namely, exceptional pressure of work, exceptional work necessary to prevent damage to raw materials or goods, unfavourable atmospheric conditions, exceptional circumstances connected with rail or water transport, exceptional work necessary in the interests of public health or otherwise in the public interest, impossibility of observing time limits for important despatches of goods, etc. Permission may not be granted unless the extra work could not be foreseen and unless other arrangements cannot be made in the undertaking to cope with it. §§ 14-18 of the Order prescribe details concerning application for a permit and the conditions to be complied with.

*India.* — So far no advantage has been taken of this provision of the Convention.

*Ireland.* — §§ 29 and 52 of the Conditions of Employment Act, 1936, empower the Minister for Industry and Commerce to make exclusive regulations and fix alternative hours of work. These powers enable the giving of effect, when necessary, to the terms of this Article. The report adds that no advantage was taken of this exception during the period under review.

*Switzerland.* — See *Summary of Annual Reports, 1937, Convention No. 4, (Night work, women, 1919)*, Article 6. The report for the period under review states that one

preserve factory in eastern Switzerland took advantage of the provisions of § 66 (2) of the Factories Act permitting a reduction of the night period to ten hours. The number of days for which permission was granted was eighty.

#### ARTICLE 7.

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above Articles, provided that compensatory rest is accorded during the day.

*If a shorter night period is permitted under this Article, please state for what industries, areas and seasons, and what arrangements, if any, have been made to secure compensatory rest during the day.*

*Great Britain.* — The report states that this Article is not applicable.

*Hungary.* — The report states this Article is not applicable.

*Ireland.* — The report states that this Article is not applicable.

*Union of South Africa.* — The report states that this exemption is not taken advantage of.

#### ARTICLE 8.

This Convention does not apply to women holding responsible positions of management who are not ordinarily engaged in manual work.

*Please state what definition, if any, has been adopted to determine the women who are regarded as holding responsible positions of management not ordinarily engaged in manual work.*

*Great Britain.* — This Article is applied by § 1 (1) of the Hours of Employment (Conventions) Act, 1936 (see under Article 2); as well as by § 2 of the said Act and § 79 of the Factories Act, 1937, which states that the provisions of the Factories Acts and the Coal Mines Act which limit the times of employment of women, young persons and children "shall not apply in relation to women holding responsible positions of management who are not ordinarily engaged in manual work". The report declares that no special definition has been adopted for determining what women are covered by this exception.

*Hungary.* — The report states that no such definition has been adopted.

*Ireland.* — § 3 of the Conditions of Employment Act, 1936, excludes from the operation of that Act "commercial work", which is defined as "work of a clerical nature, the work of overseeing, directing and managing industrial work, or work

done for or in connection with the sale, wholesale or retail, of any article,"

\* \* \*

*Burma.* — The report states that the relaxation embodied in this Article is not used in Burma at present, and is not likely to be required in the near future.

#### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows:*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

2. And each of the Members shall notify to the International Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of the above Article of the Constitution, please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — The provisions of the Convention have been applied in the following colonial dependencies, etc. In a number of cases it has not been considered necessary for advantage to be taken of the modifications of the provisions of Convention No. 4 which are permitted by the revised Convention: *Aden* (Ordinance No. 20 of 1938); *Barbados* (Act No. 42 of 1938); *British Guiana* (Ordinance No. 14 of 1933, as amended by Ordinance No. 6 of 1934 and brought into force 1 April 1938); *British Honduras* (Ordinance No. 12 of 1933); *Ceylon* (Ordinance No. 6 of 1923); *Cyprus* (Law No. 15 of 1932 as amended by Law No. 33 of 1932 and Law No. 9 of 1938); *Fiji* (Ordinance No. 34 of 1931); *Gambia* (Ordinance No. 14 of

1938); *Gibraltar* (Ordinance No. 16 of 1932); *Gold Coast* (Ch. 101, Revised Edition of Ordinances, 1928, as amended by Ordinance No. 9 of 1932); *Hong Kong* (Ordinance No. 18 of 1937); *Kenya* (Ordinance No. 14 of 1933); *Malta* (Ordinance No. V of 1938); *Mauritius* (Ordinance No. 37 of 1934, as amended by Ordinance No. 16 of 1935); *Nigeria* (Ordinance No. 1 of 1929, as amended by Ordinance No. 17 of 1932); *Northern Rhodesia* (Ordinance No. 10 of 1933); *Nyasaland* (Ordinance No. 9 of 1938); *Palestine* (Ordinance No. 53 of 1927); *St. Helena* (Regarded as applying by virtue of § 24 of the Interpretation and General Law Ordinance, 1895); *Seychelles* (Ordinance No. 12 of 1932); *Sierra Leone* (Ordinance No. 13 of 1938); *Somaliland Protectorate* (Ordinance No. 6 of 1938); *Trinidad* (Ch. 154 Revised Edition of Laws, 1925); *Uganda* (Ordinance No. 32 of 1931 (Brought into force 1st February, 1938); *Gilbert and Ellice Islands Colony* (Ordinance No. 5 of 1931); *British Solomon Islands Protectorate* (King's Regulation No. 10 of 1931); *Grenada* (Ordinance No. 8 of 1934, brought into force 1 July 1938); *St. Lucia* (Ordinance No. 22 of 1934, brought in to force 1 January 1938); *St. Vincent* (Ordinance No. 20 of 1935, brought into force 1 July 1938); *Zanzibar* (Ordinance No. 2 of 1932); *Straits Settlements* (Ordinance No. 33 of 1933); *Federated Malay States* (Enactment No. 9 of 1932); *Johore* (Enactment No. 3 of 1932); *Kedah* (Enactment No. 19 of 1931); *Kelantan* (Enactment No. 2 of 1936); *Perlis* (Enactment No. 10 of 1931); *Trengganu* (Labour Enactment, 1932); *Brunei* (Enactment No. 4 of 1932); *North Borneo* (Ordinance No. 1 of 1936); *Sarawak* (Order L-6 of 1933); *Basutoland* (Proclamation No. 71 of 1937); *Bechuanaland Protectorate* (Proclamation No. 72 of 1937); *Swaziland* (Proclamation No. 73 of 1937). Legislation giving effect to the provisions of the Convention is in course of preparation or is under consideration in the *Leeward Islands* and *Tanganyika Territory*, and amending legislation is under consideration in *British Guiana*, *Ceylon*, *Northern Rhodesia*, *Seychelles*, *Trinidad* and *Uganda*.

*Netherlands*. — In the *Netherlands Indies* during 1937 two permits, and between January and June 1938 one permit were issued in response to special applications for the employment of women during the night. The number of periods of night work for women for which permission was thus granted in 1937 was 50,025 of which 31,133 were actually worked. During 1937 21 breaches of the law were recorded and in the first half of 1938, 10. A measure is being drafted with a view to extending the undertakings for which special permits are required for the employment of women during the night. In *Curaçao* a Service for Social Affairs was set up on 15 March 1938, and is re-examining the Convention.

*Union of South Africa*. — No change (i.e. the situation remains the same as for Convention No. 4).

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Great Britain*. — The report states that the provisions are administered in Great Britain as regards factories and other classes of undertakings under the Factory Acts by the Home Office (Factory Department) as part of those Acts, and as regards mines and quarries by the Board of Trade (Mines Department) as part of the Acts relating to mines and quarries. In Northern Ireland factories come under the Ministry of Labour, and mines and quarries under the Ministry of Commerce for Northern Ireland. As regards places not under the Factories or Mines and Quarries Acts, special provision is made in the Hours of Employment (Conventions) Act, 1936, for the enforcement of the provisions by the Factory Inspectors (§ 1 (2)). The report adds that information as to the organisation of the Factory Inspectorate in the country is given in various International Labour Organisation publications.

*Hungary*. — § 31 of Act No. V specifies for each class of undertaking mentioned in § 1 the authorities primarily concerned with the enforcement of the Act, viz. the industrial authorities, the railway and shipping inspection service, the local and central port authorities and, for mines, the mines service of the district. § 32 makes these authorities responsible for supervision, acting in conjunction with the Labour Inspection Service for undertakings within its purview. The Minister of Finance or Commerce, as the case may be, may direct the police authorities to exercise supervision. Undertakings are subject to direct control by these authorities by means of visits of inspection and investigation.

*Ireland*. — The Department of Industry and Commerce is responsible for the administration and enforcement of the legislation. Inspection is a State service carried out by officers attached to this Department. A copy of the Annual Report for the year 1937 under the Factory and Workshop Acts, 1901-1920, has been forwarded to the Office.

*Switzerland*. — The reports of the Federal Inspectors of Factories for 1937

show that on two occasions inspectors had to take action in regard to night work by women. Reports were not due this year from the cantons concerning the enforcement of the Federal Factories Act; these reports will be furnished in the Spring of 1939 for the years 1937 and 1938. The reports furnished this year on the enforcement of the Federal Act relating to the employment of women and young persons in trades and handicrafts contain few observations concerning the prohibition of night work for women. They note that in several cases in which complaint was made of an infringement of the prohibition, investigation showed that the complaint was not well founded. The reports of several cantons point out that the fact that night work in industry has been prohibited for many years by cantonal legislation has facilitated the enforcement of the prohibition under the Convention. As regards the enforcement of the Order regulating employment in the watch and clock making industry, see *Convention No. 5 (Minimum age, industry)*, point IV.

*Union of South Africa.* — The report shows that the number of inspectors acting under the Ministry of Labour in the year under review was 90. The inspection areas, headquarters and number of inspectors for each area were as follows: Transvaal (Johannesburg), 28; Transvaal (Pretoria), 6; Natal (Durban), 14; Orange Free State (Bloemfontein), 3; Cape North Eastern (Kimberley), 1; Cape Eastern (East London), 3; Cape Eastern (Port Elizabeth), 8; Cape Western (Cape Town), 17; Head Office, Pretoria, 10.

\* \* \*

*Burma.* — See under *Convention No. 4 (Night work, women)*. Point IV.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Switzerland.* — The report gives the following information, pointing out that an offence concerning several persons is counted as a single offence. During the period under review, 30 convictions for violation of the prohibition of night work under the Factories Act and 8 under the Act relating to the employment of women and young persons in trades and handicrafts were reported to the Federal authority. Among the cases brought under the Factories Act

there were some in which the offence was in respect of employment not during the period of prohibited under the Convention but during the period 8 p.m. (on Saturday and the eve of a holiday, 5 p.m.) to 10 p.m., which is included in the "night" as defined by the national legislation. Certain of these convictions also related to failure to observe the minimum duration of the night period required by the Convention and the legislation. Of the 38 convictions reported, the decision was given in 13 cases by a judicial authority and in 25 by an administrative authority. In all cases the penalty inflicted was a fine. The heaviest fines inflicted were 400 francs (one case) for convictions under the Factories Act and 60 francs (one case) for convictions under the Act relating to the employment of women and young persons in trades and handicrafts. The report adds that the Federal Tribunal has not been called upon to give any decision on an appeal against the application of the Factories Act to an undertaking.

The remaining reports supplied do not mention any such decisions.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers covered by the relevant legislation, the number and nature of the contraventions reported, the application of the exceptions allowed under Articles 4 and 6 of the Convention, etc. Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Brazil.* — See introductory note.

*Estonia.* — The report states that during the year 1937, 21,583 women were covered by the legislation concerned. The labour inspectors received no complaints with regard to contraventions of the provisions concerning the employment of women during the night. There were 21 cases of contravention, 11 of which only gave rise to a warning and 10

to legal proceedings. The Government has received no observations from employers' and workers' organisations with regard to the practical application of the national legislation implementing the provisions of the Convention.

*Great Britain.* — The report states that the provisions of the Convention have been embodied in the well established industrial law of the country and are enforced in the cases of the great majority of the undertakings affected by the highly organised Factory and Mines Inspectorate as part of their ordinary duties. A high standard of enforcement is thereby secured and the reports of the Inspectors show that, except in isolated instances, the terms of the Convention are fully and carefully observed. No figures are available for the year 1938. The report adds that no observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organizations of employers or workers.

With regard to the method of calculating the number of infractions and for statistical information regarding practical application in 1937, see under *Convention No. 4 (Night work, women)*, Point VI.

*Greece.* — The report states that the legislation is strictly observed and refers to the previous report. No observations have been submitted by employers' or workers' organisations with regard to the practical application of the provisions of the Convention.

*Hungary.* — For the 1937 part of the period under review, see *Convention No. 4 (Night work, Women)*, point VI. Statistics for 1938 are not yet available. No observations have been received from employers' or workers' organisations concerning the practical application of the Convention or the legislation implementing it.

*India.* — See under *Convention No. 4 (Night work, women, 1919)*, Point VI.

*Ireland.* — The report states that the position in regard to this Convention is that the employment of women at night is prohibited except in cases of emergency. The question of the employment of women at night in mines or quarries does not arise. It is forbidden by the terms of the Convention and, so far as can be ascertained, no women have at any time been employed in either mines or quarries. No contraventions were reported during the period under review. No complaints have

been received from organisations of employers or workers.

*Netherlands.* — The report states that no breaches were reported in respect of the night rest period during the period under review. No observations have been made by employers' or workers' organisations with regard to the practical application of the Convention.

*Switzerland.* — The report states that the Convention continues to be observed throughout Switzerland. A census was taken on 16 September 1937 for the purpose of the Federal factory statistics. The principal results, as given in the reports of the Federal inspectors, were as follows: The number of persons employed in undertakings subject to the Factories Act in 1937 was 360,003 (an increase of 47,305 on 1936), of whom 127,189 (an increase of 14,058 on 1936) were females. According to the latest federal statistics, out of every 100 workers, 38 were females in 1923, 36 in 1929, and 35 in 1937. The ratio of women workers to the total number of workers has varied and recently has increased; during the crisis the number of women fell to 31.8 per cent. of the total member employed in factories, and rose to 34.2 per cent. in 1936. For statistics concerning offences, see under point V. The Federal authorities have not received from employers' or workers' organisations any suggestion, complaint or observation concerning the application of the Convention or of the provisions of the legislation giving effect to it. In general, it should be observed that the idea of active participation by the organisations concerned in the protection of workers has made progress.

*Union of South Africa.* — The report states that generally speaking the position remains as stated in previous reports. During the period under review no representations were received from employers' or workers' organisations regarding the application of the Convention. A tendency was noted in the motor industry to employ females as service attendants at garages. As such establishments are in many cases open throughout the night the Industrial Council concerned provided in its agreement (made binding under the Industrial Conciliation Act, 1937, in certain areas for one year from 15 August 1938) for the prohibition of the employment of women in this capacity. A copy of this agreement was furnished with the report.

\* \* \*

*Burma.* — See under *Convention No. 4 (Night work, women)*, Point VI.

## 42. Convention concerning workmen's compensation for occupational diseases (revised).

Article 4 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 17 June 1936. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation were called upon to submit reports for the period 1 October 1937—30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Report received
Brazil . . . . .	8. 6. 1936	28. 2. 1939
Cuba . . . . .	22. 10. 1936	17. 11. 1938
Great Britain . . .	29. 4. 1936	28. 12. 1938
Hungary . . . . .	17. 6. 1935	14. 11. 1938
Ireland . . . . .	15. 3. 1937	14. 12. 1938
Japan . . . . .	6. 6. 1936	
Mexico . . . . .	20. 5. 1937	26. 11. 1938
Norway . . . . .	21. 5. 1935	22. 11. 1938
Sweden . . . . .	24. 2. 1937	28. 11. 1938

The report of the Government of *Japan* has not been received.

### I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### Brazil.

Decree No. 24637 of 10 July 1934, to issue new rules respecting liability for industrial accidents, and to provide for other matters (§ 1 (2)) (L. S. 1934, Braz. 3.).

Decree No. 1361 of 12 January 1937 ratifying the Convention.

### Cuba.

Decree No. 2,687 of 15 November 1933 to repeal and replace the Act of 12 June 1916 on industrial accidents (L. S., 1933, Cuba 3 A), amended by the Decrees Nos. 3,156 and 3,341 of 16 and 30 December 1933 respectively (L. S. 1933, Cuba 3 B and C) and the Legislative Decree No. 596 of 18 February 1936 (L. S. 1936, Cuba 1).

Decree No. 1,049 of 22 April 1936 enumerating the industries or processes in which silicosis may occur.

Presidential Decree No. 223 of 31 January 1935, issuing regulations under the Act concerning industrial accidents, amended by Presidential Decrees Nos. 1,252 and 1,653 of 6 May and 27 June 1936.

### Great Britain.

Workmen's Compensation Act 1925 (L. S. 1925, G. B. 3).

Workmen's Compensation Act (Northern Ireland) 1927.

Workmen's Compensation (Silicosis and Asbestosis) Act, 1930 (L. S. 1930, G. B. 7).

### Hungary.

Act No. XXII of 1935 incorporating the Convention in Hungarian legislation.

Act No. XXI of 1927 respecting compulsory accident and sickness insurance (L. S. 1927, Hung. 1) amended by Decrees Nos. 9090 of 29 December 1931 (L. S. 1931, Hung. 5), 9600 of 1932 (L. S. 1932, Hung. 4), 6000 of 1933 (L. S. 1933, Hung. 4), and 6500 of 1935 (L. S. 1935, Hung. 2).

Decree No. 74,302 of 19 August 1926 respecting the occupational diseases of workers insured with the National Agricultural Workers' Fund supplemented by Decree No. 88,888 of 20 December 1930.

Decree No. 7600 of 30 December 1936 respecting the schedule of occupational diseases for which compensation is payable as for industrial accidents (L. S. 1936, Hung. 5).

### Ireland.

Workmen's Compensation Act, 22 March 1934 (L. S. 1934, Irl. 1.)

Workmen's Compensation Act, 1934 (Industrial Diseases) Order, 1934, pursuant to 76 of the above Act. (L. S. 1934, Irl. 2.)

### Mexico.

Political Constitution of the United States of Mexico, 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

The Government states in its report that ratification of the Convention and its promulgation by the President of the Republic have the legal effect of converting its provisions into a constitutional Act in conformity with the provisions of Article 133 of the Constitution.

*Norway.*

Act of 24 June 1931 respecting the accident insurance of industrial employees, etc. (L. S. 1931, Nor. 3).

Royal Decree of 7 December 1928 assimilating certain specified occupational diseases to accidents for the purpose of compensation.

Royal Decree of 11 January 1935 respecting occupational diseases.

Royal Decree of 16 October 1937 respecting the application of the regulations concerning work in mines involving the risk of silicosis.

*Sweden.*

Act of 14 June 1929 on insurance for certain occupational diseases amended by the Acts of 26 June 1936 and 3 June 1938.

Royal Decree of 22 November 1929 containing special provisions with regard to the application of the aforesaid Act amended by Royal Decrees of 11 December 1936 and 17 June 1938.

Order of the State Insurance Office of 22 December 1936 relative to the establishment of certain forms.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to provide that compensation shall be payable to workmen incapacitated by occupational diseases, or, in case of death from such diseases, to their dependants, in accordance with the general principles of the national legislation relating to compensation for industrial accidents.

The rates of such compensation shall be not less than those prescribed by the national legislation for injury resulting from industrial accidents. Subject to this provision, each Member, in determining in its national law or regulations the conditions under which compensation for the said diseases shall be payable, and in applying to the said diseases its legislation in regard to compensation for industrial accidents, may make such modifications and adaptations as it thinks expedient.

*Please give*

(i) *a brief account of the general principles of the national legislation in your country relating to compensation for industrial accidents;*

(ii) *information regarding the rates of compensation prescribed by national legislation for injury resulting from industrial accidents; and*

(iii) *information regarding the conditions under which compensation for occupational diseases is payable, the rate of compensation for such diseases, and the modifications and adaptations thought expedient in applying the legislation in regard to compensation for industrial accidents to the said diseases.*

*Cuba.* — The report states that Legislative Decree No. 596 of 18 February 1936 brings the list of occupational diseases

into conformity with the provisions of the revised Convention. These diseases are compensated in accordance with the principle of the comprehensive occupational risk. See under *Convention No. 18 (Occupational Diseases, 1925)*.

*Ireland.* — §76 of the Act on Workmen's Compensation of 1934 provides that a worker suffering from one of the occupational diseases indicated in the schedule appended to the Act, and due to the nature of his employment, is entitled to compensation under conditions similar to those governing compensation accorded in the case of industrial accidents. Where the illness is followed by disability, compensation takes the form of weekly payments during the whole duration of incapacity. In the case of death a lump sum is paid to the dependants of the deceased worker. The report indicates the rates of benefit provided by the Workmen's Compensation Act.

*Fatal cases.*

Benefits vary as follows:

(a) *Total dependants.*

For adult dependants a lump sum known as the "Adults' Lump Sum", calculated in accordance with the rules contained in the second schedule to the Act, in the case of adult and juvenile dependants, the above "adults' lump sum" plus a lump sum known as the "Children's Lump Sum", calculated in accordance with the rules set out in the second schedule to the Act and in the case of juvenile dependants, a lump sum known as the "Children's Lump Sum" calculated in accordance with the rules contained in the second schedule to the Act. Where there are neither adult dependants nor juvenile dependants compensation is a lump sum not exceeding £15 equal to the reasonable cost of medical expenses and burial.

(b) *Partial dependants.*

Adult dependants receive a lump sum calculated according to Rule 2 of the second schedule to the Act. Juvenile dependants receive a lump sum calculated according to Rule 4 of the second schedule to the Act.

(c) The Act makes provision for the allocation of the adult's lump sum between two or more adult dependants, the sum in question to be paid to the adult dependant or dependants or to be applied for their benefit. The Act also makes provision for the children's lump sum being applied for the benefit of the juvenile dependant or dependants.

*Non-fatal cases.*

Compensation consists of a weekly payment during the period of incapacity

(except the first three days of such incapacity where the incapacity lasts less than four weeks) of an amount calculated in accordance with the rules contained in the third schedule to the Act. Rules 3 and 4 in the schedule refer to cases of total and partial incapacity respectively. These rates of compensation are payable under certain conditions and with certain modifications as set out in §76 of the Act. Occupational diseases subject to compensation are set out in the sixth schedule to the Act on Workmen's Compensation and in the Order dated 28 July 1934, pursuant to §76 of the said Act.

*Norway.* — The Royal Decree of 1 October 1935 provides for medical examination every three years in mines where workers are exposed to the risk of silicosis and for the installation of radiological equipment where such equipment is lacking.

*Sweden.* — The report states that all workers including officials, employees and apprentices, must be insured in accordance with the provisions of the Act on insurance against industrial accidents. Workers are insured with the State Insurance Office or with private insurance associations established by employers and under State control. In default of a special agreement the wage-earner is considered as insured with the State Insurance Office. The insurance premiums paid by employers must be fixed in relation to the accident risks in the special cases (see also information given under Articles 1 and 2 in the report for 1937 on Convention No. 17).

(ii) and (iii). — The benefits in case of occupational diseases include on the one hand free medical care from the beginning of the illness and, on the other hand, subsequent to a delay of three days and a reduction of working capacity of at least one-fourth, sickness benefit from the fourth day onward. This benefit is to a certain extent in proportion to the annual wage earned by the worker. The maximum is fixed at 5 crowns 50 öre. Where there is permanent disability of at least one-tenth the worker is entitled to a pension which is in proportion to disability when the latter is partial and which is increased to a third of the annual salary where disability is total. In addition, the worker is entitled to an increase in benefit to meet with the cost of the renewal of certain therapeutic means or the expense involved in special treatment. In special cases the pension may, on request, be commuted and paid in a lump sum. In the case of death a sum corresponding to one-tenth of the annual wage and to a minimum of 100 crowns is paid towards the funeral expenses. Dependants receive besides a pension, the capital value of which for surviving husband or wife amounts to a quarter and for each child to a sixth of the annual

wage of the deceased. A father and mother are entitled to a pension corresponding to the value of the sum accorded them for maintenance by the deceased up to a maximum of a quarter of the annual wage. These allowances paid to dependants may not in any case exceed two-thirds of the annual wage of the deceased.

## ARTICLE 2.

Each Member of the International Labour Organisation which ratifies this Convention undertakes to consider as occupational diseases those diseases and poisonings produced by the substances set forth in the Schedule appended hereto, when such diseases or such poisonings affect workers engaged in the trades, industries or processes placed opposite in the said Schedule, and result from occupation in an undertaking covered by the said national legislation.

## SCHEDULE.

### *List of diseases and toxic substances.*

Poisoning by lead, its alloys or compounds and their sequelae.

Poisoning by mercury, its amalgams and compounds and their sequelae.

Anthrax infection.

### *List of corresponding trades, industries or processes.*

Handling of ore containing lead, including fine shot in zinc factories.  
Casting of old zinc and lead in ingots.

Manufacture of articles made of cast lead or of lead alloys.

Employment in the polygraphic industries.

Manufacture of lead compounds.

Manufacture and repair of electric accumulators.

Preparation and use of enamels containing lead.

Polishing by means of lead files or putty powder with a lead content.

All painting operations involving the preparation and manipulation of coating substances, cements or colouring substances containing lead pigments.

Handling of mercury ore.

Manufacture of mercury compounds.

Manufacture of measuring and laboratory apparatus.

Preparation of raw material for the hat-making industry.

Hot gilding.

Use of mercury pumps in the manufacture of incandescent lamps.

Manufacture of fulminate of mercury primers.

Work in connection with animals infected with anthrax.

Handling of animal carcasses or parts of such carcasses including hides, hoofs and horns.

Loading and unloading or transport or merchandise.



Silicosis with or without pulmonary tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death.

Phosphorus poisoning by phosphorus or its compounds, and its sequelae.

Arsenic poisoning by arsenic or its compounds, and its sequelae.

Poisoning by benzene or its homologues, their nitro- and amido-derivatives, and its sequelae.

Poisoning by the halogen derivatives of hydrocarbons of the aliphatic series.

Pathological manifestations due to:

- (a) radium and other radio-active substances;
- (b) X-rays.

Primary epitheliomatous cancer of the skin.

Industries or processes recognised by national law or regulations as involving exposure to the risk of silicosis.

Any process involving the production, liberation or utilisation of phosphorus or its compounds.

Any process involving the production, liberation or utilisation of arsenic or its compounds.

Any process involving the production, liberation or utilisation of benzene or its homologues, of their nitro- and amido-derivatives.

Any process involving the production, liberation or utilisation of halogen derivatives of hydrocarbons of the aliphatic series designated by national laws or regulations.

Any process involving exposure to the action of radium, radio-active substances, or X-rays.

Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.

*Sweden.* — The report states that the affections and poisoning caused by the following agents are considered as occupational diseases. Arsenic or its compounds; Lead or its alloys or compounds; Mercury or its amalgams or compounds; Phosphorus or its compounds; Stone dust; Benzene or its homologues (such as toluene xylene) or their nitrated or animated derivatives (such as nitrobenzene, trinitrotoluene aniline or paraphenyldiamine), chlorinated derivatives of phenol or naphthol and their salts; halogenated derivatives of hydrocarbons of the fatty series (such as chloroform or trichlorethylene); carbon monoxide; cyanogen or its compounds; chlorine hypochloride, or calcium chloride; chloramine; nitrous gas; chromic acid or its compounds; radiating heat or light; X-rays, radium or other radioactive substance; anthrax infection. Besides the above the following are also considered as occupational diseases: (1) Certain contagious diseases where work consists in treatment of the sick or in medical research pursued in laboratories subject to public control; (2) primary epithelioma of the skin.

With a view to facilitating the application of the measures concerning occupa-

tional diseases a Royal Decree specifies the various disease forms commonly caused by the agents in question as well as the types of work in the course of which they usually occur. As a rule the provisions of the Workmen's Compensation Act apply also to insurance against occupational diseases though the latter insurance is at times subject to certain special provisions, more especially the following: Right to benefit subsequent to the contraction of an occupational disease is limited to cases in which the disease is discovered within a period of one year or where it is a question of the action of stone dust, X-rays or a radio-active substance, of ten years from the date at which the worker was engaged in the dangerous occupation. Where the insurance institution has requested a worker with a view to preventing the production, recurrence or aggravation of an occupational disease, to give up for a certain time work on a dangerous process the worker in question is entitled during this period to a reasonable allowance not exceeding the half of the daily sickness benefit. Benefit for occupational disease is in general paid by the insurance institution with which the worker is insured under the Workmen's Compensation Act at the time at which the disease occurs. Nevertheless, where the worker is no longer engaged in a dangerous occupation at this time the responsibility for compensation devolves on the insurance institution with whom he was insured when last occupied on such work. Where during the lapse of time above referred to in the first-mentioned special provision, that is to say, one year or ten years respectively, the worker may have been insured by reason of his occupation on dangerous work with more than one insurance institution, responsibility for compensation is, in the absence of other agreement, distributed between such insurance institutions in proportion to the length of time during which he was insured with each of them. Right to benefit for an occupational disease lapses where the disease has not been reported or compensation has not been claimed during a period of two years from the discovery of the disease or in fatal cases during the lapse of a similar period subsequent to decease.

### III.

*Article 35 of the Constitution of the International Labour Organisation (Article 421 of the Treaty of Versailles and the corresponding Articles of the other Treaties of Peace) is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to

their colonies, protectorates and possessions which are not fully self-governing:

(1) Except where owing to the local conditions the Convention is inapplicable or

(2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Conventions.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — In *Trengganu* the Workmen's Compensation Enactment, No. 12 of 1956, provides that the following occupational diseases or their sequelae shall be deemed to be injuries by accident for purposes of compensation when contracted in specified employments: lead poisoning, phosphorous poisoning, mercury poisoning, arsenic poisoning, poisoning by benzine and its homologues, chrome ulceration. See also under *Convention No. 12 (Workmen's Compensation, Agriculture)*, Point III.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Ireland.* — The report states that the appointment of medical referees for the purposes of the Workmen's Compensation Act and the revision of the schedule of industrial diseases are matters for which the Ministry of Industry and Commerce is responsible. Certifying Surgeons appointed under the Factory and Workshop Act, 1901, are vested with certain specified powers for the purposes of the Workmen's Compensation Act, 1934. The settlement and registration of claims for

compensation under the Act are matters for the Circuit Courts, but a Circuit Court decision may be made the subject of appeal to the Supreme Court on a question of law. The provisions of §§ 29 and 30 of the Act in relation to the keeping of accident books and the display of a summary of the Act in factories and workshops are enforced by inspectors in the course of their duties.

*Sweden.* — The report states that questions concerning the application of legislation relative to occupational diseases are dealt with by the State Insurance Office under the direction of the Insurance Council.

#### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Mexico.* — The report states that numerous decisions have been given in the courts relating to occupational diseases. The most important of these concern the problem of the occupational diseases in question not conforming to the definition of accident; the responsibility of the employer; and work involving exposure to unfavourable weather conditions.

*Sweden.* — The report states that the decisions of the Insurance Council are in part published in the "*Arbeterskyddet*", a Review which is sent regularly to the International Labour Office.

The remaining reports supplied do not mention any such decisions.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, information concerning the trades, industries or processes carried on in your country which give rise to the diseases or poisonings mentioned in the Schedule, with an indication of the extent to which they are carried on, the number of workers employed in the trades, industries or processes concerned, and the number of cases of such diseases or poisonings which have been reported, the sums paid by way of compensation as benefits in cash and kind respectively, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

**Cuba.** — The report states that the Occupational Health Section of the Social Welfare Office of the Department of Labour has reported a fatal case of silicosis affecting a worker in the chemical industry (American Agricultural Chemical Company). The question of compensation for this case is before the courts and a decision is pending.

**Great Britain.** — Statistics regarding compensation for industrial diseases during the year 1936 are given in the published Volume—Workmen's Compensation Statistics (Cmd. 5122) see Tables 6, 7 and 13, and pp. 11-13. Similar statistics for 1937 have not yet been published. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

**Hungary.** — The report states that during the year 1937 the number of cases of occupational disease notified to the National Institute of Social Insurance was 114, of which 80 were cases of lead poisoning, 4 anthrax infection, 3 of silicosis, 1 of phosphorus poisoning, 9 of poisoning by benzene and its homologues and 17 of other diseases. Apart from the above the number of occupational diseases in agriculture in respect of which compensation was paid by the National Institute of Agricultural Insurance was 59 of which 36 were cases of rabies, 10 of anthrax infection and 13 of poisoning by chemical products. No observations have been received from the employers' and workers' organisations concerned in regard to the practical application of the Convention or of the relevant national legislation.

**Ireland.** — The report states that the Convention is applied as part of, and on the same lines as, the law dealing with workmen's compensation for accidents.

See under *Convention No. 18 (Occupational diseases)*, Point VI, for statistical information.

**Mexico.** — The Government appends to its report statistics for occupational diseases for 1937. According to these statistics there were 921 cases of silicosis, 28 cases of lead poisoning and 26 cases of poisoning by arsenic.

**Norway.** — The Government states in its report that the Convention is strictly applied. No observations have been received from employers' and workers' organisations.

**Sweden.** — The report states that the course of the year 1935—the last year for which figures are available—cases of occupational disease notified amounted to 172 and benefit was accorded for 70 of these, which were distributed as follows: 1 case of poisoning by arsenic; 27 by lead; 13 by mercury; 22 cases of silicosis; 6 of pathological disturbances due to radiant heat or light, and 1 case of anthrax infection.

During the period 1 October 1937 to 30 September 1938 the number of cases reported was 600. The report adds that §59 of the General Instructions for medical men obliges all doctors who have treated a disease which may be attributed to an unhealthy trade or occupation to report such disease without delay to those in charge of the State Medical Services: on reception of this report the service in question transmits the information to the State Insurance Office.

#### 43. Convention concerning the Regulation of hours of work in automatic sheet-glass works.

Article 6 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 13 January 1938. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation were called upon to submit reports for the period 13 January 1938-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Great Britain . . .	13. 1. 1937	28. 12. 1938
Mexico <sup>1</sup> . . . . .	9. 3. 1938	26. 11. 1938
Norway . . . . .	21. 5. 1935	22. 11. 1938

The Government of *Great Britain* states in its report that the Hours of Employment (Conventions) Act, 1936 (L. S. 1936, G. B. 2), the relevant sections of which came into force on 1 January 1938, brought the law in the United Kingdom into conformity in all respects with the requirements of the Convention.

The Government of *Mexico* states in its report that the regulations concerning glass works in general are only in course of preparation. With a view to preparing the necessary legislation, the Department of Labour has approached the employers' and workers' organisations concerned so that provisions in harmony with those of the Convention may be included in the collective agreements. The Government adds that it hopes to submit a more complete report next year.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

### *Great Britain.*

The Hours of Employment (Conventions) Act, 1936 (L. S. 1936, G. B. 2).

### *Mexico.*

Political Constitution of the United States of Mexico of 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

### *Norway.*

Workers' Protection Act of 19 June 1936 (L. S. 1936, Nor. 1).

<sup>1</sup> The Convention was not in force for Mexico during the period 13 January-30 September 1938.

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

### ARTICLE 1.

1. This Convention applies to persons who work in successive shifts in necessarily continuous operations in sheet-glass works which manufacture by automatic machines sheet-glass or other glass of the same characteristics which only differs from sheet-glass in thickness and other dimensions.

2. By necessarily continuous operations are meant all operations which, on account of the automatic and continuous character of the feeding of the molten glass to the machines and the working of the machines, are necessarily carried on without a break at any time of the day, night or week.

*Please state in detail how the scope of the regulation of hours of work is defined in the legislation and administrative regulations, etc., applying the provisions of the Convention.*

*Great Britain.* — § 3 (1) of the Hours of Employment (Conventions) Act, 1936, provides that no person to whom the Convention applies shall be employed except in accordance with a system complying with the Section. Under § 3 (6) of the Act the expression "the person to whom the Convention applies" has the meaning assigned thereto in the Convention as set out in Part II of the Schedule to the Act.

*Mexico.* — See introductory note.

*Norway.* — The Convention is applied by the provisions of § 15 of the Workers' Protection Act of 19 June 1936 which applies to every establishment in which employees perform work or mechanical power exceeding 1 h.p. is used. For the purposes of the Act the term "employee" means any person who performs work in the service of another elsewhere than in his own home. The shift plan prescribed by the Act is applicable to workers employed in the minding of the glass stretching machines and to furnace men, stokers and melters.

### ARTICLE 2.

1. The persons to whom this Convention applies shall be employed under a system providing for at least four shifts.

2. The hours of work of such persons shall not exceed an average of forty-two per week.

3. This average shall be calculated over a period not exceeding four weeks.

4. The length of a spell of work shall not exceed eight hours.

5. The interval between two spells of work by the same shift shall not be less than sixteen hours: Provided that this interval may where necessary

be reduced on the occasion of the periodical change-over of shifts.

*Please describe the action taken to give effect to this Article. If a uniform system is not imposed on all the undertakings concerned, please give detailed information for the various systems in operation in respect of the matters dealt with in the several paragraphs of the Article.*

*Great Britain.* — The report states that subsections (1) (a), (1) (b), (1) (c) and (1) (d) of § 3 of the Hours of Employment (Conventions) Act, 1936, give effect to this Article of the Convention.

*Mexico.* — See introductory note.

*Norway.* — § 15 of the Workers' Protection Act concerns work on Sundays and other holidays. Work on such days is permitted *inter alia* if owing to its type or character it cannot be interrupted (§ 15 subsection 1 (g)). In this case a weekly change of shifts must be made in accordance with a shift plan sanctioned by the Chief Labour (Factory) Inspector (§ 15 subsection 3). The only glass works of the kind in Norway is the Drammens Glass Works. The report shows that the shift plan of this factory is in conformity with the provisions of Article 2 of the Convention—which prescribes an average working week of 42 hours calculated over a period not exceeding four weeks—and has been approved by the inspectorate.

### ARTICLE 3.

1. The limits of hours prescribed in paragraphs 2, 3 and 4 of Article 2 may be exceeded and the interval prescribed in paragraph 5 reduced, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

(a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*; or

(b) in order to make good the unforeseen absence of one or more members of a shift.

2. Adequate compensation for all additional hours worked in accordance with this Article shall be granted in such manner as may be determined by national laws or regulations or by agreement between the organisations of employers and workers concerned.

*Please describe the action taken to give effect to this Article, stating in particular what restrictions, if any, are imposed on the working of additional hours in virtue of paragraph 1 and what arrangements have been made for compensation for such additional hours granted in compliance with paragraph 2.*

*Great Britain.* — 1. The proviso to § 3 (1) of the Hours of Employment (Conventions) Act, 1936, provides that in the circumstances set out in Article 3 (1) (a) and (b) of the Convention the limits of hours and the intervals which would otherwise have to be observed and allowed under subsection 3 (1) of the Act may be departed from, but "only so far as may be necessary to avoid serious interference

with the ordinary working of the undertaking."

2. This matter is determined by agreement in the only works to which the Convention applies in the United Kingdom, but in default of agreement it would be determined as indicated in § 3 (3) of the Hours of Employment (Conventions) Act, 1936.

*Mexico.* — See introductory note.

*Norway.* — The collective agreements for workers of the Drammens Glass Works dated 1 June 1935 provide in § 1 that the workers shall be entitled to claim additional overtime pay if in special cases the hours of work should exceed the limit prescribed in the shift plan. Reference is made to the provisions of the Workers' Protection Act concerning overtime. § 19 of the Act provides that if any employee is employed beyond the time fixed for his normal hours of work employment in excess of such hours shall be deemed to be overtime. Overtime must not be worked except in the following cases: (a) If unforeseen events or the absence of a particular employee has interrupted or threatened to interrupt the normal working of the establishment; (b) If overtime is necessary in order to prevent damage to plant, machinery and raw materials or finished products; (c) If unexpected or extraordinary pressure of work has arisen; (d) If overtime is particularly necessary in the public or general interest or for other reasons. Nevertheless the employer shall procure the consent of the inspectorate if overtime is worked for such reasons and continues for more than 24 hours; (e) . . . (concerns State transport undertakings).

A supplement to the wage agreed upon for corresponding work of the employee during his normal hours of work shall be paid for overtime. The supplement shall not be less than 25 per cent. In the case of jobbing work the supplement shall be calculated on the basis of the weekly, monthly or hourly wage fixed for the work in question unless a special agreement is made to the contrary.

### ARTICLE 4.

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall be required:

(a) to notify, by the posting of notices in conspicuous positions in the works or other suitable place or by such other method as may be approved by the competent authority, the hours at which each shift begins and ends;

(b) not to alter the hours so notified except in such manner and with such notice as may be approved by the competent authority; and

(c) to keep a record in the form prescribed by the competent authority of all additional hours worked in pursuance of Article 3 of this Convention and of the compensation granted in respect thereof.

*Please describe the action taken to give effect to this Article, stating in particular what is the approved procedure for alteration of hours of works and for notification of such alteration.*

*Great Britain.* — (a) Under §§ 3 (1) (a) and 3 (2) of the Hours of Employment (Conventions) Act, 1936, the employer is required to keep a notice posted in a conspicuous position in the works giving particulars of the system and in particular specifying the number of shifts and the hours on each day at which the spells of work for each shift begin and end. A copy of the notice must also be delivered to the Inspector of Factories for the district in which the works are situate.

(b) Under § 3 (2) (b) of the Act a notice specifying a change of the system of employment must be kept posted in the works at least one month before the date on which the change takes effect. A copy of the notice must be delivered to the Inspector of Factories for the district in which the works are situate before the beginning of that month.

(c) A form of record of additional hours worked by virtue of the proviso to § 3 (1) and of the compensation granted in respect thereof under § 3 (3) of the above-mentioned Act has been prescribed by the Secretary of State.

*Mexico.* — See introductory note.

*Norway.* — § 39 of the Workers' Protection Act lays down that the shift plan must be posted up in a legible form in a conspicuous place or places in the establishment. Under § 21 of the same Act the employer is obliged to keep wages lists showing the amount of overtime worked by each individual employee.

### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

(1) Except where owing to the local conditions the Convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — The report states that there are at the present time no automatic sheet glass works of the nature referred to in Article 1 of the Convention operating in any of the colonial dependencies. In the event of any such works being established in a colonial dependency in the future the possibility of applying the Convention to that dependency will be considered.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Great Britain.* — The report states that the relevant provisions are administered in Great Britain by the Home Office (Factory Department). In Northern Ireland they would be administered by the Ministry of Labour.

*Mexico.* — See introductory note.

*Norway.* — The application of the above-mentioned legislation is entrusted to the State Labour Inspectorate (formerly the State Factory Inspectorate). In conformity with §§ 41 and 42 of the Workers' Protection Act, this inspectorate, in co-operation with local labour committees, is responsible for the enforcement of the provisions of the Act. Regulations concerning the organisation and activity of the inspection service are laid down in the Royal Order of 31 March 1938.

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Great Britain.* — The report states that no decisions have been given in Courts of Law or other courts affecting the application of the Convention.

*Mexico.* — See introductory note.

*Norway.* — The report states that no decisions of this kind have been given.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, giving, for example, extracts from official reports and any other information bearing on the practical application of the Convention.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Great Britain.* — The report states that the Convention only applies to one works in the United Kingdom and that no contraventions have been reported. With regard to the method of calculating the number of infractions, see under Convention No. 4 (*Night work women*), Point VI. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

*Mexico.* — See introductory note.

*Norway.* — The report states that no infringements of the provisions applying this Convention have come to the notice of the State labour inspectorate and that no observations have been received either from employers' or workers' organisations concerning the application of the Convention.

44. Convention ensuring benefit or allowances to the involuntarily unemployed<sup>1</sup>.

Article 18 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered".

The Convention came into force on 10 June 1938. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Report received
Great Britain . . .	29. 4.1936	3. 2.1939
Ireland . . . . .	10. 6.1937	2.12.1938

The Government of *Great Britain* states in its report that no additional legislative or administrative changes were required to give effect to the provisions of the Convention. It adds that, subject to minor exceptions, "the schemes of insurance and assistance are directly administered by Government departments and accordingly no question arises as to the means by which observance of the provisions of the Convention can be enforced".

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report. Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

<sup>1</sup> This report, being the first annual report in respect of this Convention from the United Kingdom Government, is reproduced here practically *in extenso*. The principal omissions concern the appendices, which contain a full list of current Statutory Rules and Orders, the weekly rates of benefit, and details concerning the numbers of persons included in the unemployment insurance scheme.

*Great Britain.*

Unemployment Insurance Acts 1935-1938 (L. S. 1935, G. B. 1; L. S. 1936, G. B. 1).

Unemployment Assistance Act 1934 (L. S. 1934, G. B. 3).

Unemployment (Agreement) Act (Northern Ireland) 1936.

Unemployment Insurance Acts (Northern Ireland) 1936 and 1938.

Unemployment Assistance Act (Northern Ireland) 1934.

Various Orders, Rules and Regulations concerning unemployment insurance and assistance dating from 1921 to 1938.

See also introductory note.

*Ireland.*

The Unemployment Insurance Acts, 1920-33. (L. S. 1920, G. B. 3; L. S. 1921, G. B. 1, 2; 1922, G. B. 1; L. S. 1923, I. F. S. 2; L. S. 1924, I. F. S. 1; L. S. 1924, I. F. S. 4; L. S. 1926, I. F. S. 3; L. S. 1930, I. F. S. 1; L. S. 1933, I. F. S. 3).

## II

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to maintain a scheme ensuring to persons who are involuntarily unemployed and to whom this Convention applies:

(a) benefit by which is meant a payment related to contributions paid in respect of the beneficiary's employment whether under a compulsory or a voluntary scheme; or

(b) an allowance, by which is meant provision being neither benefit nor a grant under the ordinary arrangements for the relief of destitution, but which may be remuneration for employment on relief works organised in accordance with the conditions laid down in Article 9; or

(c) a combination of benefit and an allowance.

2. Subject to this scheme ensuring to all persons to whom this Convention applies the benefit or allowance required by paragraph 1, the scheme may be

(a) a compulsory insurance scheme;

(b) a voluntary insurance scheme;

(c) a combination of compulsory and voluntary insurance schemes; or

(d) any of the above alternatives combined with a complementary assistance scheme.

3. The conditions under which unemployed persons shall pass from benefit to allowances, if the occasion arises, shall be determined by national laws or regulations.

*Please describe the action taken to give effect to this Article, giving full details of the nature of the scheme or schemes, showing in particular in the case of an assistance scheme, how it differs from the ordinary arrangement for the relief of destitution; the amount of the benefit and/or allowance ensured and the conditions of passage from benefit to allowance.*

*Great Britain.* — 1. and 2. Separate schemes are in operation providing:

(a) Benefit related to contributions paid in respect of the beneficiary's employment under a compulsory scheme; and

(b) Allowances, normally cash payments, payable subject to proof of need and in accordance with such need.

*Unemployment Insurance Scheme.*

The number of days of unemployment for which benefit may be drawn and the circumstances in which a person who has exhausted his rights to benefit may again qualify for benefit are governed by statutory provisions. There are different rates of contributions and benefit for industrial and agricultural workers under the compulsory scheme.

There are special schemes of unemployment insurance for the banking and insurance industries which provide for the payment of benefit to unemployed persons within the scope of these schemes, subject to certain conditions prescribed in the schemes being satisfied. The banking industry scheme also provides allowances for certain classes of persons covered by the scheme who are not entitled to benefit, if the Board administering the scheme consider an allowance is needed. The provisions of the special schemes are contained in Orders and Special Orders made under the Unemployment Insurance Act, 1935, and, except where otherwise stated in the following notes, they are similar to those of the general scheme of unemployment insurance. The scheme for the banking industry applies only to England and Wales.

*Unemployment Assistance Scheme.*

The unemployment assistance scheme, under which allowances are paid, is administered by a central Body, the Unemployment Assistance Board, and allowances are paid from moneys provided by Parliament, whilst Public Assistance, the ordinary arrangement for the relief of destitution, is administered by the Public Assistance Committees of Local Authorities and paid for from local funds.

An allowance may be granted to any person within the scope of the scheme if he proves in accordance with rules made under the Act

(a) that he is registered for employment in the prescribed manner and has made application for an allowance in the prescribed manner; and

(b) that he has no work or only such part-time or intermittent work as not to enable him to earn sufficient for his needs; and

(c) that he is in need of an allowance.

The amount of any allowance to be granted to an applicant shall be determined by reference to his needs, including



the needs of any members of the household, of which he is a member, who are dependent on or ordinarily supported by him, not being persons qualified to be considered for an allowance in their own right. The Unemployment Assistance Act provides (38 (3)) that the need of an applicant shall be determined and his needs assessed in accordance with regulations made under the Act, and that such regulations shall in particular provide that the resources of an applicant taken into account shall include the resources of all members of the household of which he is himself a member, due regard being also had to the personal requirements of those members of whom the resources are taken into account. The current regulations made under this subsection are the Determination of Need and the Assessment of Needs Regulations, 1936, which indicate the method to be followed in assessing the needs of the applicant and of any members of his household whose needs are included with his. It will be seen from these Regulations that there is no rigid scale laid down, and that there is provision for the exercise of a considerable degree of discretion.

3. Subject to fulfilling the conditions indicated above, including, of course, proof of need in accordance with the Act and Regulations, a person in receipt of unemployment insurance benefit is eligible to apply for an allowance. Therefore, the question of there being any conditions for passage from unemployment benefit to unemployment assistance does not arise. The main object of the unemployment assistance scheme is within the limits of practical definition to provide for the needs and to promote the welfare of able-bodied unemployed persons within the industrial field, and their dependants. Under the Eighth Schedule to the Unemployment Assistance Act, the Public Assistance Committees of local authorities who are responsible for the administration of Public Assistance, which is the ordinary form of provision for destitution, are debarred in general from granting outdoor relief to persons who are provided for under the scheme administered by the Unemployment Assistance Board. The only exceptions are cases of sudden or urgent necessity, or as regards medical or surgical (which include optical and dental) needs, which the Unemployment Assistance Board is specifically debarred from meeting.

The main distinction between unemployment assistance and public assistance (the ordinary arrangement for the relief of destitution) is that while unemployment assistance covers able-bodied persons broadly within the employment field and in whose cases need arises through having no work or only part-time or intermittent work, public assistance subject to the limitations above provides for the relief of destitution of all persons whatever their

relation to the employment field and whatever the cause of their destitution.

*Ireland.* — The Unemployment Insurance Acts, 1920-33, provide a scheme of compulsory insurance against unemployment. The scheme is on a contributory basis, the contributing parties being the insured persons, their employers and the State. Contributions which are collected by means of special unemployment insurance stamps, affixed by the employer to Unemployment Books, are paid into the Unemployment Fund established under the Acts and are at the following rates: for a man over 18 years, 10d. a week from the employer and 9d. from the employee; for a woman over 18 years, 8d. a week from the employer and 7d. from the employee; for a boy between 16 and 18 years, 5d. a week from the employer and 4 ½d. a week from the employee; and for a girl between 16 and 18 years, 4 ½d. a week from the employer and 4d. a week from the employee. Contributions in respect of exempt persons which are payable by the employer only are 10d. a week for a man over 18 years, 8d. a week for a woman over 18 years, 5d. a week for a boy between 16 and 18, and 4 ½d. a week for a girl between 16 and 18. The employer is in the first instance liable to pay the joint contribution of himself and the employed person and is entitled to recover the employed person's contributions by deduction from his wages or any other remuneration for the period to which the contributions apply. A weekly contribution is paid for each calendar week during any part of which the person is employed. Only one contribution is payable in respect of each week although the person may be employed in an insurable capacity in the same week by more than one employer. It is the duty of any person on entering insurable employment to obtain an unemployment book if he has not already obtained one and to hand the book to his employer and it is the duty of the employer to obtain an unemployment book from the employed person at the commencement of the employment. If the employed person refuses to obtain an unemployment book, the employer can safeguard himself by obtaining from any local office of the Department of Industry and Commerce an emergency book.

The rates of unemployment benefit are as follows: 15s. per week of 6 days excluding Sunday for men; 12s. a week for women; 7s. 6d. a week for boys between 16 and 18; and 6s. a week for girls between 16 and 18; 5s. a week is allowed for a dependent wife or husband, and 1s. a week for each dependent child under 14 or for a dependent child between 14 and 16 provided that full-time instruction is given in a day school. To entitle a claimant who is in receipt of unemployment benefit to receive increased benefit (a) in respect of his wife, (1) she must be living with him

or be maintained wholly or mainly by him, (2) she must not be in receipt of benefit under the Unemployment Insurance Acts, 1920-33, or in regular wage-earning employment or engaged in any occupation ordinarily carried on for profit; (b) in respect of a housekeeper, (1) he must be a widower or unmarried man, (2) she must be residing with him for the purpose of having care of his dependent children and must be maintained by him, (3) she must not be in receipt of benefit under the Unemployment Insurance Acts, 1920-33, or in regular wage-earning employment otherwise than as having care of his dependent children, or engaged in any occupation ordinarily carried on for profit; (c) in respect of an invalid husband, (1) he must be maintained wholly or mainly by her; (2) he must be prevented by physical or mental infirmity from supporting himself; and (d) in respect of his dependent children, (1) they must be his sons or daughters or stepchildren or adopted children, (2) they must be maintained wholly or mainly by him, (3) they must be under 16 years of age (if over 14 years of age they must, in addition, be receiving full-time instruction in a day school).

## ARTICLE 2.

1. This Convention applies to all persons habitually employed for wages or salary:

2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of:

(a) persons employed in domestic service;

(b) homeworkers;

(c) workers whose employment is of a permanent character in the service of the government, a local authority or a public utility undertaking;

(d) non-manual workers whose earnings are considered by the competent authority to be sufficiently high for them to ensure their own protection against the risk of unemployment;

(e) workers whose employment is of a seasonal character, if the season is normally of less than six months' duration and they are not ordinarily employed during the remainder of the year in other employment covered by this Convention;

(f) young workers under a prescribed age;

(g) workers who exceed a prescribed age and are in receipt of a retiring or old-age pension;

(h) persons engaged only occasionally or subsidiarily in employment covered by this Convention;

(i) members of the employers' family;

(j) exceptional classes of workers in whose cases there are special features which make it unnecessary or impracticable to apply to them the provisions of this Convention.

3. Members shall state in the annual reports submitted by them upon the application of this Convention the exceptions which they have made under the foregoing paragraph.

4. This Convention does not apply to seamen, sea fishermen, or agricultural workers as these categories may be defined by national laws or regulations.

*Please indicate the scope of the scheme, stating what exceptions have been made under paragraph 2 of this Article. In particular, please indicate the limit of earnings and the lower and upper age limits which apply in cases where exceptions have been made in accordance with clauses (d), (f) and (g) of paragraph 2, and state what classes of workers have been excepted in accordance with clause (j) and the reasons justifying their exception. So far as possible, please give information to show the numbers or proportions of workers included in and excepted from the operation of the scheme.*

*Please state what definitions have been adopted in the relevant national laws or regulations for the purposes of paragraph 4 of this Article.*

## Great Britain.

### Unemployment Insurance Scheme.

1. Briefly the effect of the scope provisions of the Unemployment Insurance Acts 1935-1938 is to require all persons over the age of legal obligation to attend school but under sixty-five, whether they are British subjects or aliens, to be insured against unemployment, if it can be shown that they are employed in Great Britain under a contract of service or are apprentices receiving a money payment, and provided that their employment is not one specifically excepted under the Acts. These exceptions are dealt with below.

### 2. (a) *Persons employed in domestic service.*

Briefly speaking, all domestic servants employed under a contract of service are insurable (subject to other exceptions in the Acts such as that concerning the rate of remuneration), except private indoor domestic servants and domestic workers employed in work which consists wholly or mainly in the rendering of services in any one of the under-mentioned capacities to or for the benefit of persons residing at an educational establishment:

bed-maker, chambermaid, cleaner, cook, dairy-hand, general houseman, kitchen-hand, nursemaid, pantryman, boilerman, sculleryman, sewing maid, waiter; boots, page; butler, footman, plateman, silverman, valet, wine steward; gate-porter, gyp, messenger, porter, scout; housekeeper, matron, steward, storekeeper.

### (b) *Home workers.*

Persons who take out work to be done in their own homes are only required to be insured against unemployment if they can show that they are employed under a contract of service or apprenticeship. Generally speaking, homeworkers are not so employed.

### (c) *Workers whose employment is of a permanent character in the service of the Government, a Local Authority or a public utility undertaking.*

The Unemployment Insurance Acts do not apply to established civil servants or persons serving a probationary period prior to establishment. Other Government em-

ployment is insurable if it is of a kind which would be insurable if the employer were a private person, subject to the proviso in the Note below.<sup>1</sup>

In general, employment under a Local Authority or public utility undertaking is insurable, except in the case of employment provided by a Local Authority under an arrangement whereby a Poor Law Authority makes a contribution to the worker's pay, subject to the proviso that the employee has not previously been in receipt of benefit and is not employed in full time work provided by the Authority.

(d) *Non-manual workers whose earnings are considered by the competent authority to be sufficiently high for them to ensure their own protection against the risk of unemployment.*

Employment otherwise than by way of manual labour at a rate of remuneration exceeding in value £250 a year is excepted from the scope of the Unemployment Insurance Acts.

(e) *Workers whose employment is of a seasonal character, if the season is normally of less than six months' duration and they are not ordinarily employed during the remainder of the year in other employment covered by this Convention.*

Generally speaking, seasonal employment is not excepted from the scope of the Unemployment Insurance Acts except in the case of certain occupations which can be shown to be of such a nature that they are ordinarily adopted as subsidiary employment only and not as a principal means of livelihood. Workers who can show, however, that they are employed in an occupation which is of a seasonal nature and does not ordinarily extend over more than eighteen weeks in any year, and who are not ordinarily employed in any other occupation which is insurable employment,

<sup>1</sup> The Minister of Labour can, however, grant a certificate of exception from unemployment insurance in respect of work falling into one or other of the following categories

A. Employment in any Government Department or Public or Local Authority, or

B. Employment in the service of any Railway Company or a Joint Committee or two or more such Companies, or

C. Employment in the service of any Public Utility Company, that is to say, in a company carrying on any undertaking for the supply of gas, water, hydraulic power or electricity, any dock or canal undertaking or any tramway undertaking, including a light railway constructed wholly or mainly on a public road.

Such a certificate is only granted in respect of such employment where the Minister is able, after enquiry, to certify that the employment is permanent in character, having regard to the normal practice of the employer, that the employees who are to be excepted have completed three years' continuous service in that employment since the date on which they were definitely appointed to posts on the permanent staff, and that the other circumstances of the employment make it unnecessary that the employees for whom exception is desired should be insured under the Act.

may apply to the Minister of Labour for a certificate exempting them from liability to become insured under the Unemployment Insurance Acts. This exemption applies to the worker only and the employer must pay contributions in respect of the seasonal employment if it is otherwise insurable.

(f) *Young workers under a prescribed age.*

The minimum age for entry into insurance under the Acts is the age (not being less than fourteen years) when a boy or girl attains the age at which, under the law for the time being in force, his parents cease to be under an obligation to cause him to attend school or, in Scotland, to receive efficient education unless there is some reasonable excuse.

(g) *Workers who exceed a prescribed age and are in receipt of a retiring or old-age pension.*

Workers over the age of sixty-five may not be insured under the Unemployment Insurance Acts. In the majority of cases this is the age at which a worker employed under a contract of service is entitled to receive an old age pension under the Health and Pensions Insurance Acts. Contributions are payable in respect of such persons by the employer only at half the normal rate that would have been payable if the person were between the ages of 21 and 65.

(h) *Persons engaged only occasionally or subsidiarily in employment covered by the Convention.*

The Minister has power to make regulations excepting from the provisions of the Acts employment which is *ordinarily* adopted as subsidiary employment only and not as a principal means of livelihood.

The more important of these excepted subsidiary employments are part-time work in connection with religious worship, certain part-time employment under Local Authorities, certain part-time employments in theatres, substitute weavers, clerical and secretarial work performed outside the normal hours of employment and certain agricultural employments such as milking, and in connection with the harvesting and gathering of flowers, fruit, peas and potatoes, etc.

Certain employments which in the opinion of the Minister are inconsiderable, e.g. employment for less than four hours a week under any one employer, are moreover excepted from unemployment insurance by the Unemployment Insurance (Inconsiderable Employments) Regulations, 1935.

(i) *Members of the employer's family.*

There are two main schemes of unemployment insurance in force in Great Britain; the general scheme which applies to the vast majority of insurable workers, and the agricultural scheme which applies to workers in agriculture, horticulture and forestry.

Under the general scheme, employment in the service of the husband or wife of the employed person is excepted employment, as is employment in respect of which no wages or other money payment is made where the employee is a child of, or is maintained by, the employer. Under the agricultural scheme employment in agriculture in the service of a person to whom the worker bears any of the following relationships, is excepted employment :

husband, wife, son, step-son, adopted son, son's wife, step-son's wife, adopted son's wife, daughter, step-daughter, adopted daughter, daughter's husband, step-daughter's husband, adopted daughter's husband, mother, step-mother, father, step-father, adopter, grandparent or grandchild.

It will be seen that of the near relationships the employment of a brother, sister, niece or nephew is not excepted employment.

(j) *Exceptional classes of workers in whose cases there are special features which make it unnecessary or impracticable to apply to them the provisions of the Convention.*

Irrespective of the nature of their employment, the following classes of persons are not insurable :

(a) Blind persons in receipt of a pension under the Old Age Pensions Acts, 1908 to 1924, as extended by § 1 of the Blind Persons Act, 1920. No unemployment insurance contributions are payable in respect of such persons in any circumstances by either employer or employee.

(b) Certain classes of persons specified in the Second Schedule to the Unemployment Insurance Act, 1935, who are in receipt of superannuation allowances.

If the employment is otherwise insurable, the employer must pay a contribution at half the rate of the combined contribution payable in respect of an ordinary employee ;

(c) Persons who have been granted a Certificate of Exemption, so long as the Certificate remains in force.

In this case the employer contributes at half the normal rate as in the case of the persons referred to under (b). A person is entitled to a Certificate of Exemption if he proves that he is either

(i) in receipt of any pension or income of the annual value of £26 or upwards which does not depend on his personal exertions ; or

(ii) ordinarily and mainly dependent for his livelihood upon some other person ; or

(iii) ordinarily and mainly dependent for his livelihood on the earnings derived by him from an occupation which is not insurable employment ; or

(iv) a person employed in an occupation which is of a seasonal nature and does

not ordinarily extend over more than 18 weeks in any year and who is not ordinarily employed in any other occupation which is insurable employment.

Other excepted employments under the Unemployment Insurance Acts are :

(i) that of female professional nurse for the sick, or that of a female probationer, undergoing training for employment as such a nurse ;

(ii) service in the Naval, Military or Air Service of the Crown including service in the Officers' Training Corps (except training and service in time of emergency in the case of members of reserve forces, to whom the provisions of § 95 of the Unemployment Insurance Act, 1935, apply, if they are normally employed in insurable employment ;

(iii) employment otherwise than in a temporary capacity as a member of any police force to which the Police Act, 1919, applies ;

(iv) teachers who have statutory superannuation rights ;

(v) agents paid by commission or fees or a share in the profits, who are mainly dependent on earnings from some other occupation or who are ordinarily employed as agents for more than one employer and not mainly dependent for livelihood on one agency ;

(vi) casual employment if it is otherwise than for the purposes of the employer's trade or business or otherwise than for the purposes of a game or recreation where the employees are engaged or paid through a club ;

(vii) crews of fishing vessels wholly remunerated by shares of profits or gross earnings ;

(viii) employees who have rights in a statutory superannuation scheme, who are excepted from insurance under a certificate granted by the Minister.

3. The exceptions which have been made under the Unemployment Insurance Acts are given in the preceding paragraph.

4. Agricultural workers, sea fishermen and the master and members of the crew of any ship registered in Great Britain (or of any other British ship or vessel, not being a ship registered in Eire or Northern Ireland, of which the owner, or if there is more than one owner, the managing owner or manager resides or has his principal place of business in Great Britain) are covered by the provisions of the Unemployment Insurance Acts if employed under contract of service and are either domiciled or have a place of residence in Great Britain, provided that none of the exceptions referred to above applies. Agricultural workers, sea fishermen and seamen employed as aforesaid, who are neither domiciled nor have a place of residence in Great Britain or Northern Ireland, are excluded from insurance but, unless the

seaman is employed in a ship engaged in regular trade on foreign stations or is over 65 years of age, the employer must pay his share of the insurance contribution. These contributions are credited to the Seamen's Special Fund and are applied by the Governing Body in which this Fund is vested to the provision of benefits specified in a scheme approved by the Minister of Labour and the Board of Trade, for giving pensions to retired seamen and fishermen.

The expression "agriculture" has been defined in the Unemployment Insurance (Agriculture) Act, 1936, as including horticulture and forestry, and "agricultural contributor" as meaning an insured contributor insured under the principal Act in respect of employment in agriculture.

The Unemployment Insurance Act, 1938, and the Unemployment Insurance (Insurable Employments) (Agriculture) Regulations, 1938, provide that the following employments shall have effect as if these employments were employment in agriculture—employment in domestic service as a gamekeeper, warrener, ghillie, river keeper, water-bailiff, groom, stable-man; boatman, coachman, gate keeper, hunt servant, kennel-man, lodge keeper, rabbit trapper, or ranger, except where the employed person is employed in any trade or business carried on for the purposes of gain; in the latter case the employment is insurable under the general scheme.

The estimated number of persons aged 14-64 insured under the Unemployment Insurance Acts at 4 July 1938 in Great Britain and Northern Ireland was 15,742,850. The approximate number of occupied persons in Great Britain aged 14 and over outside the scope of the Unemployment Insurance Acts<sup>1</sup> is estimated at 6  $\frac{1}{4}$  millions.

#### *Unemployment Assistance Scheme.*

1. The scope of the Unemployment Assistance Scheme is defined in § 36 (1) of the Unemployment Assistance Act, 1934. The following are the main qualifications which the applicant must fulfil to be within the scope of the Scheme:

(a) he must have attained the age of 16 years and not have attained the age of 65 years; and

(b) he must be either:

(i) a person whose normal occupation is employment in respect of which contributions are payable under the Widows', Orphans' and Old Age Contributory Pensions Acts, 1925-1932; or

(ii) a person who, not having normally been engaged in any remunerative occupation since attaining the age of 16 years,

might reasonably have expected that his normal occupation would have been such employment as aforesaid but for the industrial circumstances of the district in which he resides; and

(c) he must be capable of and available for work.

2. By virtue of (b) above, the scope of the Contributory Pensions Acts, 1925-1932 is a determining factor of the scope of the Unemployment Assistance Scheme.

Subject to the exceptions specified later every person of the age of 16 or over (including married women) engaged in any of the following employments falls within the scope of the pensions scheme laid down by the Contributory Pensions Acts in question:

(a) employment under a contract of service or apprenticeship. (This covers almost all persons who work under the direction of an employer. Amongst the classes of persons which it does not cover independent contractors, ministers of religion, and in general, professional men.);

(b) employment under a contract for the performance of manual labour for the purposes of an employer's trade or business, except in so far as such employment is excluded by a special order. (This covers, subject to certain exceptions, persons who, although not employed under a contract of service, undertake to work by way of manual labour for the purpose of another person's trade or business.);

(c) employment as an outworker, i.e. a person to whom work is given out to be done at home or in his own workshop for the purpose of the employer's business, except in so far as such employment is excluded by a special order<sup>1</sup>.

(d) employment in plying for hire with a cab, etc., which is hired from some other person;

(e) employment as an officer or servant of a local other public authority except in certain special capacities. (See below paragraph 4);

(f) employment as master or member of the crew of a British Ship (but see below). (This covers not only those employed in

<sup>1</sup> Three classes of outworkers are excluded from compulsory pensions insurance by special order.

(i) Persons to whom articles or materials are given out, but who are not themselves substantially engaged in the manipulation of the articles or materials. This exclusion does not apply to Scotland.

(ii) Persons whose employment as outworkers is of a casual nature and who carry on business at premises occupied by them and perform for the purpose of such business the work in respect of which they are outworkers.

(iii) Blind persons to whom work is given out by or on behalf of a charitable or philanthropic institution and who are not wholly or mainly dependent for their livelihood on their earnings in respect of that work.

<sup>1</sup> The report states that the only available information for estimating this figure is in some cases the 1921 Census of Population. For this and other reasons the present numbers can only be estimated very approximately.

the mercantile marine, but also share fishermen<sup>1</sup> and the crews of barges and other vessels who are paid by the share).

It does not matter for how short a time the worker is employed, nor for how many employers he works, nor whether he is paid by time or by the piece. Subject to the exceptions set out in paragraph 3 below, he is insurable for pensions insurance; nationality makes no difference; contributions are payable whether the worker is a British subject or an alien.

3. The following is a list of employments which fall outside the scope of pensions insurance:

(1) Persons employed otherwise than by way of manual labour at a rate of remuneration exceeding £250 a year.

(All persons employed by way of manual labour are insurable whatever their earnings are. The remuneration test in the case of non-manual workers relates not to the actual receipts from employment which may be affected by the part-time nature of the work, but to the equivalent rate of remuneration for full-time work);

(2) persons employed as apprentices without money payment;

(3) persons employed on an agricultural holding without money payment;

(4) persons employed by their parents without money payment, and persons who are fully maintained by their employer without money payment;

(5) wives employed by their husbands and husbands employed by their wives;

(6) persons casually employed, except that persons casually employed for the purposes of the employer's trade or business and persons engaged or paid through a club for the purposes of a game or recreation are insurable;

(7) an agent who is paid only by commission, by fees or by share in profits, and who is either (a) mainly dependent on his earnings from some other occupation, or (b) employed as an agent by more than one employer and not mainly dependent on his earnings from any one agency;

(8) persons whose employment is of a class which has been specified in a Special Order as being ordinarily adopted as subsidiary employment only and not as the principal means of livelihood. (See paragraph 5 below);

(9) teachers employed in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918-1925, and pupil or student teachers employed in a public elementary school;

(10) a person who, for the purposes of any business of which he was the owner or part owner within a period of two years before the employment began, is employed by a relative, or by a company controlled by himself or his relatives or nominees, is not deemed to be an employed person under the Acts by reason of that employment. A relative for this purpose means husband or wife; son or daughter, son-in-law or daughter-in-law or any of them.

4. Persons in the employment of the Crown, of local or other public authorities, clerks or salaried officials in the service of a railway or other statutory company, who are entitled to rights in a superannuation fund established by Act of Parliament, are (unless covered by any of the exceptions in 3 above) insurable for pensions purposes, except in so far as the Minister has granted either (a) total exception from pensions insurance on the ground that such persons and their widows and children have secured to them benefits at least equal in value to all the benefits of the Contributory Pensions Acts, or (b) exception from insurance for old age pensions on the ground that the persons have secured to them benefits at least equal in value to the old age pensions given by the Contributory Pensions Acts<sup>1</sup>.

Provision is also made for exception from all pensions or from old age pensions in the case of permanent employees of statutory undertakings (i.e. persons authorised by Parliament to construct or carry on any gas, water or other undertaking of public utility), subject to certain special conditions.

5. Among the employments excluded from the scope of the Contributory Pensions Acts and thus from the scope of the Unemployment Assistance Act, 1934, by the operation of Special Orders regarding subsidiary employment, are employments such as the following:

(1) part-time employment in connection with religious worship, e.g. bellringer, organist, vergier, etc.;

(2) part-time employment under the Crown; e.g. auxiliary employments under the Postmaster General (such as part-time telephonist, auxiliary sorter, etc.), employment as a court officer involving occasional attendance only (e.g. usher, crier, etc.), employment as an enumerator at a census;

<sup>1</sup> By a special order share fishermen are not insurable if they are working on a venture where the fish caught is shared out amongst the crew for their own consumption or for sale instead of being first sold and the proceeds shared.

<sup>1</sup> Certificates of total exception have been granted in respect of certain employees of Police Authorities; of a small number of fire-brigades, the High Commissioners for Canada and New Zealand, the Royal Household, a few Scottish Insurance Companies, and South Metropolitan Gas Companies. The employees who are thus totally excepted enjoy conditions of service which secure to them substantially the benefits of the Contributory Pensions Scheme and make it unlikely that they will become applicants to the Unemployment Assistance Board.

(3) employment under Local Authorities as a relief gymnasium or park attendant, employment involving occasional service only as a macebearer, town crier, etc. (except where the person so employed is otherwise ordinarily employed by the Authority);

(4) part-time employment or employment of an occasional nature under light-house authorities;

(5) agricultural employment of a seasonal character or involving part-time service only, e.g. fruit, flower or vegetable gathering, hop-picking, tying or training, or onion peeling, except where the person so employed was an insured person at the time of entering the employment;

(6) miscellaneous employments, e.g. employment for the performance of clerical duties outside the normal hours of work, part-time employment as a member of a town band, political agent, water-bailiff or caretaker of ancient monuments, part-time employment as a sick visitor on behalf of an approved society.

6. From the above account of the scope of the Contributory Pensions Acts, it will be seen that the position as regards unemployment assistance is as follows, of the classes of persons set out in subsections (a) to (j) of paragraph 2 of Article 2 of the Convention:

(a) Employment in domestic service is insurable under the Contributory Pensions Acts.

(b) The position of "home" or "out-workers" is set out in 2 (c) and relevant footnote.

(c) The position of workers whose employment is of a permanent character in the service of the Government, a local authority or a public utility undertaking is set out in 4 above.

(d) The limit of remuneration which restricts the insurability of non-manual employment under the Contributory Pensions Scheme is indicated in 3 (1) above:

(e) As indicated in 5 (5) above certain types of agricultural employment of a seasonal character are excluded from the scope of pensions insurance.

(f) and (g) The lower and upper age limits for applicants for unemployment assistance are set out in 1 (a).

(h) A list of employments excluded from the scope of the Contributory Pensions Scheme is set out in 5 above.

(i) See 3 (4), (5) and (10).

(j) As a result of the exception set out in 3 (9), practically every teacher in a state-aided school is excluded from the scope of the contributory pensions scheme. They fall, however, within the scope of superannuation schemes approved by Parliament. (The Teachers (Superannuation) Acts, 1918-25; The Education (Scotland)

(Superannuation) Acts, 1919-25; The Elementary School Teachers (Superannuation) Act, 1898).

As a general rule, the scope of contributory pensions and subsequently of the unemployment assistance scheme is such that it excludes professional men working on their own account and other independent contractors. Their position, however, is such as to render it unlikely that they should become applicants to the Unemployment Assistance Board, and their incomes are such, that in general, they may be expected to make their own provision against unemployment.

#### 7. Definitions.

The term seaman is defined in § 742 of the Merchant Shipping Act, 1894: "seaman" includes every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship.

By § 49 (2) of the Merchant Shipping Act, 1906, the definition of "seaman" was amended so as to include not only "seaman" as defined by the principal Act, but also apprentices to the sea service.

The following definitions from § 16 (1) of the Agricultural Wages (Regulation) Act, 1924, are relevant to the definition of workers employed in agriculture:—

(1) The expression "agriculture" includes dairy farming and the use of land as grazing, meadow, or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds.

(2) The expression "worker" includes boys, women and girls.

(3) The expression "employment" means employment under a contract of service or apprenticeship.

The eligibility for unemployment assistance of seamen (including sea fishermen) and of agricultural workers is indicated in 2 (a) and (f) above except in so far as those classes of workers are covered by the exceptions set out in 3 and 5 and in the footnote to 2 (f). It should be noted, however, that a Master or member of the crew of a British Ship, who is neither domiciled nor has a place of residence in Great Britain, Ireland or the Isle of Man, does not fall within the scope of pensions insurance.

*Ireland.* — All persons of the age of 16 years and upwards are compulsorily insurable against unemployment if they are employed under a contract of service (or apprenticeship with a money payment). The Acts apply to seamen employed under a contract of service as masters or the members of the crew of a ship registered in Ireland or of an Irish or British ship (not being a ship registered in Great Britain or Northern Ireland) whose manag-



ing owner or manager resides or has his place of business in Ireland. The following occupations are excepted: agriculture, including horticulture and forestry; domestic service, except where the employed person is employed in any trade or business carried on for the purposes of gain; female professional nurses for the sick or female probationer undergoing training for employment as such nurse; employment in military service; employment otherwise than in a temporary capacity as a member of any police force to which the Police Act of 1919 applies; employment under a local or other public authority; in the service of a railway company or of a public utility company undertaking the supply of gas, water, hydraulic power or electricity or of a dock, canal or tramway undertaking, or employment in which the persons employed are entitled to rights in a statutory superannuation fund if the Minister certifies that the employment is permanent in character, that the employed person has completed three years' service in the employment and that the other circumstances of the employment in his opinion make it unnecessary that the employed person should be insured under the Acts; employment as a teacher to whom the scheme under the National School Teachers (Ireland) Act, 1879, applies, or in the event of any similar enactment being hereafter passed as respects teachers or any class of teachers, as a teacher to whom such enactment applies; employment as a teacher of any person in an institution certified by the Minister for Education to be a Secondary School (as from 18 June 1926); employment as a teacher, in any of the following capacities: (i) a Junior Assistant Mistress in a national school; a recognised lay assistant in a Convent or a Monastery National School; a work mistress or an industrial teacher in a National School (as from 18 June 1926); employment in a national school as a monitor; agents paid by commission or fees or a share in the profits who are (a) mainly dependent on earnings from some other occupation, or (b) ordinarily employed as agents for more than one employer and not mainly dependent for livelihood on any one agency; employment other than manual labour at a rate of remuneration exceeding £250 a year, casual employment otherwise than for the purposes of the employer's trade or business and otherwise than for the purposes of a game or recreation where the employees are engaged or paid through a club; employment which has been included in a Special Order as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as a principal means of livelihood; crews of fishing vessels wholly remunerated by shares of profit or gross earnings; employment in the service of the husband or wife of the employee; employment in respect of which no wages or other money

payment is made where the employee is the child of or is maintained by the employer; employment in an established capacity in the permanent service of the State or securing a probationary period preliminary to establishment. Persons over 70 years are required to be insured provided they are not in receipt of an old-age pension. Out-workers (i.e. persons who take work out to be done in their homes and not under the control or supervision of the employer) who, in general, are not employed under a contract of service or apprenticeship, are not ordinarily liable to insurance under the Unemployment Insurance Acts.

**Exempt persons:** certain persons who are engaged in insurable employment are entitled, if they so desire, to claim exemption from payment of the employee's share of contributions, namely (1) persons with a pension or independent income of at least £26 a year, (2) persons ordinarily and mainly dependent for livelihood on some other person, or (3) persons ordinarily and mainly dependent for livelihood on earnings derived from an occupation which is not insurable. The issue of a certificate of exemption to such persons does not relieve the employer from liability to contribute under the Acts.

The total insured population at the beginning of October 1937 was 428,460. The total number of persons covered by certificates of exception is approximately 10,800. The number of persons to whom certificates of exemption have been issued is approximately 600.

### ARTICLE 3.

In cases of partial unemployment, benefit or an allowance shall be payable to unemployed persons whose employment has been reduced in a way to be determined by national laws or regulations.

*Please state to what extent benefit or an allowance is paid to persons whose employment has been reduced and what are the provisions of the national laws or regulations concerning such payment.*

#### Great Britain.

##### *Unemployment Insurance Scheme.*

Under the Unemployment Insurance Acts benefit is payable only in respect of continuous periods of unemployment; any three days of unemployment, whether consecutive or not, within a period of six consecutive days is regarded as a continuous period. Subject to this rule, the weekly amount of benefit is proportioned to the number of days on which the claimant is unemployed. Benefit is, however, payable only for complete days of unemployment.

##### *Unemployment Assistance Scheme.*

The unemployment assistance scheme covers persons who have no work, or only such part-time or intermittent work as not



to enable them to earn sufficient for their needs.

*Ireland.* — Persons casually employed or employed on a short-time basis may qualify for unemployment benefit provided that their unemployment can be regarded as continuous under the following definition of a continuous period of unemployment: two periods of unemployment of not less than two days each, separated by a period of not more than two days during which the insured contributor has not been employed for more than 24 hours, or two periods of unemployment of not less than one week each separated by an interval of not more than six weeks.

#### ARTICLE 4.

The right to receive benefit or an allowance may be made subject to compliance by the claimant with the following conditions:

- (a) that he is capable of and available for work;
- (b) that he has registered at a public employment exchange or at some other office approved by the competent authority and, subject to such exceptions and conditions as may be prescribed by national laws or regulations, attends there regularly; and
- (c) that he complies with such other requirements as may be prescribed by national laws or regulations for the purpose of showing whether he fulfils the conditions for the receipt of benefit or an allowance.

*Please state what conditions are imposed in virtue of this Article, indicating in particular the exceptions and conditions referred to in clause (b) and the requirements referred to in clause (c).*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

(a) The requirement that an applicant for benefit shall be capable of and available for work forms the Third Statutory Condition under the Unemployment Insurance Act, 1935.

"Capable of work" has been interpreted by the Umpire appointed under the Unemployment Insurance Acts as meaning capable of performing work of some kind as an employee, that is, capable of doing work of some such kind as is ordinarily done under contracts of employment and of doing it under conditions in which employees under contracts of employment ordinarily do work, unless it can be shown that the claimant has, in fact, been in the habit of working under special conditions in the past.

The receipt of a disablement pension in respect of War service, or compensation under the Workmen's Compensation Acts, 1931, is not regarded as conclusive evidence that the applicant is incapable of work; nor are blind or mentally deficient persons regarded as incapable of undertaking forms of work for which they may be suitable.

To be regarded as available for work an applicant for benefit, being capable of

work, must be ready and equipped (if equipment be necessary) to take suitable employment as and when offered on proper terms and conditions; and must not be prevented from accepting such employment either by circumstances beyond his control or by circumstances or conditions which he himself has created deliberately or by neglect of duties or reasonable precautions.

(b) A claimant for benefit must make application in the prescribed manner at an Employment Exchange or some other office approved by the Ministry and must thereafter attend regularly as directed in order to prove that he is capable of and available for work.

Frequency of attendance at the Employment Exchange or other office for the purpose of proving unemployment is governed by considerations such as the type of occupation concerned; the distance from applicant's home to nearest office; the volume of unemployment in the area and the corresponding degree of pressure on the Local Office organisation. Men employed casually at docks are required to attend twice daily (once on Saturday) as proof of availability, while other types of casual workers attend once daily. Other applicants may be required to attend daily, if they live within two miles of the Local Office; or on alternate days if the distance is more than two but less than four miles. For these classes of claimants, however, attendance on three days a week (which relieves the pressure on the Local Office) is generally regarded as affording satisfactory proof of unemployment and availability. Claimants residing more than four but less than six miles from the Local Office attend once a week only, while those residing more than six miles from the nearest office furnish evidence of unemployment by post.

(c) In addition to compliance with the above requirements a claimant must also prove that he has paid not less than thirty contributions in respect of the two years immediately preceding the date on which he makes a claim for benefit; and that if the Minister has, for the purpose of giving him an opportunity of becoming or keeping fit for entry into or return to regular employment, required him to attend at an authorised course, he proves either that he duly attended in accordance with the requirement or that he had good cause for not so attending.

##### *Special Schemes.*

Proof of unemployment under the schemes for the banking and insurance industries is furnished in a manner similar to that in operation under the general scheme except that claimants within reach of the central offices of the Boards administering those schemes, are required to attend the appropriate central office. Other claimants have to sign declarations of

unemployment at local banks for the banking scheme and at offices of local agents for the insurance scheme.

#### *Unemployment Assistance Scheme.*

To be within the scope of the unemployment assistance scheme a person must be capable of and available for work. In addition, an applicant has to prove *in accordance with Rules made under subsection 38 (1) of the Act* :

(a) that he is registered for employment *in the prescribed manner* and has made application for an allowance *in the prescribed manner* ; and

(b) that he has no work or only such part-time or intermittent work as not to enable him to earn sufficient for his needs ; and

(c) that he is in need of an allowance.

*Ireland.* — Among the statutory conditions for the receipt of unemployment benefit, an insured contributor (1) must have made application for unemployment benefit in the prescribed manner and prove that since the date of the application he has been continuously unemployed, (2) must be capable of and available for work but not able to obtain suitable employment, (3) must not have exhausted his right to unemployment benefit.

A person is not unemployed within the meaning of the Unemployment Insurance Acts on any day on which he is following any occupation from which he derives any remuneration or profit unless that occupation has ordinarily been followed by him in addition to his usual employment and outside the working hours of that employment, and the remuneration received therefrom in respect of that day does not exceed 3s. 4d., or where the remuneration is payable in respect of a period longer than a day it does not on the daily average exceed that amount.

In order to obtain unemployment benefit an insured contributor who resides six miles or less from a local office of the department must attend at a local office to make his claim for unemployment benefit by lodging his Unemployment Book and completing the prescribed forms. As proof of the satisfaction of the statutory conditions and freedom from the statutory disqualifications for the receipt of benefit, a claimant who resides not more than two miles from a local office must attend there daily to sign the unemployed register, whilst a claimant who resides over two but not more than four miles from a local office must attend on alternate days. A claimant who resides over four but not more than six miles from a local office is required to attend once weekly to receive payment of unemployment benefit. He must furnish proof of unemployment in respect of the days of non-attendance. Attendance is excused in the case of an

insured contributor who resides over six miles from a local office. Such person may claim unemployment benefit and furnish evidence of unemployment, etc. by post. Attendance at the nearest or most convenient post office to receive payment of any amounts due is, however, necessary except in those cases in which owing to distance or inaccessibility such attendance would inflict hardship when payment is made by postal order. Insured contributors who are members of an Association or Society which has made special arrangements with the Minister for Industry and Commerce in respect of its members may receive payment of unemployment benefit through such Association or Society.

#### ARTICLE 5.

The right to receive benefit or an allowance may be made subject to other conditions and disqualifications, in particular those provided for in Articles 6, 7, 8, 9, 10, 11 and 12. Any conditions or disqualifications other than those provided for in the said Articles shall be indicated in the annual reports submitted by Members upon the application of this Convention.

*Please state whether any conditions or disqualifications, other than those provided for in Articles 6 to 12, are imposed, and, if so, give full details thereof. Wherever possible, information should be given as to the number or proportion of employed persons affected by such conditions or disqualifications.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

§ 55 of the Unemployment Insurance Act, 1935, gives the Minister of Labour power to make orders in relation to certain classes of persons, imposing additional conditions and terms with respect to the receipt of benefit.

The classes of persons to whom this Section of the Act applies are :

(a) Persons who habitually work for less than a full week and by the practice of the trade in which they are employed nevertheless receive earnings or similar payments of an amount greater than the normal earnings for a full week of persons following the same occupation in the same district ;

(b) persons whose normal employment is employment for portions of the year only in occupations which are of a seasonal nature ;

(c) persons whose normal employment is employment in an occupation in which their services are not normally required for more than two days in the week, or who, owing to personal circumstances, are not normally employed for more than two days in the week ;

(d) married women who since marriage, or in any prescribed period subsequent to marriage, have had less than the prescribed number of contributions paid in respect of

them, but not including a married woman who proves that she has been deserted by, or is permanently separated from, her husband, or that her husband is incapacitated from work and has been so continuously for at least six weeks.

The classes of persons in (a), (c), (d) have to satisfy additional conditions imposed by the Anomalies Regulations, 1931 and 1933. Persons covered by (b) have to satisfy additional conditions imposed by the Anomalies (Seasonal Workers) Order, 1935.

The additional conditions are as follows, the various groups :

(i) The amount of benefit payable in respect of any benefit week shall be reduced by the amount by which the aggregate of the earnings or similar payments in the benefit week and of the benefit aforesaid, exceeds the normal earnings for a full week of persons following the same occupation in the same district.

(ii) A seasonal worker to whom the Order applies may only draw benefit during the "off-season" if, in addition to satisfying the normal conditions, he proves:

1. That he has been employed during the off-season in each of the two complete insurance years (or calendar years if the insurance year starts in the off-season) preceding the beginning of the off-season current at the date of claim, and that such employment amounts to one-quarter of the combined extent of the respective off-seasons ; or

2. that he has been employed during the off-season in one of these two years, and during the off-season current at the date of claim, and that this employment amounts to one-quarter of the combined extent of the two respective off-seasons ; and

3. that, having regard to all the circumstances of his case and particularly his industrial experience and circumstances of the district in which he resides, he can reasonably expect to obtain employment during a substantial period of the off-season.

The above conditions apply only to seasonal workers who in any district are engaged in occupations in which, during a substantial part of the year, no substantial amount of employment is normally available in that district, or who are engaged in occupations at a holiday or health resort in which employment is to a substantial extent dependent on the presence of visitors thereat during holiday seasons. They do not apply to a seasonal worker who proves either that the season in which he works is normally 39 weeks in the year, or that 150 contributions have been paid in respect of him in any period of four out of five consecutive insurance years during the ten insurance years preceding the date of claim.

The Anomalies (Seasonal Workers) Order does not apply to claimants in the agricultural scheme.

(iii) Such persons are not entitled to receive benefit for days on which they are not normally employed.

(iv) A married woman, to whom the Order applies, who since marriage has had less than fifteen contributions paid in respect of her, or who, if more than six months have elapsed since her marriage, has had less than eight contributions paid in respect of her during the period of three months preceding the beginning of the benefit quarter<sup>1</sup> then current, must show :

1. that she is normally employed in insurable employment and will normally seek to obtain her livelihood by means of insurable employment, and

2. that, having regard to all the circumstances of her case and particularly to her industrial experience and the industrial circumstances of the district in which she resides :

(a) she can reasonably expect to obtain insurable employment, or

(b) her expectation of obtaining employment in her usual occupation is not less than it otherwise would be, by reason of the fact she is married.

§ 29 of the Unemployment Insurance Act, 1935 prescribed that an insured contributor shall be disqualified for receiving benefit while he is an inmate of any prison or any workhouse or other institution supported wholly or partly out of public funds, but this provision does not apply to an insured contributor who is an inmate of an institution used as a place of residence for workers, if he proves that he was an inmate of the institution immediately before he became unemployed and that during the time when he was employed he paid the whole or a substantial part of the cost of his maintenance as such an inmate.

§ 30 (1) of the Unemployment Insurance Act, 1935, prescribes that an insured contributor shall be disqualified for receiving benefit while he is in receipt of any sickness or disablement benefit under the National Health Insurance Acts.

§ 96 of the Unemployment Insurance Act, 1935 (as amended by § 8 of the Unemployment Insurance Act, 1938), provides that any seaman, marine, soldier, or airman who is discharged or dismissed in consequence of having been convicted on any proceedings under the Naval Discipline Act, the Army Act, or the Air Force Act, or by a civil court, shall be disqualified for receiving benefit during the period of six weeks next after his discharge or dismissal.

<sup>1</sup> Benefit quarter means the period of three months from date of claim and each succeeding period of three months.

The Insurance Industry Special Scheme contains provisions similar to those set out at (iv) above in relation to the right to benefit of married women; otherwise no conditions or disqualifications for the receipt of unemployment benefit additional to those provided for in Articles 6 to 12 are imposed under either special scheme.

No statistics are available as to the number or proportion of the employed population affected by these conditions. It is estimated, however, on the basis of a sample enquiry, that the total number of married women and widows, insured under the general and agricultural schemes of unemployment insurance in Great Britain at July, 1937, was about 872,000. Separate figures for married women alone are not available.

The number of claims for unemployment insurance benefit made by unemployed persons within the classes affected by the Anomalies Regulations, 1931 and 1933, and the Anomalies (Seasonal Workers) Order, 1935, which were disallowed by Courts of Referees in Great Britain during the period 1st October, 1937, to 30th September, 1938, were as follows:

Class (b) (Seasonal Workers) . . . 10,861

Class (c) (Persons normally employed for not more than two days in the week). . . . . 1,818

Class (d) (Married women). . . . 50,111

The figures relate to claims, and the number of separate individuals concerned is not known.

#### *Unemployment Assistance Scheme.*

There are no conditions or disqualifications imposed upon applicants for unemployment assistance additional to those to which reference is made elsewhere in this report.

*Ireland.* — The following disqualifications for the receipt of unemployment benefit are additional to those referred to in Articles 6-12: (1) an insured contributor is disqualified from receiving unemployment benefit whilst he is an inmate of any prison or any workhouse or other institution supported wholly or partly out of public funds, and whilst he is resident temporarily or permanently outside Ireland; (2) he is also disqualified whilst he is in receipt of any sickness or disablement benefit or disablement allowance under the National Health Insurance Acts, 1911-36, or whilst he is in receipt of an old-age pension or benefit under a special scheme.

#### ARTICLE 6.

The right to receive benefit or an allowance may be made conditional upon the completion of a qualifying period, involving:

(a) the payment of a prescribed number of contributions within a prescribed period preceding

the claim to benefit or preceding the commencement of the period of unemployment;

(b) employment covered by this Convention for a prescribed period preceding the claim to benefit or an allowance or preceding the commencement of a period of unemployment; or

(c) a combination of the above alternatives.

*Please state whether any condition, is imposed in virtue of this Article and, if so, give full details thereof, including in particular the number of contributions and or the period prescribed.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

Benefit is not payable until the claimant can begin a benefit year. A benefit year is a period of twelve months during which the claimant may receive a certain amount of benefit and to begin a benefit year certain conditions must be fulfilled. These conditions are:

1. *In the General Scheme.* In order to qualify for benefit an insured contributor must (inter alia) prove that not less than 30 contributions have been paid in respect of him for the two years before the claim is made<sup>1</sup>. If the claimant has exhausted his benefit rights in the previous benefit year, to start another benefit year ten contributions must have been paid in respect of him since the date of exhaustion.

2. *In the Agricultural Scheme.* Not less than 20 contributions must have been paid in respect of the claimant for the two years before the claim is made<sup>1</sup>, and there must be at least ten unexhausted contributions standing to the claimant's credit<sup>2</sup>.

If 300 days' benefit has been drawn in a previous benefit year ten contributions must have been paid since the date of exhaustion for the claimant to begin a new benefit year.

A claimant cannot receive more than 300 days' benefit in any benefit year (see note on Article 11).

3. *Special Schemes.* Under the special scheme for the insurance industry it is necessary for the claimant to have had insurable employment in each of 30 weeks

<sup>1</sup> There are certain exceptions to this rule, viz:

(a) a claimant, who has been at any time during the two years in receipt of a disability pension for a disability contracted during the late War and whose failure to satisfy the 30 (or 20) contributions provision is due to his disability need only prove the payment of 10 contributions during the two years in question. (Section 22 (1) of Unemployment Insurance Act, 1935, and Section 4 (1) of Unemployment Insurance (Agriculture) Act, 1936);

(b) a claimant who, during any period within the two years has been unfit for work by reason of sickness or has been in employment which is excepted from the unemployment insurance scheme (see Note on Article 2) the period of two years may be extended by the period of sickness or, if employment in excepted work, up to a maximum of four years. (Section 22 (1) of Unemployment Insurance Act, 1935 and Section 4 (1) of Unemployment Insurance (Agriculture) Act, 1936.)

<sup>2</sup> Agricultural contributions are exhausted in relation to the number of days' benefit paid (see Note on Article 11).

in the insurance industry, during the two years preceding the date of the claim, before a benefit year can commence. If a claimant has exhausted his benefit rights in a benefit year he must, under the insurance industry scheme, also have been employed in insurable employment in the insurance industry in each of ten weeks since the date of exhaustion before a new benefit year can commence. Under the banking industry scheme a benefit year commences when 30 contributions have been paid under the scheme in respect of the claimant in respect of the two years preceding the date on which the application for benefit is made.

#### *Unemployment Assistance Scheme.*

There is no fixed qualifying period of employment or payment of any prescribed number of contributions before an allowance can be paid. As indicated, however, in the Note under Article 2, a person's *normal* occupation must, subject to the exception specified in § 36 (1) (6) (ii) be employment in respect of which contributions are payable under the Widows', Orphans' and Old Age Contributory Pensions Acts, 1925-1932.

*Ireland.* — The statutory conditions for the receipt of unemployment benefit include one which requires that an insured contributor must prove that not less than 12 contributions have been paid in respect of him. An insured contributor who (except by reason of sickness) pays no contributions throughout the whole of any insurance year which ended before his claim was lodged is disqualified from receiving unemployment benefit until he has paid 12 further contributions. Insurance will lapse in the case of a contributor in respect of whom no contributions have been paid during a period comprising five insurance years.

#### ARTICLE 7.

The right to receive benefit or an allowance may be made conditional upon the completion of a waiting period the duration and conditions of application of which shall be prescribed by national laws or regulations.

*Please state whether any condition is imposed in virtue of this Article and, if so, give the duration and conditions of application of the waiting period prescribed.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

The first three days of a "continuous" period of unemployment are a waiting period for which no benefit under either general or agricultural scheme is payable. Once a claimant has completed a waiting period another waiting period is not required so long as the unemployment is "continuous". The rules under which

two or more spells of unemployment can be regarded as one "continuous" spell so that no fresh waiting period is required are as follows:

Any three days of unemployment within six consecutive days are to be regarded as continuous.

Any two periods of three continuous days are to be regarded as continuous with one another if they are not separated by more than 10 weeks.

#### *Unemployment Assistance Scheme.*

There is not prescribed in the Unemployment Assistance Act, 1934, or in the Regulations, Rules, etc., made under it, any waiting period before an unemployment allowance is payable.

*Ireland.* — Unemployment benefit is not payable in respect of the first six days of continuous unemployment.

#### ARTICLE 8.

The right to receive benefit or an allowance may be made conditional upon attendance at a course of vocational or other instruction.

*Please state whether, and if so under what conditions, attendance at a course of vocational or other instruction is required. So far as possible, indicate the nature of the courses and the numbers, or proportion of the total numbers in receipt of benefit or allowance, attending courses.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

§ 25 of the Unemployment Insurance Act, 1935, prescribes that it shall be a condition for the receipt of benefit that if the Minister has, for the purpose of giving the insured contributor an opportunity of becoming or keeping fit for entry into or return to regular employment, required him to attend at an authorised course, the applicant must prove either that he duly attended in accordance with the requirement of that he had good cause for not so attending. This Section also provides that an insured contributor who, by reason of his behaviour, is required to discontinue his attendance at an authorised course during any period is not deemed to have satisfied the condition during that period or during such part of it as may be determined on any subsequent claim to benefit.

For the purpose of this condition an "authorised course", at which a claimant may be required to attend, includes:

(a) a course of instruction for persons under 18 years of age provided by an Education Authority;

(b) courses of training provided by the Minister for persons over 18 years;

(c) courses of training provided by the Unemployment Assistance Board for persons over 18 years of age.

In practice the power to require attendance at an authorised course is exercised only in the case of claimants under 18 years of age as part of the general power to require attendance of any unemployed juvenile whether a claimant for benefit or not. But although attendance at an authorised course is not required by the Minister in the case of adults, persons over 18 years of age, who voluntarily accept a course of training provided by the Minister, are, after acceptance, issued with a formal notice of requirement to attend such course and in their case misbehaviour during attendance or refusal to continue attendance may constitute grounds for disallowance of benefit.

#### *Special Schemes.*

This condition is not imposed under the schemes for the banking and insurance industries.

#### *Unemployment Assistance Scheme.*

There is no direct provision for the payment of allowances to be made conditional upon the applicant attending a course of vocational or other instruction. Under § 40 of the Unemployment Assistance Act, 1934, however, special conditions may be imposed in cases which, having regard to all the circumstances and in particular to the question whether the applicant has failed to avail himself of employment or *training*, and to the question whether there is any necessity for protecting the interests of the applicant or of persons dependent upon him, it appears that the case should be dealt with as one of special difficulty.

The special conditions may be one or more of the following :

- (1) payment of whole or part of the allowance to some specified member of the applicant's household ;
- (2) payment in kind ;
- (3) payment of the allowance only upon condition that the applicant attends at a work-centre ;
- (4) payment of the allowance (by way of part to the public assistance authority which runs the workhouse, and part to a member of the applicant's household) upon condition that the applicant enters a workhouse.

Should an applicant fail to comply with such special conditions imposed under § 40, the appeal tribunal (see under Article 14) may, under § 41, direct that for a specified period no application from the applicant shall be considered.

*Ireland.* — One of the statutory conditions for the receipt of unemployment benefit is that an insured contributor who has been required by an insurance officer to attend an approved course of instruction proves that he has attended such

a course. Regulations made under the Unemployment Insurance Acts empower the Minister for Industry and Commerce to approve, subject to the concurrence of the department responsible for technical education, such courses of instruction as he thinks fit.

In requiring an insured contributor to attend an approved course of instruction at such place and time and for such period as he may specify, an insurance officer takes into account (1) the distance of an insured contributor's place of residence from the place where the approved course of instruction is held, and (2) any evidence to show that the insured contributor is already attending a genuine educational course.

In Dublin, courses of instruction in Irish, English, arithmetic, cookery and needlework are provided for girls, and in Irish, English, arithmetic, drawing and woodwork for boys.

Juveniles between the ages of 16 and 18 who are eligible for unemployment benefit may be required as a condition for the receipt of benefit to attend these courses. The numbers of boy and girl claimants to unemployment benefit at the Dublin employment exchange on 12 October 1938 were 145 and 105 respectively. Of these numbers, 137 boys and 33 girls were attending courses on that date.

At Drogheda, courses of instruction (usually of six weeks' duration) are provided for unemployed women who are claimants for unemployment benefit and instruction is given in cookery, laundry and needlework. Of 109 women claimants to benefit at Drogheda employment exchange on 10 October, 11 were attending a course of instruction. Courses are carried on continuously during the school session. A group or class usually consists of 20 women.

#### ARTICLE 9.

The right to receive benefit or an allowance may be made conditional upon the acceptance, under conditions prescribed by national laws or regulations, of employment on relief works organised by a public authority.

*Please state if acceptance of such employment is required and, if so, under what conditions, together with the numbers, or proportion of the total number in receipt of benefit or allowance, of those so employed.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

A claimant may be disqualified for receiving benefit if it is proved that he has, without good cause, refused to accept an offer of suitable employment. (See under ARTICLE 10). If relief work organised by a public authority were considered suitable employment by the statutory authorities, then the claimant might be

disqualified for a refusal to accept this work. Apart from this there are no special requirements regarding the acceptance of relief work as a condition for the receipt of benefit.

*Unemployment Assistance Scheme.*

§ 40 of the Unemployment Assistance Act, 1934 (cf. above) provides that an application shall not be dealt with under that Section by reason only that the applicant has not accepted an offer of employment which would not, in relation to a claim for unemployment benefit, be held to be suitable employment.

There are no special requirements as regards the acceptance of employment on relief works, and the question thus turns on whether the work in question would be regarded as 'suitable' employment by the statutory authorities appointed under the Unemployment Insurance Acts.

*Ireland.* — The right to receive unemployment benefit is not conditional upon the acceptance of employment on relief works organised by a public authority.

ARTICLE 10.

1. A claimant may be disqualified for the receipt of benefit or of an allowance for an appropriate period if he refuses an offer of suitable employment. Employment shall not be deemed to be suitable:

(a) if acceptance of it would involve residence in a district in which suitable accommodation is not available;

(b) if the rate of wages offered is lower, or the other conditions of employment are less favourable:

(i) where the employment offered is employment in the claimant's usual occupation and in the district where he was last ordinarily employed, than those which he might reasonably have expected to obtain, having regard to those which he habitually obtained in this usual occupation in that district or would have obtained if he had continued to be so employed;

(ii) in all other cases, than the standard generally observed at the time in the occupation and district in which the employment is offered;

(c) if the situation offered is vacant in consequence of a stoppage of work due to a trade dispute;

(d) if for any other reason, having regard to all the considerations involved including the personal circumstances of the claimant, its refusal by the claimant is not unreasonable.

2. A claimant may be disqualified for the receipt of benefit or of an allowance for an appropriate period:

(a) if he has lost his employment as a direct result of a stoppage of work due to a trade dispute;

(b) if he has lost his employment through his own misconduct or has left it voluntarily without just cause;

(c) if he has tried to obtain fraudulently any benefit or allowance; or

(d) if he fails to comply with the instructions of a public employment exchange or other competent authority with regard to applying for employment, or if it is proved by the competent authority that he has failed or neglected to avail

himself of a reasonable opportunity of suitable employment.

3. A claimant who on leaving his employment has received from his employer in virtue of his contract of service compensation for and substantially equal to his loss of earnings for a certain period may be disqualified for the duration of that period for the receipt of benefit or of an allowance. A discharge allowance provided for by national laws or regulations shall not be deemed to be such compensation.

*Please give details of any disqualifications imposed in virtue of this Article, stating in particular what is the definition of employment which is not deemed to be suitable under paragraph 1, and how the "appropriate period" is determined in the cases provided for in each of the paragraphs 1, 2 and 3.*

*Great Britain.*

*Unemployment Insurance Scheme.*

1. A claimant may be disqualified for receiving benefit for a period of six weeks or such shorter period as may be determined by the Court of Referees or the Umpire if he refuses, without good cause, to accept suitable employment. Employment is not deemed to be suitable if it is:

(a) in a district in which suitable accommodation is not available (*Note.* This is not specifically mentioned in provisions of the Act referred to above but this interpretation of "suitable employment" has been laid down by the Umpire who is the final statutory authority for deciding claims to benefit);

(b) (i) employment in the claimant's usual occupation in the district where he was last ordinarily employed, at a rate of wage lower, or on conditions less favourable, than those which he might reasonably be expected to obtain, having regard to those which he habitually obtained in his usual occupation in that district, or would have obtained if he had continued to be so employed, or, (ii) employment in the claimant's usual occupation in any other district at a rate of wage lower, or on conditions less favourable, than those generally observed in that district by agreement between Associations of employers and employees or, failing any such agreement, than those generally recognised in that district by good employers, or

(c) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute.

In general the date from which disqualification under the above provisions operates is the date on which the refusal of, or failure to apply for, suitable employment took place. It is to be noted, however, that under the provisions of § 49 (2) of the Unemployment Insurance Act, 1935, a claimant who was in receipt of, or entitled to, benefit when the question arose continues to be so treated, if he is otherwise entitled to benefit, until the statutory authorities have given a decision on the matter. The question as to the duration



of the period of disallowance is a matter for decision by the statutory authorities appointed under the Unemployment Insurance Acts, who may decide to impose a disqualification of less than six weeks if they consider that mitigating circumstances warrant this course, e.g., if the failure to apply promptly was excused by adverse circumstances.

2. (a) A claimant may be disqualified for the receipt of benefit if he has lost his employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop, farm or other premises or place at which he was employed. The disqualification for receiving benefit continues so long as the stoppage of work continues, except in a case where the claimant has, during the stoppage of work, become bona fide employed elsewhere in the occupation which he usually follows, or has become regularly engaged in some other occupation. The period of disqualification is determined by the statutory authorities appointed under the Unemployment Insurance Acts and is generally for the period during which the insured contributors concerned did no work because of the dispute.

This trade dispute disqualification does not apply if the claimant can prove (i) that he is not participating in, or financing, or directly interested in, the trade dispute which caused the stoppage of work, and (ii) that the persons who are so participating in, or financing, or directly interested in, the trade dispute do not include any members of his own grade or class who immediately before the stoppage of work were employed at the premises at which to stoppage is taking place.

(b) A claimant who loses his employment through his misconduct, or who voluntarily leaves his employment without just cause, may be disqualified for receiving benefit for a period not exceeding six weeks. In general the period of disqualification (which is decided by the statutory authorities appointed under the Acts) begins to operate from the day following that on which the employment was lost or left. (If this happens on a Saturday, however, the period begins on the following Monday.) The period of disqualification may be less than six weeks if the statutory authorities (who determine such matters) consider that mitigating circumstances exist which would warrant a reduction of the maximum period.

(c) There is no disqualification contained in the Unemployment Insurance Act, 1935, for this offence.

(d) Under § 28 of the Unemployment Insurance Act, 1935, a claimant may be disqualified for receiving benefit for a period not exceeding six weeks if it is proved that he has

(1) without good cause, refused or failed to carry out any reasonable directions given

to him in writing by an officer of an Employment Exchange with a view to assisting him to find suitable employment;

(2) without good cause, refused or failed to apply for or refused to accept a suitable situation notified to him by an Employment Exchange (or other recognised agency or by or on behalf of an employer) as vacant or about to become vacant;

(3) neglected to avail himself of a reasonable opportunity of suitable employment.

(Note. As regards the period of disqualification, see 1 above.)

3. Notwithstanding that the employment of an insured contributor has terminated, he is not deemed to be unemployed for the purpose of the Act during a period in respect of which he continues to receive wages, or receives any payment by way of compensation for the loss of, and substantially equivalent to the remuneration which he would have received if the employment had not terminated. The period during which an insured contributor is deemed to be not unemployed is that in respect of which the wages or compensation is paid and is determined by the statutory authorities appointed under the Acts.

#### *Unemployment Assistance Scheme.*

1. cf. what is said regarding the operation of § 40 of the Unemployment Assistance Act, 1934, under the preceding article, and what is said as regards unemployment benefit under this Article. It should be added that § 41 of the Act empowers the Appeal Tribunal to direct that no application shall be considered from the applicant for a specified period in cases where the applicant has persistently refused or neglected to maintain himself or his family as well as in cases where the applicant has persistently contravened conditions attached in accordance with determinations made under § 40.

2. (a) Under § 36 (1) of the Unemployment Assistance Act, 1934, no person who is or who if he were an insured contributor under the Unemployment Insurance Acts would be disqualified under the trade dispute disqualification in the Unemployment Insurance Acts can be, while so disqualified, regarded as within the scope of the unemployment assistance scheme.

(b) No disqualification for unemployment assistance may be imposed if the applicant has lost his employment through his own misconduct or has left it voluntarily without just cause. Such a case, however, might fall to be treated under § 40 referred to above.

(c) No further disqualification is imposed where the applicant has tried to obtain an allowance fraudulently.



(d) Again such an applicant might fall to be dealt with under § 40 of the Unemployment Assistance Act, 1934.

3. The only provision in this connection which is applicable is that contained in § 38 (1) (b) of the Unemployment Assistance Act, 1934, which requires an applicant to prove that he has no work or only such part-time or intermittent work as not to enable him to earn sufficient for his needs. Subject, therefore, to the fulfilment of the conditions including that of need, in connection with which the compensation received from the employer might fall to be taken into account, an applicant discharged with such a payment would not thereby be debarred from receiving an allowance.

*Ireland.* — A claimant to unemployment benefit who refuses an offer of suitable employment will be disallowed benefit on the ground that he is not unable to obtain suitable employment. The claimant can have his claim reviewed on the expiry of six weeks. Employment is not deemed to be suitable in the circumstances described at (a) to (d) of 1 of this Article. Disqualification for the receipt of benefit is imposed in the circumstances mentioned at (a), (b) and (d) of 2 of this Article. With regard to (a) and (b), the statutory disqualifications are as follows: (1) an insured contributor who has lost employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop or other premises at which he was employed, is disqualified for receiving unemployment benefit for as long as the stoppage of work continues except in a case where he has during the stoppage of work become employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation; where separate branches of work which are commonly carried on as separate businesses in separate premises, are in any case carried on in separate departments in the same premises, each of those departments shall for the purposes of this provision be deemed to be a separate factory or workshop or separate premises as the case may be; (2) an insured contributor who loses employment through misconduct or who voluntarily leaves his employment without just cause is disqualified from receiving unemployment benefit for a period of six weeks or such shorter period not being less than one week as may be determined from the date when he so lost employment.

The penalty for obtaining or attempting to obtain unemployment benefit fraudulently does not include disqualification for the receipt of benefit.

Unemployment benefit is payable to a person who receives payment in lieu of notice terminating his employment as from the first day on which his services are

not required, subject to the usual requirement of a "waiting period".

#### ARTICLE 11.

The right to receive benefit or an allowance may be limited in duration to a period which shall not normally be less than 156 working days per year, and shall in no case be less than 78 working days per year.

*Please state what limit (or limits) is fixed to the duration of the right to receive benefit or an allowance.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

*General Scheme.* Every claimant may, subject to satisfying the conditions etc., draw benefit for 156 days in his benefit year (see under ARTICLE 6). If at the beginning of the benefit year five insurance years have elapsed since the beginning of the insurance year in which he first became insured, he may be entitled to additional days benefit. These are calculated by allowing three days for every five contributions paid in the last five complete insurance years, less one day for every ten days of benefit received for the benefit years which ended in the same period. In making these calculations, every two contributions paid by a person under 18 years of age are counted as one contribution.

*Agricultural Scheme.* A claimant is allowed 12 days' agricultural benefit for the first ten contributions standing to his credit at the beginning of the benefit year, and three further days for every contribution in addition to the first ten. He cannot receive agricultural benefit for more than 300 days in his benefit year (see under ARTICLE 6).

If a claimant has paid contributions under both schemes his benefit rights in each scheme are determined by his contributions under that scheme without regard to his position under the other. A claimant who qualifies for benefit under both schemes cannot receive both kinds of benefit at once, but receives general scheme benefit so long as he is entitled to do so, and then agricultural scheme benefit.

*Special Schemes.* The number of days' benefit payable under the insurance industry scheme is calculated in the same manner as under the general scheme. Under the banking industry scheme there is no limit to the number of days' benefit payable in a benefit year, provided the benefit conditions are satisfied and no disqualification is incurred.

##### *Unemployment Assistance Scheme.*

There is no limit to the period during which an allowance may be drawn, subject to the conditions as to the normal occupation laid down in § 36 (1) (b) of the Unemploy-

ment Assistance Act, 1934, (see under ARTICLE 2) continuing to be fulfilled.

*Ireland.* — Benefit is not payable for the first six days of a period of unemployment except in the circumstances described in the reply to Article 3 above. Not more than 156 days' benefit can be obtained in any year commencing on the date on which the claim to benefit is lodged. The amount of benefit payable in any such year is further limited to one day of benefit for each contribution standing to the claimant's credit in the Unemployment Fund.

#### ARTICLE 12.

1. Benefit shall be payable irrespective of the needs of the claimant.

2. The right to receive an allowance may be made conditional upon the need of the claimant being proved in such manner as may be prescribed by national laws or regulations.

*Please state what are the provisions of the national laws or regulations as to proof of need of the claimant.*

*Great Britain.*

##### *Unemployment Insurance Scheme.*

Benefit is payable irrespective of the needs of the claimant.

*Banking Industry Scheme.* An insured person of 18 years of age or over within the scope of the banking industry scheme, who is not entitled to benefit by reason only that thirty contributions have not been paid in respect of him in respect of the two years immediately preceding his application for benefit may qualify for an unemployment allowance (not exceeding the amount of benefit to which he would have been entitled if the benefit conditions were fulfilled in his case) subject to proof of need of assistance. The means by which proof of need is afforded is left entirely to the Board administering the scheme and the Board have absolute discretion as to the amount of the allowance.

##### *Unemployment Assistance Scheme.*

The Act prescribes the household test of need upon which the payment of the allowance is conditional. The detailed basis on which the needs of the applicant and his dependants are to be assessed is laid down in the Unemployment Assistance Determination of Need and Assessment of Needs Regulations, 1936. The actual means by which proof of need is to be afforded is prescribed in the Unemployment Assistance Allowances Provisional Rules, 1934.

*Ireland.* — Unemployment benefit is payable irrespective of the needs of the claimant.

#### ARTICLE 13.

1. Benefit shall be payable in cash, but supplementary grants to facilitate the re-employment of an insured person may be in kind.

2. Allowances may be in kind.

*Please state whether, and under what conditions, grants supplementary to benefit are made in kind.*

*Please state whether any allowances are given in kind and, if so, under what conditions and what is the nature of the allowances. Where possible, information should be given as to the number or proportion of allowances in kind as compared with allowances in cash.*

*Great Britain.*

##### *Unemployment Insurance Scheme.*

*Unemployment insurance benefit is payable in cash.*

With a view to facilitating the mobility of unemployed persons, arrangements are made for the issue, by way of loan, of warrants covering the cost of travel to other places (if they are over five miles distant), where the workers concerned have a definite prospect of obtaining employment. In such cases, if the first statutory condition for the receipt of benefit under the Unemployment Insurance Act, 1935, is satisfied a certain portion of the advanced fare is not recovered from the worker but is remitted. This remission is equal to half the sum by which the advance exceeds four shillings.

##### *Industrial Transference Scheme.*

*Assistance in kind.*

Discretion is given to Employment Exchange Managers to make grants of boots and or clothing in necessitous cases to enable men transferring under the Industrial Transference Scheme to take up employment. Such assistance is normally limited to the provision of one pair of trousers, one jacket, one shirt and one pair of boots. The maximum cost per head is £1 normally and £1. 10s.-d. exceptionally.

*Cash payments in emergencies to ease transference.*

This may include incidental payments, e.g. provision of meals, payment for incidental expenses incurred in travelling, temporary subsistence, supply of tools, etc. Payment must not exceed £3.

*Lodging Allowances.*

Grants are made towards the cost of lodging incidental expenses of transferees who are desirous of removing their household effects and dependants under the Industrial Transference Scheme.

This includes lodging allowance at the rate of 12/- weekly whilst the transferee is seeking accommodation for his family in the new area. These allowances may be paid for a maximum of ten weeks (extended exceptionally to 20 weeks).

The removal expenses are paid by the Department to the Contractors and the applicant is allowed £2 towards incidental expenses of removal provided that the removal is *not* to furnished accommodation.

#### *Juneville Transference Scheme.*

Assistance under this scheme is normally confined to boys and girls, between school leaving age and eighteen years, who reside in certain scheduled areas where there is a high rate of unemployment. Assistance is given to enable them to accept employment found for them in other parts of the country.

#### *Travelling Expenses.*

Travelling warrants between home and place of employment are issued free to juveniles recruited under the scheme, except in the case of girls placed in domestic service in private houses. In the latter case, fares can be advanced.

Assistance may also be given towards the cost of the fare home for holidays.

#### *Cash Payments.*

Weekly cash grants are made where necessary which, together with wages earned, enable the juvenile to meet the cost of board and lodgings and other necessary expenses. Grants are also made to cover items of emergency expenditure which the juvenile is unable to meet.

#### *Assistance in kind.*

On leaving home for employment, every juvenile must be in possession of an outfit of personal clothing comprising articles which are considered by the Ministry as being essential. In necessitous cases, the clothing already belonging to the juvenile is supplemented by the Ministry, the maximum expenditure allowed being £3.

Articles of clothing necessary for a particular employment may also be supplied to a juvenile up to the maximum cost of £1. 10. 0d, and, in addition, tools to the value of £3 may be supplied if necessary.

#### *Special Schemes.*

Under the banking industry scheme all or any of the expenses of travelling to any place for the purpose of obtaining employment may be paid in the case of a person who fulfils the first benefit condition.

The insurance industry scheme provides for the payment in whole or in part of the travelling and other expenses incurred at the request of the Board administering the scheme by persons covered by the scheme, who are seeking employment. The Board may also pay in whole or in part the expenses of removing persons within the scope of the scheme (with or without their dependants), who are seeking or who have found employment in other districts.

#### *Unemployment Assistance Scheme.*

The only provision under the Unemployment Assistance Act, 1934, for payment of allowances in kind is that in § 40 for cases of special difficulty.

*Ireland.* — Unemployment benefit is payable in cash.

#### ARTICLE 14.

There shall be constituted in accordance with national laws or regulations tribunals or other competent authorities for the purpose of determining questions arising on applications for benefit or an allowance made by persons to whom this Convention applies.

*Please give full information as to the action taken to give effect to this Article.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

All claims for benefit are decided by the statutory authorities appointed under the provisions of §§ 40, 41 and 42 of the Unemployment Insurance Act, 1935. These authorities consist of the Insurance Officers, the Courts of Referees and the Umpire, and the Minister of Labour has no power to interfere with their decisions.

Claims for benefit are examined in the first instance by the Insurance Officer, who has authority to allow any claim which he thinks ought to be allowed. If he is not satisfied that the claim ought to be allowed he may refer it for decision to a Court of Referees or he may himself disallow the claim, unless the grounds for disallowance are of the nature prescribed in § 43 (4) and (5) of the Unemployment Insurance Act, 1935, in which case he is bound to refer the claim to the Court of Referees for decision. If the Insurance Officer disallows the claim, the claimant has a right of appeal to a Court of Referees within 21 days from the date on which the decision of the Insurance Officer is communicated to him.

The constitution of Courts of Referees is governed by the provision of § 41 of the Unemployment Insurance Act, 1935, and the Regulations made thereunder. In accordance with these provisions a Court of Referees consists of an independent Chairman appointed by the Minister, one person chosen to represent employers and one person chosen to represent insured contributors. Panels of the persons chosen to represent employers and insured contributors are constituted by the Minister for each district and the members of the panels are summoned in turn so far as practicable to act as members of the Court.

The above mentioned Regulations provide that reasonable notice of the time and place at which a Court will sit for the consideration of any case shall be given to the claimant and except by consent of the claimant a Court shall not proceed to the

consideration of any case unless such notice has been given. Provision is also made in the Regulations whereby any case may, with the consent of the claimant, but not otherwise, be proceeded with in the absence of any member or members of the Court other than the Chairman, and in any such case the Court is deemed to be properly constituted and if the number of the members of the Court is an even number the Chairman has a second or casting vote. So far as practicable the persons chosen to act as employers and insured contributors members shall be women when women's cases are heard and men when men's cases are heard.

The Regulations mentioned provide that during the consideration by a Court of any case the claimant, an Insurance Officer, and any officer of the Ministry of Labour that the Minister may direct, shall be entitled to be present and the claimant may be represented at the Court by any person other than counsel or solicitor authorised by him. In addition the Court may allow any person appearing to the Court to be likely to be affected by the decision of the Court to be present during the consideration of a case.

When a claimant resides at a considerable distance from the Court any claim for benefit made by the claimant, which under the foregoing provisions has been submitted for examination to an Insurance Officer, may be referred by the Insurance Officer to Local Referees for examination and report before he decides whether to allow or disallow the claim or refer it to a Court of Referees. Similarly, a claim may at any time prior to consideration by the Court, be referred by the Chairman for examination and report to two persons who are resident in the neighbourhood in which the claimant resides, one of whom is drawn from the employers' panel and the other from the insured contributors' panel.

An appeal from a decision of the Court of Referees may be made to the Umpire (who is appointed by His Majesty (§ 40 (1) Unemployment Insurance Act, 1935)) by

(i) an Insurance Officer;

(ii) an Association of employed persons of which the claimant was a member on the last day when he was employed before the claim was made and of which he has continued to be a member until the date when the appeal is made;

(iii) the claimant himself if the decision of the Court of Referees is not unanimous or if the Chairman of the Court gives the claimant leave to appeal. If leave to appeal is not given by the Chairman at the time of the decision the claimant may apply for leave to appeal within 21 days of the decision.

An appeal to the Umpire must normally be brought within six months of the deci-

sion of the Court of Referees, and the Umpire's decision is final.

#### *Special Schemes.*

Claims for benefit under the banking industry scheme are determined by a claims officer, a claims committee, a Court of Referees and the Umpire appointed under the Unemployment Insurance Act, 1935.

The claims officer is the Secretary of the Board administering the scheme or some other officer of the Board duly authorised by the Board to act as claims officer. The claims committee consists of a Chairman and representatives of employers and employed persons, all of whom are appointed by the Board from their own members. The Chairman is the Chairman of the Board, or another member thereof appointed by the Board, and it is provided that the number of employers' representatives shall not exceed the number of members appointed to represent employed persons. The Court of Referees consists of a Chairman, one employers' representative and one employees' representative. The Board appoint the two representatives from the panels of persons chosen as employers' and employees' representatives for this purpose and the two selected representatives appoint their own Chairman, who may be a barrister or a solicitor. Members of the Board who have served on the claims committee are prohibited from being members of the Court of Referees adjudicating the same case.

The claims officer cannot himself disallow any claim. If he is not satisfied that the claim ought to be allowed, the claims officer is required to refer the claim, within 14 days of the date of submission to him, so far as practicable, to the claims committee for decision. When a claim is disallowed by the claims committee, the claimant may at any time within 21 days of the date on which the decision of the claims committee is communicated to him, appeal to the Court of Referees. An appeal from a decision of the Court of Referees may be made to the Umpire, subject to the appeal being brought normally within six months of the date of the decision, by:

(a) the claims officer;

(b) an association of employed persons of which the claimant was a member on the last date on which he was employed before the claim subject to the appeal was made and of which he has continued to be a member until the date when the appeal is made;

(c) the claimant himself, if the decision of the Court of Referees is not unanimous or if the Court of Referees give the claimant leave to appeal; and

(d) the Minister of Labour in any case in which he is of opinion that, having

regard to the importance of the principle involved in the case, or any other special circumstances, an appeal ought to be made.

The decision of the Umpire is final.

Claims for benefit under the insurance industry scheme are determined by a claims officer, an appeal committee and the Umpire appointed under the Unemployment Insurance Act, 1935. In certain circumstances a claim may be referred to local referees for examination and report.

The claims officer and the appeal committee are appointed by the Board administering the scheme. The appeal committee consists of an equal number of representatives of employers and employed persons within the scope of the scheme. The Committee is empowered to appoint their own chairman but if a majority of the members of the committee are not in agreement, the chairman is appointed by the Board. The Chairman has a second or casting vote when the opinions of the members of the committee are equally divided. Local referees are appointed by the Board and consist of an equal number of employers' and employed persons' representatives.

The claims officer may himself give a decision on any claim with or without prior reference to the case of local referees. If the claims officer disallows a claim the claimant may appeal forthwith to the appeal committee, or, if the case has not already been referred to local referees, he may require the claims officer to so refer it and to reconsider the claim. In the latter case, if the second decision of the claims officer is to disallow benefit the claimant may then appeal to the appeal committee. An appeal to an appeal committee has to be made normally within 21 days of the date of the decision in respect of which the appeal is made. In any case of appeal to the appeal committee which has not been referred to local referees, the claims officer is required to so refer it and to submit the local referees' report to the appeal committee. An appeal from a decision of an appeal committee may be made to the Umpire, subject to the appeal being brought normally within six months of the decision, by :

- (a) the claims officer ;
- (b) an association of employed persons of which the claimant is a member ;
- (c) the claimant himself if the decision of the appeal committee is not unanimous ; or if the appeal committee give the claimant leave to appeal ; and
- (d) the Minister of Labour in any case in which he is of opinion that, having regard to the importance of the principle involved in the case, or any other special circumstances, an appeal ought to be brought.

The decision of the Umpire is final.

#### *Unemployment Assistance Scheme.*

§ 39 (4) of the Unemployment Assistance Act, 1934, provides that for the purposes of the Act there shall be constituted appeal tribunals, and the Seventh Schedule prescribes the constitution and proceedings of such tribunals. Under paragraph 3 of this Schedule the Chairman of every appeal tribunal has to be appointed by the Minister of Labour and of the two other members one has to be selected by the Unemployment Assistance Board from a panel of persons nominated by the Minister to represent workpeople and has to be appointed by the Board, and the other has to be appointed by the Board to represent the Board. Under this paragraph there is also prescribed the action to be taken in the event of the unavoidable absence or incapacity of the Chairman or of any other member of an appeal tribunal.

Under paragraph 6 of the Seventh Schedule of the Unemployment Assistance Act, 1934, rules may be made :

(a) as to the tenure of office of members of appeal tribunals ;

(b) as to the procedure of appeal tribunals and the procedure in connection with appeals (whether to a tribunal or to the Chairman thereof) and in connection with the references to an appeal tribunal and in connection with applications for leave to appeal, and as to the time within which such appeals, references and applications are to be made ;

(c) as to the procedure in connection with applications by public assistance authorities for the reconsideration of directions that for a period specified therein no further applications for an allowance made by an applicant shall be considered ;

(d) as to the payment by the Board to persons attending appeals and references of travelling and other allowances (including compensation for loss of remunerative time) ;

(e) for enabling appeals, references, and applications to be proceeded with notwithstanding that the members of the tribunal are not all present ;

and in any case where an appeal, reference, or application is proceeded with in accordance with rules made in accordance with sub-paragraph (e) of this paragraph, the tribunal shall, notwithstanding anything in this Act, be deemed to be properly constituted, and the chairman or acting chairman shall have a second or casting vote.

#### *Rights of Appeal.*

1. *Appeals against decisions given by an officer of the Board that a person is not one to whom the Act applies.*

Any applicant or any public assistance authority may appeal from any such decision to the Chairman of the Appeal Tri-

bunal whose decision is final. If, however, on the consideration of any such appeal any dispute or doubt arises as to

(a) the question whether any employment is employment insurable under the Widows', Orphans' and Old Age Contributory Pensions Acts, 1925-32; or

(b) the question whether a person is disqualified for receiving benefit under the Unemployment Insurance Acts owing to his having lost employment by reason of a stoppage of work which was due to a trade dispute, or would have been so disqualified if he had been an insured contributor under those Acts;

it is provided that the first question shall be referred by the Chairman of the Appeal Tribunal for the decision of the Minister of Health (who is responsible for the administration of the Contributory Pensions Acts in question) and that the second question shall be referred by the Chairman of the tribunal to the insurance officer and be determined by the same persons and in the same manner as if the question had arisen upon a claim to benefit under the Unemployment Insurance Acts, so, however, that an appeal from the decision of an insurance officer or a Court of Referees upon any such question shall not lie at the instance of a public assistance authority.

*2. Appeals against determinations made by the Board's officer.*

An applicant aggrieved by the amount etc. of a determination made by an officer of the Board may appeal to the Appeal Tribunal. Except, however, in the circumstances mentioned in 3 and 4 below he must obtain the leave of the Chairman before such an appeal can go forward to the full tribunal, and it is laid down that the Chairman shall only grant such leave if it appears to him that there is reason to doubt whether the needs of the applicant have been determined or whether his needs have been assessed in accordance with the relevant regulations made under the Act, or that there are other special circumstances affecting the case.

3. An applicant aggrieved by a determination under § 40 of the Act made by the Board's officer may appeal without leave to the full appeal tribunal.

4. § 41 of the Act provides that if an applicant has persistently refused or neglected to maintain himself or his family or has persistently contravened conditions attached in accordance with determinations made under § 40, it is for the appeal tribunal to direct that for such period as may be specified no future application made by the applicant shall be considered.

*Ireland.* — All claims to unemployment benefit and all questions, whether the statutory conditions are fulfilled or whether the person is disqualified for receiving benefit or otherwise, arising in connection

with claims for benefit, are determined in the first instance by statutory officers known as insurance officers. The claimant for benefit may at any time within 21 days from the date on which the insurance officer's decision is communicated to him, appeal to a Court of Referees. The Court of Referees, before whom the appellant may attend, having considered the case, makes a recommendation to the insurance officer who, unless he disagrees, must give effect to the recommendation. If the insurance officer disagrees with the recommendation, he must refer the case to the Umpire for decision. Any association of employed persons of which the claimant for benefit is a member, may appeal to the Umpire against the recommendation of the Court of Referees, and any claimant for benefit may do likewise provided that the Court has given him leave to do so. The decision of the Umpire is final and conclusive.

A Court of Referees consists of an impartial chairman appointed by the Minister, a representative of employers and a representative of insured contributors. Panels of persons chosen to represent employers and insured contributors respectively are constituted by the Minister for each district. In the absence of any members or members of the Court other than the chairman, the case may be proceeded with if the appellant consents.

#### ARTICLE 15.

1. The claimant may be disqualified for the receipt of benefit or of an allowance in respect of any period during which he is resident abroad.

2. Special provisions may be prescribed for frontier workers employed in one country and resident in another.

*Please state whether any disqualification is imposed in respect of residence abroad and, if so, what are the conditions of such disqualification.*

*If any special provisions have been prescribed for frontier workers, please give full information concerning them.*

*Great Britain.*

#### *Unemployment Insurance Scheme.*

1. Under the provisions of § 110 of the Unemployment Insurance Act, 1935, power is given to the Minister, with the consent of the Treasury, to make arrangements with the authority administering any statutory scheme of unemployment insurance in the Isle of Man or the Channel Islands.

(a) for the payment of unemployment benefit in the Isle of Man or Channel Islands to persons who, had they been resident in Great Britain or Northern Ireland, would have been entitled to benefit;

(b) for the payment of benefit in Great Britain or Northern Ireland to persons entitled to benefit under such a scheme.

§ 30 (2) of the Unemployment Insurance Act, 1935, provides that, subject to the provisions of the Act relating to Northern Ireland, the Isle of Man and the Channel Islands, an insured contributor shall be disqualified for receiving benefit while he is resident, whether temporarily or permanently, outside Great Britain.

No statutory scheme of the kind mentioned in § 110 of the Unemployment Insurance Act, 1935, is in operation in the Isle of Man or the Channel Islands and accordingly insured contributors residing temporarily or permanently in these islands are disqualified for receiving benefit.

In accordance with the provisions contained in § 108 of the Unemployment Insurance Act, 1935, and the agreement made thereunder, contributions paid and benefit received in Northern Ireland are taken into account for the purpose of determining a claim for benefit in Great Britain and vice versa, but benefit in Great Britain is payable only for periods during which an insured contributor is temporarily or permanently resident in Great Britain. Conversely, benefit in Northern Ireland is payable only for periods during which an insured contributor is temporarily or permanently resident in Northern Ireland.

2. There are no special provisions relating to frontier workers.

#### *Special Schemes.*

Under the banking industry scheme benefit is not payable to a person while he is resident, whether temporarily or permanently, outside Great Britain.

There is a special scheme of unemployment insurance for the insurance industry in Northern Ireland and insurable employment and benefit paid under the scheme for Northern Ireland is recognised for the purpose of determining a claim made under the scheme for Great Britain by a person residing temporarily or permanently in Great Britain. Benefit is not payable under the British scheme to persons resident temporarily or permanently outside Great Britain or Northern Ireland.

#### *Unemployment Assistance Scheme.*

1. No statutory disqualification for the receipt of unemployment assistance is imposed in respect of residence abroad. A person, however, who left Great Britain for the purpose of residing abroad, even temporarily, would have difficulty in satisfying the conditions for the receipt of an allowance laid down in § 36 (1) (b) and (c) and § 38 (1) and the Allowances Provisional Rules, 1934, made thereunder.

2. There are no special provisions relating to frontier workers.

*Ireland.* — An insured contributor is disqualified from receiving unemployment

benefit whilst he is resident temporarily or permanently outside Ireland. Special conditions for frontier workers employed in one country and resident in another have not been prescribed, but the Acts enable special arrangements to be made for such workers.

#### ARTICLE 16.

Foreigners shall be entitled to benefit and allowances upon the same conditions as nationals: Provided that any Member may withhold from the nationals of any Member or State not bound by this Convention equality of treatment with its own nationals in respect of payments from funds to which the claimant has not contributed.

*Please state what action has been taken to give effect to this Article.*

#### *Great Britain.*

##### *Unemployment Insurance Scheme.*

The Unemployment Insurance Acts provide for the insurance against unemployment of all workpeople whatever their nationality (provided they are employed in insurable employment) and benefit is payable irrespective of nationality provided the statutory conditions are fulfilled.

##### *Unemployment Assistance Scheme.*

Under the unemployment assistance scheme there is no discrimination as regards foreigners. The Widows', Orphans' and Old Age Pensions Acts, 1925-32, the relevance of which to the unemployment assistance scheme has been indicated in Article 2 above, provide for the insurance of all persons in employment insurable under the Acts, subject to the exception mentioned in the last paragraph of the note on that Article.

*Ireland.* — Foreigners are entitled to benefit under the same conditions as nationals.

### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

(1) Except where, owing to the local conditions, the Convention is inapplicable; or

(2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions have been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — No legislation has been specially enacted in any of the colonial dependencies. In the very large majority of cases the application of the Convention would not be practicable at the present stage of development.

*Ireland.* — Not applicable.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of the scheme.*

*Great Britain.* — The application of legislation and administrative regulations for unemployment provision is entrusted to the Ministry of Labour and the duties are administered through nine Divisional Offices and over 1,600 Local Offices established in the industrial and agricultural districts of Great Britain.

In certain cases duties in connection with provision for unemployment are delegated by the Ministry of Labour to other bodies. Under certain conditions, organisations of workers may pay unemployment benefit to their members: Local Education Authorities exercising powers under § 81 of the Unemployment Insurance Act, 1935, may administer unemployment benefit in respects of boys and girls up to the age of 18; and special unemployment insurance schemes are in operation for the banking and insurance industries.

##### 1. Arrangements with Associations.

Under § 68 of the Unemployment Insurance Act, 1935, an organisation of workers may apply to enter into a special arrangement with the Minister whereby the

organisation or association may make payment to its members in lieu of unemployment benefit, the Association being subsequently repaid out of the Unemployment Fund the amount which the members would have been entitled to receive by way of unemployment benefit if no special arrangement has been made.

Associations of workers desiring to enter into a special arrangement for the payment of unemployment benefit must satisfy certain conditions. In order to warrant the assumption that the Association has an efficient scheme for organising and administering an arrangement for the payment of benefit it is essential that the Association should provide, from their own funds, out-of-work benefit sufficiently substantial in amount and duration to satisfy the requirements of § 70 (1) of the Act.

Associations entering into an arrangement must also show that they have a reasonably effective system of ascertaining the wages and conditions prevailing in the insurable employment in which their members are engaged.

A memorandum of arrangement, completed in respect of each Association concerned, specifies the classes of members covered and prescribes the method of obtaining proof of unemployment. Associations may arrange for members to prove unemployment at a Local Office of the Ministry, the particulars being forwarded to the Association's branch to enable payment to be made by the Association; or under an alternative procedure members attend the Office of the Association and sign the vacant book under the supervision of a full-time official of the Association. Approximately one member in ten of those covered by special arrangements proves unemployment under the vacant book procedure.

If any question arises as to whether a member of an Association would have been entitled to receive benefit if no special arrangement had been made, or as to the rate to which he would have been entitled, the question is determined by the Statutory Authorities appointed under the Unemployment Insurance Act, 1935, in the same manner as if the member had made a claim at a local office of the Ministry.

Associations entering into an arrangement with the Minister are supplied with an explanatory memorandum (14) for the guidance of their officials. Methods of supervising the working of the scheme (including the regular inspection of vacant books) have shown that the procedure works smoothly, and that close co-operation exists between the Ministry's Local Offices and the Associations' branches. At present there are in operation 135 arrangements with Associations having approximately 847,000 members within the scope of the arrangements. Associations receive a grant of 5d for each week of unemployment benefit repaid to the Association in respect of claims by adult members and



2 ½d in respect of claims by juvenile members.

*Administration of Unemployment Insurance by Local Education Authorities.*

2. Local Education Authorities can, if they so desire, assume the responsibility for dealing with the employment and unemployment of juveniles, that is to say, boys and girls under the age of 18. If they desire to take up these powers they must also undertake the duties connected with the administration of unemployment insurance and assistance, so far as they relate to juveniles. In carrying out these duties Education Authorities act as the agents of the Ministry of Labour and must follow the instructions issued by the Ministry. They receive from the Ministry a grant of 75 per cent of their total administrative expenses, which is estimated to cover the whole cost to them of the administration of unemployment insurance and assistance, and also a refund of all payments of benefit or assistance which are properly made by them. Contributions must be paid in respect of juveniles who are over 14 and have entered insurable employment, but juveniles are not eligible for unemployment benefit until they have reached the age of 16.

The conditions for the receipt of benefit by juveniles are the same as in the case of adults. Juveniles, whether claimants for benefit or not, may be required, when unemployed, to attend Authorised Courses of Instruction known as Junior Instruction Centres or Classes, specially provided for them by Local Education Authorities. Attendance at these Courses, if required, in the case of a claimant for benefit, is a condition for the receipt of benefit. The Ministry make a grant to Education Authorities which normally covers 75 per cent of the cost of these Courses, but in special cases the grant may cover the whole of the cost.

*Special Schemes for Banking and Insurance Industries.*

3. The schemes for the banking and insurance industries are each administered by a Board, the members of which are elected or appointed by employers or employers' organisations or by groups or organisations of employed persons within the scope of each scheme, as representative of the employers and employed persons to whom each scheme applies. The Boards appoint their own officers and make all the provisions necessary for carrying the schemes into effect. The provisions of the schemes are subject to approval by the Minister of Labour who has power to vary and amend them to ensure that they are on the whole not less favourable than the general scheme of unemployment insurance. In exercising

their powers and in carrying out their duties the Boards are required to give effect to any general directions given by the Minister, after consultation with the Board concerned. The responsibility for the financial stability of the two schemes rests with the Minister.

The banking industry scheme is administered from one central office. The organisation of the insurance industry scheme includes a central office and local representatives.

*Northern Ireland.*

The provision made in Northern Ireland for ensuring benefit or allowances to the involuntarily unemployed is the same in all essential particulars as that in operation in Great Britain. It comprises a scheme of unemployment insurance on a compulsory contributory basis, and a non-contributory scheme of unemployment assistance. The unemployment insurance scheme has been the subject of previous Reports on the working of Convention No. 2 concerning Unemployment. The law relating to unemployment insurance in Northern Ireland was consolidated by the Unemployment Insurance Act (Northern Ireland) 1936. §120 of that Act provided that any Order or Regulation then in being should continue in force in so far as it could have been made under the re-enacted provisions, but most of the Orders and Regulations in force at that time have since been remade. The unemployment assistance scheme, which came fully into operation on the 1st April, 1937, covers all persons between the ages of 16 and 65 who ordinarily gain their livelihood by contractual employment, irrespective of remuneration if they are manual workers and up to a limit of £250 per annum if non-manual. The total number of persons within the scope of the scheme is approximately 394,000.

*Ireland.* — The Unemployment Insurance Acts of 1920-33 are administered by the Minister for Industry and Commerce through the employment branch of the Department of Industry and Commerce. The employment branch comprises a headquarters office and 120 local offices situated in the principal centres throughout the country. In 21 of the more important centres offices known as employment exchanges and staffed by officers of the Department, are established. Affiliated to each of these exchanges and to two control offices, is a number of offices known as branch employment offices which are situated in the less important towns, and which are under the immediate supervision of the employment exchanges or control offices. (The two Control Offices perform only such of an employment exchange's functions as relate to the working of branch employment offices.)

The work of all local offices is controlled by the headquarters office. The Unemployment Insurance Acts are enforced by the Courts.

#### V.

*Please state whether decisions have been given by courts of law, or by the tribunals or other competent authorities provided for under Article 14 of the Convention, regarding the application of the Convention. If so, please supply the text of decisions involving a legal interpretation of the provisions in force.*

*Great Britain.* — The report states that no decisions have been given by any Court of law or other competent authority regarding the application of the Convention.

*Ireland.* — Decisions have not been given by courts of law or other tribunals regarding the application of the Convention.

#### VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the services charged with the administration of the scheme and, if such statistics are available, information concerning the number and nature of the contraventions reported, the cost of granting benefits and allowances, etc.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Great Britain.* — The Government appends to its report a copy of the last report of the Unemployment Insurance Statutory Committee on the financial condition of the Unemployment Fund on 31 December 1937, together with the report of the Ministry of Labour for the year 1937. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI. The report states that no observations have been received from organisations of employers or workers regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the National Law implementing the Convention.

*Ireland.* — The report states that it is not possible to segregate the administrative expenses incurred under the Unemployment Insurance Acts from those incurred for other purposes. The total amount paid by way of unemployment benefit in the financial year 1936-37 was approximately £495,000. This sum was paid out of the Unemployment Fund, to which the State contribution for that financial year was £261,964. No observations regarding the conditions or application of the Convention in Ireland have been received.

## NINETEENTH SESSION (GENEVA, 1935).

**45. Convention concerning the employment of women on underground work in mines of all kinds.**

Article 5 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered".

The Convention came into force on 30 May 1937. The following table shows the States Members for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 1 October 1937-30 September 1938 or for part of that period:

COUNTRIES	Date of registration of ratification	Reports received
Afghanistan . . . . .	14. 5.1937	10. 3.1939
China . . . . .	2.12.1936	8. 2.1939
Cuba . . . . .	14. 4.1936	17.11.1938
Estonia . . . . .	4. 6.1937	11.10.1938
Great Britain . . . .	18. 7.1936	28.12.1938
Greece . . . . .	30. 5.1936	21. 3.1939
Ireland . . . . .	20. 8.1936	8.12.1938
México . . . . .	21. 2.1938	26.11.1938
Netherlands . . . . .	20. 2.1937	1.10.1938
Sweden . . . . .	11. 7.1936	28.11.1938
Union of South Africa . . . . .	25. 6.1936	19.10.1938

The *Afghan* Government states in its report that, in Afghanistan, women and not, at present, employed on underground work in mines.

The *Chinese* Government states in its report that the Mining Act of 25 June 1936 has not yet come into force, but that Regulations No. 308 of 5 May 1923 ensure

the application of the provisions of the Convention.

## I.

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report. Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Afghanistan.*

See introductory note.

*China.*

Regulations No. 308 of 5 May 1923 concerning the prevention of accidents to miners (L. S. 1923, Chin. 3).

See also introductory note.

*Cuba.*

Legislative Decree No. 598 of 16 October 1934 (concerning the employment of women in industry) (L. S. 1934, Cuba 10).

*Estonia.*

Act of 20 May, 1924, relating to the employment of children, young persons and women in industrial undertakings (L. S. 1924, Est. 1), amended by the Act of 13 November, 1935 (L. S. 1935, Est. 8).

*Great Britain.*

Metalliferous Mines Regulation Act of 1872.  
Coal Mines Act of 1911.

*Greece.*

Act No. 4029 of 24 January/6 February 1912 concerning the work of women and minors (B. B. Vol. VII, 1912, p. 285).

*Ireland.*

Metalliferous Mines Regulation Act, 1872.  
Coal Mines Act, 1911.

*Mexico.*

Political Constitution of the United States of Mexico, 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

Regulations of 31 July 1934 respecting the employment of women and children in dangerous and unhealthy occupations (L. S. 1934, Mex. 3).

*Netherlands.*

General Regulations No. 248 of 1906 relating to the mining industry (B. B. Vol. I., p. 505), amended by the decrees of 13 October 1916 and No. 550 of 7 October 1922 (L. S. 1922, Neth. 4).

*Sweden.*

Act of 29 June 1912 respecting the protection of workers with the amendments made by the Act of 12 June 1931 (No. 288) to amend the former Act in certain respects (L. S. 1931, Swe. 5 B).

*Union of South Africa.*

I. Mines and Works Act, 1911 (No. 12 of 1911). (L. S. 1931, S. A. 1 B).

## II.

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

## ARTICLE 1.

For the purpose of this Convention, the term "mine" includes any undertaking, whether public or private, for the extraction of any substance from under the surface of the earth.

*Afghanistan.* — See introductory note.

*China.* — § 1 of Regulations No. 308 of 5 May 1923 provides that "the Regulations shall apply to mines in which the total number of persons employed below ground at one time is not less than fifty".

*Estonia.* — § 9 of the Act of 20 May, 1924, concerning the employment of children, young persons and women in industrial undertakings, provides that women shall not be employed in mining work underground. The report states that the definition of the term "mine" in the national legislation corresponds to that contained in the Convention.

*Great Britain.* — The Coal Mines Act and the Metalliferous Mines Regulation Act cover, between them, all mines. The Coal Mines Act applies, in addition to coal mines, to mines of stratified ironstone, shale and fireclay (§ 1). The Metalliferous Mines Regulation Act applies to all mines other than those covered by the Coal Mines Act (§ 3).

*Ireland.* — § 1 of the Coal Mines Act, 1911, applies the provisions of that Act to "mines of coal, mines of stratified ironstone, mines of shale and mines of fireclay". For the purposes of the Act the term "mines" includes "every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways and sidings, both below ground and above ground, in and adjacent to and belonging to the mine, but does not include any part of such premises on which any manufacturing process is carried on other than a process ancillary to the getting, dressing or preparation for sale of minerals" (§ 122). § 3 of the Metalliferous Mines Regulation Act, 1872, applies that Act to "every mine of whatever description other than a mine to which the Coal Mines Regulation Act, 1872 (now the Coal Mines Act, 1911) applies". For the purposes of this Act the term "mine" includes "every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways and sidings, both below ground and above ground, in and adjacent to a mine and any such shaft, level, and inclined plane, and belonging to the mine". (§ 41).

*Mexico.* — The report states that Mexican legislation applies to all mines as defined under Article 1 of the Convention (see also under ARTICLE 2).

*Netherlands.* — Under § 1 of the General Regulations relating to the Mining industry "mines" include workings underground and above ground together; "underground workings" are places below the surface used for purposes of mining, including the approaches thereto, so far as these are covered in below the surrounding ground and floor; "workings above ground" are places, arrangements and floor surfaces used for purposes of mining which are not underground workings or offices.

*Sweden.* — See under ARTICLE 2.

## ARTICLE 2.

No female, whatever her age, shall be employed on underground work in any mine.

*Afghanistan.* — See introductory note.

*China.* — § 8 of Regulations No. 308 of 5 May 1923 lays down that women shall not be employed, below ground.

*Estonia.* — See under ARTICLE 1.

*Great Britain.* — § 91 of the Coal Mines Act lays down that no girl or woman of any age shall be employed in or allowed to be for the purpose of employment in any mine below ground. § 4 of the Metalliferous Mines Regulation Act lays down the same provision.

*Ireland.* — § 91 of the Coal Mines Act, 1911, and § 4 of the Metalliferous Mines Regulation Act, 1872, lays down that "no girl or woman of any age shall be employed in or allowed to be for the purpose of employment in any mine below ground" to which these Acts apply.

*Mexico.* — In application of a provision of the Constitution, §§ 77 and 107 (II), of the Federal Labour Act of 1931, prohibit the employment of women in dangerous or unhealthy occupations. § 108 of the same Act lays down that underground work shall be deemed to be dangerous. § 13 of the Regulations of 31 July 1934 also prohibits the employment of women in underground work.

*Netherlands.* — § 233 of the general regulations relating to the mining industry prohibits the employment of women in underground work in mines.

*Sweden.* — Paragraph 16 of the Act concerning the protection of workers prohibits the employment of women in underground work in a quarry or mine.

### ARTICLE 3.

National laws or regulations may exempt from the above prohibition :

(a) females holding positions of management who do not perform manual work ;

(b) females employed in health and welfare services ;

(c) females who, in the course of their studies, spend a period of training in the underground parts of a mine, and

(d) any other females who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation.

*Please supply full information with regard to any exemptions which may have been authorised under this Article, forwarding the texts of all relevant laws or regulations.*

*Afghanistan.* — See introductory note.

*China.* — The report states that Chinese legislation does not provide for exemptions to the prohibition of the employment of women below ground.

*Great Britain.* — The report states that there are no regulations authorising exemptions from the prohibition of the employment of women underground laid down by the two Acts relating to Mines.

*Ireland.* — The report declares that the national law does not provide for exemptions of this kind.

*Mexico.* — Mexican legislation does not provide for the exemptions authorised under this Article of the Convention. The report, however, states that the committee which is examining the amendments to be made to the Regulations concerning the employment of women and children in dangerous and unhealthy occupations intends to introduce these exemptions.

*Netherlands.* — The report states that the General Regulations relating to the mining industry do not provide for any exemptions to the prohibition of the employment of women in mines, and that this prohibition is therefore absolute.

*Sweden.* — The report states that the Act concerning the protection of workers does not provide for any exemptions of this kind.

### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows :*

1. The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing :

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of the above Article of the Constitution, please indicate, in respect of each of your colonies, protectorates or possessions, the action taken for the application of the Convention.*

*Please indicate, as far as possible, the nature of the conditions which may have led to the decision not to apply the Convention, or to apply it subject to modifications, as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

*Great Britain.* — The provisions of the Convention have been applied in the following colonial dependencies, etc. : *British*

*Guiana* (Regulation No. 113, Mining Regulations, 1931); *Ceylon* (Ordinance No. 13 of 1937); *Cyprus* (Law No. 38 of 1936); *Fiji* (Regulation No. 108 (1), Mining Regulations, 1934); *Gold Coast (Colony and Ashanti)* (Regulation No. 109 (2), (Mining Rights Regulations); *Gold Coast (Northern Territories)* (Regulation No. 45 (2), Minerals Regulations, 1937); *Hong Kong* (Ordinance No. 18 of 1937, By-Law No. 7); *Kenya* (Ordinance No. XXXV of 1936); *Nigeria* (Regulation No. 19, Safe Mining Regulations); *Northern Rhodesia* (Ordinance No. 18 of 1936); *Nyasaland* (Ordinance No. 16 of 1936); *Seychelles* (Ordinance No. 18 of 1936 as amended by Ordinance No. 5 of 1937); *Sierra Leone* (Ordinance No. 15 of 1936); *Tanganyika Territory* (Rule 62, Mining (Safe Working) Regulations, 1930); *Trans-Jordan* (Regulation amending § 68 of Schedule II of the Regulations issued under the Mining Law, 1926); *Uganda* (Regulation No. 32, Mining (Safety) Regulations, 1936); *Federated Malay States* (Ch. 147 Revised Edition of Laws, 1935, § 84 and Schedule XVII, Condition 9); *Johore* (Rule 22 made under the Mining Enactment No. 69); *Kedah* (Enactment No. 7 of 1937); *Kelantan* (§ 115 (d) of the Labour Code, 1936, requires the approval of the Controller of Labour for the terms and conditions under which labourers are engaged to work in mines. A Mining Enactment is being drafted in which provision will be included forbidding the employment of women underground); *Perlis* (Enactment No. 14 of 1935); *Trengganu* (Rule 5 made under the Mining Enactment No. 3 of 1945); *Brunei* (Labour (Amendment) Enactment, 1938, Section 2); *Bechuanaland Protectorate* (Proclamation No. 74 of 1936); *Swaziland* (Proclamation No. 75 of 1936).

Legislation to give effect to the provisions of the Convention is under consideration in the British Solomon Islands Protectorate. The Convention is inapplicable at the present time to *Aden*.

*Netherlands*. — In the *Netherlands Indies* under § 171 of the Mining Police Regulations, underground work may be performed only by males. In *Curaçao* a Service for Social Affairs was set up on 15 March 1938, and is examining the Convention.

*Union of South Africa*. — Information supplied by the South African Government concerning the position in the *Mandated Territory of South West Africa* is to the effect that conditions preclude any possibilities of females being employed in underground work, that present legislation gives the authorities sufficient power to prevent the underground employment of women if ever contemplated on any mine. The Government states that as regards the observations of the Committee of Experts when amended regulations concerning mines and works are

promulgated, the matter of incorporating therein a prohibition against the employment of women underground will not be overlooked.

#### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Afghanistan*. — See introductory note.

*China*. — The report states that the application of the Regulations is entrusted to the Provincial Government in the Provinces and to the Municipal Government in the chartered municipalities. Each Provincial or Municipal Government has a special department which *inter alia* controls work in mines.

*Cuba*. — The report states that the application of Legislative Decree No. 598 is supervised by the Ministry of Labour through the Director General of Inspection, the Director General of Hygiene and Social Welfare and the respective provincial offices.

*Estonian*. — The report states that the application of the Act of 20 May 1924 is entrusted to the Labour Inspection Service.

*Great Britain*. — The report states that the application of the legislation implementing the Convention is supervised generally by the Mines Department of the Board of Trade.

*Ireland*. — The report states that the Department of Industry and Commerce is responsible for the administration and enforcement of the Coal Mines Act, 1911, and the Metalliferous Mines Regulation Act, 1872. Inspection is a State service carried out by the Department of Industry and Commerce. The organisation and working of inspection in relation to the provisions of the Convention are based on visits to mines, without notice, for the purpose of seeing whether the Acts applying the Convention are complied with. Complaints are carefully investigated. Under the Acts power is given to prosecute owners, agents and managers of mines for failure to carry out the Acts.

*Mexico*. — The report states that the application of the relevant legislation is entrusted to the Labour Department, the Department of the Federal District,

the Federal Conciliation and Arbitration Boards, Federal and local labour inspectors, and the Municipal Chairmen. Appeal in the final instance, lies with the Supreme Court of Justice.

*Netherlands.* — The report states that the application of the provisions of the general regulations to the mining industry is entrusted to the State Mines Inspection Service (§ 255 et seq.) and to the workmen's committees (§ 272).

*Sweden.* — The report states that the supervision of the observance of the prohibition relating to the employment of women in quarries and mines is exercised by the officials of the Mines Inspection Service, namely the engineers and inspectors of mines (paragraph 23 of the Act of 1931).

## V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

The Governments of *China, Cuba, Estonia, Great Britain, Ireland* and the *Netherlands* state that no decisions have been given regarding the application of the Convention.

The Government of *Mexico* states that there has been nothing of importance to relate in this connection.

The remaining reports do not refer to this point.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and information concerning any contraventions reported.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Afghanistan.* — See introductory note.

*China.* — The report states that no observations have been received from the employers' and workers' organisations concerned with regard to the practical application of the Convention or the national legislation implementing it.

*Cuba.* — The report states that there has been no infringement of § XIII of Legislative Decree No. 598. No observations have been received from the employers' and workers' organisations concerned with regard to the practical application of the provisions of the Convention or of the national legislation implementing them.

*Estonia.* — The report states that the provisions of the Convention are strictly applied. The reports of the labour inspectors do not mention any complaints or any infringements of the provisions of § 9 of the Act of 20 May 1924. The Government has received no observations from the employers' and workers' organisations concerned with regard to the application of the national legislation implementing the provisions of the Convention.

*Great Britain.* — The report states that the employment of women underground in mines has been absolutely prohibited in Great Britain since the year 1842 in the case of coal mines, and from 1872 in metalliferous mines. With regard to the method of calculating the number of infractions, see under *Convention No. 4 (Night work, women)*, Point VI. No observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention have been received from organisations of employers or workers.

*Greece.* — The report states that the Convention is applied in all respects.

*Ireland.* — The report states that the application of the Acts embodying the requirements of the Convention is completely effective; no women being employed underground in mines. No contraventions in this regard have been found or reported. No observations have been received from any organisation regarding the fulfilment of the conditions of the Convention.

*Mexico.* — The report states that the application of the Mexican legislation is in fact an application of the provisions of the Convention.

*Netherlands.* — The report states that the prohibition of the employment of women in underground work in mines is strictly observed.

*Sweden.* — The report does not refer to this point.

*South Africa.* — The report does not refer to this point.

**49. Convention concerning the reduction of hours of work in glass-bottle works.**

Article 7 of the Convention provides that "it shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Secretary-General. Thereafter this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered."

The Convention came into force on 10 June 1938. The following table shows the States Member for which the Convention was in force before 1 July 1938 and which, in accordance with Article 22 of the Constitution of the International Labour Organisation, were called upon to submit reports for the period 10 June 1938-30 September 1938 or for part that period :

COUNTRIES	Date of registration of ratification	Reports received
Ireland . . . . .	10. 6.1937	24.12.1938
Mexico <sup>1</sup> . . . . .	21. 2.1938	26.11.1938
Norway . . . . .	21. 7.1936	22.11.1938

The Government of *Mexico* states in its report that the regulations concerning glass works in general are only in course of preparation. With a view to preparing the necessary legislation, the Department of Labour has approached the employers' and workers' organisations concerned so that provisions in harmony with those of the Convention may be included in collective agreements. The Government adds that it hopes to submit a more complete report next year.

**I.**

*Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.*

<sup>1</sup> The Convention was not in force for Mexico for the period 10 June 1938-30 September 1938.

*Where the national law is not fully in harmony with the provisions of the Convention, please indicate whether the ratification of the Convention has itself had any actual legal effect, and in particular (a) whether, and to what extent, the mere act of ratification is considered as having modified previously existing legislation, and (b) by what means observance of the Convention's provisions can be enforced.*

*Ireland.*

Conditions of Employment Act, 1936 (L. S. 1936, I.F.S. 1).  
Conditions of Employment (No. 1) Order, 1936.  
Conditions of Employment (Glass Bottle Works) (Exclusion) Order, 1936.

*Mexico.*

Political Constitution of the United States of Mexico of 1917.  
Federal Labour Act of 18 August 1931. (L. S. 1931, Mex. 1).

*Norway.*

Workers' Protection Act of 19 June 1936 (L. S. 1936, Nov. 1).

**II.**

*Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.*

**ARTICLE 1.**

1. This Convention applies to persons who, in glass works where bottles are produced by automatic machinery, work in successive shifts and are employed in connection with generators, tank furnaces, automatic machinery, annealing furnaces and operations accessory to the working of the above.

2. For the purpose of this Convention the term "bottles" includes similar glass articles produced by the same processes as bottles.

*Please state in detail how the scope of the regulation of hours of work is defined in the legislation and administrative regulations, etc., applying the provisions of the Convention.*

*Ireland.* — 1 and 2. The Conditions of Employment (Glass Bottle Works) (Exclusion) Order, 1936, applies to "the industrial work done by workers who, in glass works where bottles or similar glass articles produced by the same processes as bottles are produced by automatic machinery, work in successive shifts and are employed in connection with generators, tank furnaces, automatic machinery, annealing furnaces and operations necessary to the working of the above".

*Mexico.* — See introductory note.

*Norway.* — The shift plan prescribed by the Workers' Protection Act of 19 June



1936 is applicable to workers attending the machines. See also under *Convention No. 43 (Sheet-Glass Works)*, ARTICLE 1.

#### ARTICLE 2.

1. The persons to whom this Convention applies shall be employed under a system providing for at least four shifts.

2. The hours of work of such persons shall not exceed an average of forty-two per week.

3. This average shall be calculated over a period not exceeding four weeks.

4. The length of a spell of work shall not exceed eight hours.

5. The interval between two spells of work by the same shift shall not be less than sixteen hours : Provided that this interval may where necessary be reduced on the occasion of the periodical change-over of shifts.

*Please describe the action taken to give effect to this Article. If a uniform system is not imposed on all the undertakings concerned, please give detailed information for the various systems in operation in respect of the matters dealt with in the several paragraphs of the Article.*

*Ireland.* — 1. § 3 (a) of the Conditions of Employment (Glass Bottle Works) (Exclusion) Order, 1936, provides that the workers shall be employed under a system providing for at least four shifts.

2 and 3. § 3 (b) of the Conditions of Employment (Glass Bottle Works) (Exclusion) Order, 1936, provides that the hours of work of each worker shall not exceed an average of 42 per week, such average being calculated over a period not exceeding four weeks.

4. § 3 (c) of the Conditions of Employment (Glass Bottle Works) (Exclusion) Order, 1936, provides that the length of a spell of work shall not exceed eight hours.

5. § 3 (d) of the Conditions of Employment (Glass Bottle Works) (Exclusion) Order, 1936, provides that the interval between two spells of work by the same shift shall not be less than sixteen hours ; provided that this interval may, where necessary, be reduced on the occasion of the periodical change-over of shifts.

*Mexico.* — See introductory note.

*Norway.* — The provisions of the relevant legislation, namely, § 15 of the Workers' Protection Act are summarised under Article 2 of *Convention No. 43 (Sheet Glass Works)*. These provisions apply also to the A/S Glass Moss Works, which is the only glass works of this kind in Norway.

#### ARTICLE 3.

1. The limits of hours prescribed in paragraphs 2, 3 and 4 of Article 2 may be exceeded and the interval prescribed in paragraph 5 reduced, but

only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

(a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*; or

(b) in order to make good the unforeseen absence of one or more members of a shift.

2. Adequate compensation for all additional hours worked in accordance with this Article shall be granted in such manner as may be determined by national laws or regulations or by agreement between the organisations of employers and workers concerned.

*Please describe the action taken to give effect to this Article, stating in particular what restrictions, if any, are imposed on the working of additional hours in virtue of paragraph 1 and what compensation for such additional hours is granted in compliance with paragraph 2.*

*Ireland.* — 1 (a) and (b). The report refers to § 54 of the Conditions or Employment Act, 1936, which states that it shall be a good defence to any proceedings taken against any person for breach of the relevant provisions of the Act if such person shows to the satisfaction of the Court that any act occasioning such breach was rendered necessary or reasonably proper by the actual occurrence or the threat or reasonable anticipation of fire, flood, storm, violence or breakdown of plant or machinery, or any other emergency.

2. Rates of wages for all hours worked are governed by agreement between the workers' organisation and the employers concerned.

*Mexico.* — See introductory note.

*Norway.* — The collective agreements for workers of the A/S Moss Glass Works dated 1 June 1935 provide in § 1 that the workers shall be entitled to claim additional overtime pay if in special cases the hours of work should exceed the limit prescribed in the shift plan. The provisions of the relevant legislation, namely, § 19 of the Workers' Protection Act are summarised under ARTICLE 3 of *Convention No. 43 (Sheet-Glass Works)*.

#### ARTICLE 4.

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall be required :

(a) to notify, by the posting of notices in conspicuous positions in the works or other suitable place or by such other method as may be approved by the competent authority, the hours at which each shift begins and ends ;

(b) not to alter the hours so notified except in such manner and with such notice as may be approved by the competent authority ; and

(c) to keep a record in the form prescribed by the competent authority of all additional hours

worked in pursuance of Article 3 of this Convention and of the compensation granted in respect thereof.

*Please describe the action taken to give effect to this Article, stating in particular what is the procedure for notification and approval of alterations in hours of work.*

*Ireland.* — (a) and (b): In accordance with § 53 (1) (b) and (d) of the Conditions of Employment Act, 1936, notice of the hours of work for workers doing industrial work as prescribed in the Conditions of Employment (No. 1) Order, 1936, and a list of all persons carrying on continuous process shift work, together with particulars as to the shifts on which they are working, must be displayed at the entrance of an industrial undertaking in such a position that they may be easily read by persons employed therein.

(c) The report states that no additional hours have been worked.

*Mexico.* — See introductory note.

*Norway.* — See under Convention No. 43 (Sheet-Glass Works) ARTICLE 4.

### ARTICLE 5.

Nothing in this Convention shall affect any custom or agreement between employers and workers which ensures more favourable conditions than those provided by this Convention.

*If in any case the provisions of the Convention are not applied in any respect on the ground that more favourable conditions are ensured by custom or agreement, please give details as to the custom or agreement in question, stating in particular what arrangements are made to secure application of the provisions of the Convention in the event of the custom or agreement ceasing to operate.*

*Ireland.* — The report states that the system of work in operation in Ireland is in harmony with the provisions of the Convention.

*Mexico.* — See introductory note.

*Norway.* — See under Convention No. 43 (Sheet-Glass Works) ARTICLE 1.

### III.

*Article 35 of the Constitution of the International Labour Organisation is as follows:*

1. The Members engage to apply Conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

(1) Except where owing to the local conditions the Convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

*In application of the second paragraph of this Article, please indicate in respect of each of your colonies, protectorates and possessions, the action taken for the application of the Convention.*

*Please indicate as far as possible the nature of the conditions which may have led to the decision not to apply the Convention or to apply it subject to modifications as provided for in the first paragraph of the same Article.*

*Where the Convention has been in force for your country for two or more years, please state whether during the period covered by the present report your Government has re-examined, in the light of any changes that may have taken place in the local conditions, the possibility of applying or extending the application of the Convention in territories in which its provisions had been considered inapplicable or only applicable subject to modifications.*

*Please add, in so far as they have not already been communicated to the International Labour Office, all relevant legislative texts, reports, etc.*

The provisions of this Article do not concern the reporting countries.

### IV.

*Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.*

*Ireland.* — The report states that the Department of Industry and Commerce is responsible for the administration and enforcement of the legislation in question. Inspection is a State service carried out by officers of the Department.

*Mexico.* — See introductory note.

*Norway.* — See under Convention No. 43 (Sheet-Glass Works) Point IV.

### V.

*Please state whether decisions have been given by courts of law, or other courts, regarding the application of the Convention. If so, please supply the text of such decisions.*

*Ireland.* — The report states that no decisions have been given by courts of law or other courts regarding the application of the Convention.

*Mexico.* — See introductory note.

*Norway.* — The report states that no such decisions have been given by Courts of law or other courts.

## VI.

*Please add a general appreciation of the manner in which the Convention is applied in your country, giving, for example, extracts from official reports and any other information bearing on the practical application of the Convention.*

*Please state whether you have received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.*

*Ireland.* — The report states that no representations from organisations of employers or workers regarding the practical fulfilment of the conditions prescribed by the Convention have been received.

*Mexico.* — See introductory note.

*Norway.* — See under Convention No. 43 (Sheet-Glass Works) Point VI.

## TWENTIETH SESSION (GENEVA, 1936).

**52. Convention concerning annual holidays with pay.**

The Convention has so far been ratified by Brazil (22 September 1938) and Mexico (9 March 1938) and is due to come into force twelve months after the date on which the later of the first two ratifications has been registered, namely, 22 September 1939. It was therefore not in force for either of these countries during the period 1 October 1937 to 30 September 1938.

The Government of *Mexico* has, however, submitted a *voluntary* report which shows that the Convention is applied in Mexico by the following legislation :

Political Constitution of the United States of Mexico, 1917.

Federal Labour Act of 18 August 1931 (L. S. 1931, Mex. 1).

The Government states in its report that it is engaged in drafting new legislation in order to remove the discrepancies which exist between the national legislation and the Convention.