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REPORT III
(PART IV)

International Labour Conference

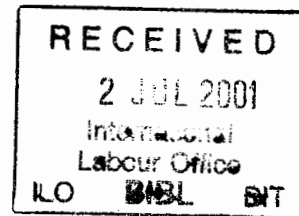
FORTY-FIFTH SESSION
GENEVA, 1961

Third Item on the Agenda

**Information and Reports on the Application
of Conventions and Recommendations**

**REPORT OF THE COMMITTEE OF EXPERTS
ON THE APPLICATION OF CONVENTIONS
AND RECOMMENDATIONS**

(Articles 19, 22 and 35 of the Constitution)



GENEVA
International Labour Office
1961

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¹ A detailed table of contents of this Part is to be found on p. 156.

² A detailed table of contents of this Part is to be found on p. 242.

³ The roman numerals and the letters refer to the chapters of Part Two of this report and the arabic numerals to the numbers of the Conventions.

PART ONE

GENERAL REPORT

GENERAL REPORT

I. Introduction

1. The Committee of Experts appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by Members of the International Labour Organisation upon the application by them of Conventions and Recommendations and to report thereon to the Governing Body, held its 31st Session in Geneva from 17 to 29 March 1961. The Committee has the honour to present its report to the Governing Body.

2. The Committee has the deep regret to record the deaths since its last meeting of two former members of the Committee, Mr. Tomaso PERASSI and Mr. Georges SCELLE. The Committee placed on record its deep appreciation of the services rendered by these two members of the Committee at its past sessions and of their great contribution to the work of the International Labour Organisation over many years.

3. Since the last meeting of the Committee there have been no changes in its membership and the composition of the Committee remains as follows:

Sir Grantley ADAMS, Q.C. (Barbados),

Premier of the West Indies; former delegate to the United Nations Assembly;

Baron Frederik M. VAN ASBECK (Netherlands),

Former Professor of International Law and of Comparative Constitutional Law of Non-Metropolitan Countries at the University of Leyden; Member of the Permanent Court of Arbitration; Judge of the European Court of Human Rights; Member of the Institute of International Law; former Member of the Mandates Commission of the League of Nations;

Mr. Henri BATIFFOL (France),

Professor of Private International Law at the Faculty of Law of the University of Paris; Deputy Director of the Institute of Comparative Law of the University of Paris; Vice-President of the Institute of International Law;

Mr. Günther BEITZKE (Federal Republic of Germany),

Professor of Civil Law and of Private International Law at the University of Bonn; Director of the Institute of Private International Law and Comparative Law at the University of Bonn;

Mr. Choucri CARDAHI (Lebanon),

Former Minister of Justice; Honorary First President of the Supreme Court of Appeal of Lebanon; Professor of Law at the University of Beirut; Corresponding Member of the Institute of France (Academy of Moral and Political Sciences); Professor at the Academy of International Law of The Hague, 1933 and 1937;

Mr. Isaac FORSTER (Senegal),

First President of the Supreme Court of the Republic of Senegal;

Mr. E. GARCIA SAYÁN (Peru),

Former Professor of Civil Law at the University of Lima; former Minister of Foreign Affairs; Member of the Advisory Council on Foreign Affairs; Vice-President of the Inter-American Commercial Arbitration Commission;

Mr. Arnold GUBINSKI (Poland),

Doctor of Laws, Lecturer of Law at the University of Warsaw; Acting Secretary-General of the Institute of Jurisprudence of the Polish Academy of Sciences; Chairman of the Working Party of the Codification Commission on the Legal Liability of Minors; Member of the Working Party on the Systemisation of Labour Law;

Mr. Paul M. HERZOG (United States),

Executive Vice-President, American Arbitration Association; former Associate Dean, Graduate School of Public Administration, Harvard University; former Chairman of the National Labor Relations Board (Washington); former Chairman of the New York State Labor Relations Board; Member of the United States Government Delegation to the International Labour Conference, 1950;

Begum Liaquat Ali KHAN (Pakistan),

Ambassador to the Netherlands; former delegate to the United Nations Assembly; former Professor of Economics at the Inderprastha College, Delhi University; Member of the Syndicate and Senate of Karachi University;

Mr. H. S. KIRKALDY (United Kingdom),

Barrister; Professor of Industrial Relations at the University of Cambridge; Member of the United Kingdom Delegation to the sessions of the International Labour Conference, 1929-44;

Sir Ramaswami MUDALIAR, K.C.S.I., D.C.L. (Oxon.), (India),

Minister of the Government of India, 1939-46; Member of the Imperial War Cabinet, London, 1942-43; Prime Minister of Mysore State, 1946-49; President of the Economic and Social Council, 1946 and 1947; leader of the Indian delegation to the United Nations Conference on International Organisation; Chairman of the International Civil Service Advisory Board, United Nations;

Mr. Afonso Rodrigues QUEIRO (Portugal),

Professor of International Law at the University of Coimbra; Member of the International Institute of Administrative Science;

Mr. Paul RUEGGER (Switzerland),

Ambassador; former Minister of Switzerland in Rome and London; President of the International Committee of the Red Cross, 1948-55; Swiss Member of the Permanent Court of Arbitration; Associate Member of the Institute of International Law;

Mr. Isidoro RUIZ MORENO (Argentina),

Professor of International Public Law at the University of Buenos Aires; Member of the National Section of the Court of International Arbitration; Member of the Argentinian Institute of International Law; Member of the Brazilian Society of International Law and of the Institute of International Law of Chile;

Mr. Max SØRENSEN (Denmark),

Professor of International Law at Aarhus University; Member of the European Commission on Human Rights; former Member of the Human Rights Commission of the Economic and Social Council; Associate Member of the Institute of International Law; Member of the Permanent Court of Arbitration;

Mr. Paul TSCHOFFEN (Belgium),

Doyen of the Bar at the Appeal Court of Liège; Minister of State; former Minister of Justice, of Labour and for the Colonies.

4. All the members of the Committee attended the present session with the exception of Mr. Isaac FORSTER, who was prevented by family bereavement from coming to Geneva.

5. The Committee elected Mr. TSCHOFFEN as Chairman and Mr. KIRKALDY as Reporter of the Committee. Sir Grantley ADAMS, Mr. VAN ASBECK and Mr. SØRENSEN acted as Reporters on questions affecting non-metropolitan territories.

II. Work of the Committee

6. The task assigned to the Committee in accordance with its terms of reference was to consider and report to the Governing Body on the following matters:

- (a) reports from governments under article 22 of the Constitution on the Conventions which they have ratified;
- (b) reports from governments under articles 22 and 35 of the Constitution on the application of Conventions in non-metropolitan territories;
- (c) information from governments under article 19 of the Constitution on the measures taken by them to bring certain Conventions and Recommendations before the competent authorities for the enactment of legislation or other action;
- (d) reports from governments under article 19 of the Constitution on one unratified Convention selected by the Governing Body.

7. From 1 January to 31 December 1960, 307 ratifications were registered, 203 of these ratifications resulting from the continuance by new States Members of the obligations undertaken on their behalf by the States which were formerly responsible for the foreign relations of the countries in question before the acquisition of independence, and 104 being new ratifications. It has also to be noted that the area of application of certain Conventions ratified by Egypt or Syria before the creation of the United Arab Republic has now been extended by decision of the Government to the whole territory of the Republic.

8. The number of new declarations affecting non-metropolitan territories which were communicated during 1960 was 66.

9. By the time the Committee met the total number of ratifications stood at 2,266 and the number of declarations affecting non-metropolitan territories amounted to 1,114 declarations without modification and 203 declarations with modifications. The decrease as compared with previous years in the number of declarations affecting non-metropolitan territories is the result of the changed status of certain countries which were formerly non-metropolitan territories and have now become States Members and so bound by ratifications and no longer by declarations.

10. The total number of detailed reports and other items of information submitted by governments under the various provisions of the Constitution referred to in paragraph 6 and coming before the Committee this year for examination was approximately 3,000, as last year. But for the new reporting procedure on ratified Conventions which has applied since last year's session of the Committee the number of such reports and other items of information would certainly have been very much greater and might well have approached the 6,000 mark.

11. This year was the second occasion on which the Committee's examination of reports submitted by governments on ratified Conventions operated in accordance with the two-yearly procedure proposed by the Committee at its 1959 Session. The procedure was approved by the Governing Body and it was understood that the whole

matter would be reviewed in 1961. The Committee therefore examined the new procedure in the light of its operation at the present and preceding sessions of the Committee and submits its observations thereon to the Governing Body.

12. It will be recalled that the essential element of the new procedure is that governments shall be asked to supply detailed reports on any given Convention at two-yearly intervals instead of every year as had been the case in the past. The fundamental reason which actuated the Committee in proposing the new procedure was the ever-growing number of reports resulting from the adoption of new Conventions, the admission of further States to membership and the increased rate at which Conventions were being ratified and declarations affecting non-metropolitan territories were being communicated.

13. The Committee pointed out when it made the proposal that the number of reports and other items of information submitted by governments with which the Committee was called upon to deal at its 1959 Session exceeded 4,800. This number included 4,500 reports on the application of Conventions in metropolitan and non-metropolitan countries, which represented an increase between threefold and fourfold in the number of such reports with which the Committee had been called upon to deal only ten years earlier. The Committee's prediction that, in the absence of some such procedure as it then proposed, the increasing volume of work would render ever more difficult the task of adequate supervision has been fully borne out by the facts. Even with the reduced load resulting from the new procedure, the number of reports and other items with which the Committee was called upon to deal this year amounted, as stated above, to 3,000.

14. It should be emphasised that the new procedure for two-yearly reports is subject to certain important provisos intended to avoid delay in the effective international supervision of Conference decisions. In the first place a report is called for, even though it would not normally be due under the two-yearly cycle, in the case of a report due for the first time after the entry into force of a Convention for a given country. In the second place a report is also called for, even though not due under the two-yearly cycle, in cases where, because of important divergencies between the national law or practice and the Convention in question, the Committee of Experts or the Conference Committee sees fit to ask the government to supply such a report. In the third place the governments are required to supply a general report on the Conventions for which no detailed reports are either due under the two-yearly cycle or specially requested even when not so due.

15. The 1960 Conference Committee referred to these general reports in its report to the Conference and expressed the view that general reports " may be used to draw attention to new developments of major importance in the application of Conventions, lesser matters being left for specific mention the following year ". The Committee of Experts believes that this formulation defines adequately the potential use to which governments may put general reports. By referring only to significant changes in the law and practice affecting ratified Conventions these general reports will, the Committee believes, ensure that sight is not lost during the interim period of matters which may call for immediate attention by the Committee of Experts or the Conference Committee. The general reports have in fact in a considerable number of cases proved to be no mere formality and some 50 of such reports received this year have in fact dealt with matters of major importance concerning changes in national law and practice.

16. One of the objects of the new procedure was to lighten the burden imposed on governments in supplying reports. It is therefore regrettable that in each of the two years since the new procedure has been applied the percentage of reports received

from governments by the date of the Committee's meeting has shown some decline from the very high figures recorded for the five preceding years. A number of reasons of a fortuitous nature might be advanced to explain if not excuse this experience, e.g. the fact that the Committee's meetings have in both years had to be held rather earlier than usual; the fact, to cite one more example, that one country alone which has failed in either of the two years to supply any reports at all represents a reduction in the number of reports received this year by a figure of as much as 5 per cent.

17. It is perhaps more reasonable however to take a broader view of the new procedure and to attempt to assess its effectiveness over the two-yearly cycle as a whole. Detailed reports on all the Conventions in force have been called for from all ratifying countries in the course of that period and of the 1,810 reports so called for in 1959 or 1960 on the application of all Conventions in metropolitan countries 1,617 have so far been received, i.e. 88.8 per cent.

18. In assessing the new procedure there are moreover other factors which should be taken into account and which do not admit of statistical demonstration. The Committee has formed the impression that a distinct improvement is noticeable in the quality of many of the reports supplied by governments this year. It is possible that this may be due to the greater attention which governments are able to give to the preparation of reports as a result of the new procedure. It appears to the Committee that an increasing number of reports reply in detail to observations and requests made by the Committee of Experts and the Conference Committee. The information contained in these reports has enabled the Committee in many cases to obtain a much clearer picture of the extent to which Conventions are applied in law and practice.

19. A fundamental purpose which the Committee had in mind in putting forward two years ago its proposals for the new procedure was to help it to perform effectively the task assigned to it by the Governing Body. The Committee's power to do so was in real danger of being seriously prejudiced by the mere volume of material coming before it. In this connection the Committee also had in mind the essential services which the International Labour Office must perform in the preparation for and the conduct of the Committee's work. It therefore drew the attention of the Governing Body to the necessity for easing the task imposed on the International Labour Office if these services were to continue to be performed with efficiency.

20. The Committee, after carefully considering the operation of the new procedure and weighing all the factors, considers that it has enabled the Committee to perform more thoroughly the task assigned to it and to concentrate on the most essential features of that task. The Committee also considers that the exceptions to the procedure referred to above provide adequate safeguards to ensure the promptness and continuity of the international supervision of ratified Conventions.

21. The Committee therefore asks the Governing Body to continue the procedure, which it still considers essential if a crisis in the work of the Committee of Experts and a breakdown in the effective operation of the international supervision of Conference decisions are to be avoided.

22. The operation of the two-yearly system depends to a great degree on the manner in which governments draw up their detailed reports and in particular whether they reply fully to the observations and requests made by the Committee of Experts. As above stated the Committee believes that there has been an improvement in the quality of the reports. Nevertheless the Committee would emphasise that, in so far as governments fail to supply detailed reports or to reply fully to observations and requests, the new procedure may result in considerable delays and hamper the effectiveness of the supervision of Conference decisions. In an endeavour to obviate or reduce the difficulties thereby arising the Committee decided this year to ask the

International Labour Office in its capacity as the secretariat of the Committee to ascertain immediately upon receipt of a government's reports whether these reports take account of the comments of the Committee of Experts and of the Conference Committee. If the Office finds that this is not the case the Committee has asked the Office to establish contact forthwith with the government concerned to explain that the Committee of Experts cannot carry out its task unless the necessary information is made available and to request the government to supply the information without delay. In taking such action it would of course be understood that the Office would merely be attempting to prevent material delays in the clarification of issues which have been raised by the Committee of Experts or the Conference Committee and it would remain still for these two Committees to determine whether the contents of the government's reply were satisfactory.

III. Reports Submitted by Governments on Ratified Conventions

(a) *Supply of Annual Reports*

23. The reports requested from governments which came before the Committee this year related in most cases to the period 1 July 1958 to 30 June 1960. Where, however, detailed reports had been supplied last year the reports this year related to the period 1 July 1959 to 30 June 1960. In accordance with the new reporting procedure the reports which came before the Committee this year fell into the following groups:

- (a) reports on 45 Conventions on which detailed reports were requested for the period 1958-60 (or as mentioned above in certain cases 1959-60)¹;
- (b) detailed reports specially requested on the remaining 46 Conventions in force, either because a first report was due after ratification or because important divergencies had previously been noted between national law or practice and the Convention in question;
- (c) general reports from governments on any of the Conventions which they have ratified and for which no detailed reports were requested this year.

The Committee also had before it a number of reports on ratified Conventions which arrived too late for examination by the Committee at its previous session or by the 1960 Conference Committee.

24. The number of reports requested from governments under the headings (a) and (b) in paragraph 22 above amounted to 1,101. This number compares with 995 reports on ratified Conventions requested last year.

25. Up to the date of the present session of the Committee the Office had received 838 reports (i.e. 76.1 per cent. of the 1,101 reports requested). A list showing the reports received classified according to countries and Conventions is given in Part Two (Chapter I, Appendix I) of this report. There is also given in Part Two (Chapter I, Appendix II) a table showing for each year since 1933 in which the Committee has met the number and percentage of reports which were received for the meeting of the Committee and for the session of the International Labour Conference. The table also shows the number and percentage of reports which were received by the date by which the governments were asked to supply them.

¹ The Conventions concerned are the following: Nos. 1, 3, 5, 7, 8, 9, 11, 14, 15, 20, 21, 26, 27, 28, 30, 32, 33, 35, 36, 37, 38, 39, 40, 43, 47, 49, 50, 58, 59, 60, 62, 64, 67, 68, 84, 86, 87, 97, 98, 99, 100, 102, 103, 106, 107.

26. The Committee has already drawn attention to the fact that the percentage of reports this year shows a substantial decline as compared with a number of preceding years and has suggested certain reasons for that unsatisfactory experience. The Committee would again urge the governments to fulfil in every case the obligation to supply reports on ratified Conventions. This is a binding obligation which the governments have freely undertaken in virtue of their membership of the International Labour Organisation and of the Conventions which they have ratified. In the same connection the Committee would repeat the observations which it has made for many years in underlining the importance which it attaches to governments supplying reports by the date requested. Far too many of the reports arrive with considerable delay and the preparatory work of the Office and the work of the Committee itself are seriously handicapped as a result thereof.

27. Of the 91 countries which were called upon to supply detailed reports 57 submitted all those requested. On the other hand no reports at all have so far been received for the current reporting period from seven countries: Albania, Bolivia, Cuba, Ecuador, Jordan, Liberia and Uruguay.

28. Sixty-three first reports since ratification of the relevant Conventions were received from 32 countries. As in previous years the Committee has again devoted particular attention to such reports with a view to placing before the governments concerned for their attention any matters on which there appear to the Committee to be divergencies between the Convention and the law and practice of the ratifying countries. The Committee is gratified by the response which it has received from a number of countries to questions which it has thus raised with them and by the readiness which these countries have shown to modify provisions of the law and practice which called for action in the light of the examination made by the Committee.

29. Seven countries which were due to supply first reports on certain Conventions have failed to do so, i.e. Cuba, Haiti, Honduras, Jordan, Luxembourg, Panama, United Arab Republic.

30. This year again the Committee had before it a certain number of comments by workers' organisations on the manner in which certain Conventions are applied in their countries, these comments having been transmitted by the governments concerned. The Committee has for many years hoped that the obligation on governments to supply copies of their reports on ratified Conventions to the representative organisations of employers and workers in their respective countries, combined with the request which is made to all ratifying States to transmit to the International Labour Office any comments received from these organisations, would prove an important means by which the Committee might be able to assess the degree of practical application of ratified Conventions. Although each year some such observations do in fact come before the Committee they are exceedingly few in number.

31. The Committee has always been aware of the difficulties facing it in regard to its ability to report adequately on this important aspect of its work. It therefore proposes to keep under close review during its future reunions the question of the means it can adopt to satisfy itself and report to the Governing Body on the extent of practical application of ratified Conventions.

(b) Examination of Reports by the Committee

32. In making its detailed examination of the reports submitted by governments on ratified Conventions the Committee has continued its previous practice under

which such reports as were received by the Office in sufficient time were allocated to individual members of the Committee for preliminary examination and were circulated to them in advance of the session. The observations both of a general nature and on individual reports resulting from this procedure were examined and approved by the Committee as a whole. They will be found in Part Two of this report together with a brief reference to cases in which "direct requests" were formulated by the Committee and will be sent to governments by the International Labour Office on the Committee's behalf. It is desirable to note again, as was done last year, that communications sent in this way do not necessarily in all cases imply any doubt on the part of the Committee in regard to the extent of conformity with the ratified Convention. Some of these communications, for example, consist merely of acknowledgments of information previously requested by the Committee and now supplied by the governments concerned.

IV. Application of Conventions in Non-Metropolitan Territories

33. The Committee was also called upon to examine the information available on the measures taken by States Members in accordance with article 35 of the Constitution, as well as the reports on the application of Conventions in non-metropolitan territories. It also carried out this year its periodical examination of development regarding "local conditions" and regarding the application of the Conventions in the territories concerned.

Measures Pursuant to Article 35

34. The Committee noted with interest that, since the conclusion of its last session, 284 declarations concerning the applicability of Conventions in certain non-metropolitan territories have been communicated to the Director-General of the International Labour Office and registered by him. As already indicated above, the total number of declarations of application or of acceptance without modification registered to date as regards the territories to which article 35 of the Constitution remains applicable is thus 1,114, the corresponding total for declarations with modifications being 203.

35. The Committee noted with satisfaction that generally speaking the States Members responsible for non-metropolitan territories have made an effort to communicate with a minimum of delay the declarations under article 35 of the I.L.O. Constitution and that as a rule most of the Conventions ratified up to 1955 have been the subject of such declarations. In certain cases it has even been possible to communicate many declarations within a few months after ratification. The Committee expresses the hope that this effort will be continued and that all States Members will comply with the terms of this constitutional obligation.

36. The Committee observes however, with regret, that in certain cases no declaration has been communicated under article 35 in respect of Conventions which do not contain a specific provision to this effect and which were ratified before the entry into force of the amended Constitution. It considers that article 35 of the Constitution is applicable to all Conventions and that moreover the supply of information on the application of Conventions in the territories has always been provided for under article 22 of the Constitution. The Committee must therefore insist that all the States responsible for non-metropolitan territories transmit as soon as possible to the Director-General of the I.L.O. communications indicating for all ratified Conventions, regardless of the date of their ratification, to what extent the Convention

is applicable to the territories concerned. The transmission of such communications may in fact be facilitated by the indications given below in the chart appended to Part Four of this report.

Reports Examined

37. The Committee was called upon to examine the reports communicated by the States Members:

- (a) pursuant to article 22 of the Constitution, on the application of ratified Conventions in the territories covered by paragraphs 1, 2 and 3 of article 35;
- (b) pursuant to article 35, paragraph 6, and article 22 of the Constitution on the application of Conventions accepted on behalf of territories covered by paragraphs 4 *et seq.* of article 35;
- (c) in respect of the same territories, pursuant to article 35, paragraph 8, on Conventions not accepted on behalf of such territories.

38. The Committee had before it 1,578 reports out of a total of 2,152 requested, the proportion of all reports received thus representing 73.3 per cent. Although it may be noted with satisfaction that this percentage exceeds the figure of 68.7 per cent. reached last year it is nonetheless regrettable that it remains below the figure reached in 1959 (78.5 per cent.). The Committee also notes in this connection that while certain States supplied all the detailed reports requested (Australia, Denmark¹, New Zealand, Portugal, Union of South Africa and United States) and while some progress has been made in this respect by other States responsible for non-metropolitan territories (e.g. United Kingdom) several other States did not communicate this year all the reports requested. A list of the reports received and not received up to 29 March 1961 is appended to Chapter II of Part Two of the present report.

Reports Pursuant to Article 19 of the Constitution

39. In 1960 the Committee had noted that the Governing Body had selected the Conventions and Recommendations concerning forced labour for reporting under article 19 of the Constitution in 1961 and had suggested that these reports should also deal with the situation in the non-metropolitan territories of States Members in respect of which these texts are not in force. In view of the interest attaching to these various instruments and in view of the potential importance of the questions with which they deal for certain non-metropolitan territories, the Committee expresses the hope that the information requested will be supplied in good time so that it may be taken into account in its General Conclusions of next year.

40. The Committee learned with interest that the Governing Body had asked for reports under article 19 of the Constitution in 1962 on the 1958 Convention and Recommendation providing for non-discrimination. In view of the importance of this question for many non-metropolitan territories and taking into account that, as indicated elsewhere in this report², very little information has been made available on this subject in connection with the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), the Committee expresses the hope that the position in non-metropolitan territories will also be dealt with within the framework of the article 19 reports.

¹ With the exception of one report.

² See below, Part Four, Ch. VII.

Periodical Examination of Developments Regarding Local Conditions and of the Application of Conventions in Non-Metropolitan Territories

41. The results of the examination carried out this year by the Committee appear below in Part Four of this report, which contains various chapters dealing with compulsion to labour (forced labour and indirect compulsion), freedom of association, remuneration (minimum wages, protection of wages and equal remuneration), general conditions of work (hours of work, weekly rest, holidays with pay, protection of women and children, occupational safety and hygiene), social security, labour administration (labour inspection, employment services, statistics) and social policy in general. For the various reasons indicated in the general introduction to Part Four of this report the review which the Committee has thus undertaken covers not only the situation in territories which still have the status of non-metropolitan territories but takes also into account the situation in certain countries which until recently still had such a status and which have since achieved independence.

42. As a result of the constitutional developments which have already taken place or which are now taking place in a large number of non-metropolitan territories, including quite often the most important by reason both of their area and of their population, the Committee considered whether it was not appropriate to introduce certain changes in the procedure it has followed for many years and under which it has carried out periodically, every five years as a rule, a review of developments of local conditions and of the application of Conventions in non-metropolitan territories.

43. The Committee noted that the information available either from the reports supplied pursuant to article 22 of the Constitution on ratified Conventions or pursuant to article 19 on unratified Conventions and on Recommendations had enabled it recently to take account of the position in an ever-increasing number of non-metropolitan territories with regard to the subjects selected by the Governing Body for reporting under article 19. Thus in 1959 the Committee's Conclusions regarding freedom of association took into account information available as regards 160 different countries, including 86 non-metropolitan territories. The Conclusions submitted this year by the Committee on the subject of social security cover measures taken in this field in 176 countries including 87 non-metropolitan territories.

44. Furthermore, the procedure followed for the examination of reports concerning non-metropolitan territories supplied pursuant to article 22 has become the same as that adopted in respect of reports concerning member States. The Committee decided therefore that it would not undertake in future a periodical review, according to a predetermined timetable, of the application of all Conventions in non-metropolitan territories. It intends, however, to undertake an examination of the position in the various territories as regards the application of certain Conventions dealing with a given subject and with related subjects, according to a schedule which would take into account various relevant factors such as the current interest of the question examined, the over-all programme of the I.L.O., the decisions of the Governing Body as regards reports requested under article 19, etc. Thus in 1962 the Committee will attempt, taking into account the reports requested under article 19, to carry out a special study of the situation regarding forced labour in all the non-metropolitan territories for which information will be available. The position existing in the territories as regards the application of Conventions selected by the Governing Body for reporting under article 19 of the Constitution will moreover be examined more systematically in future within the framework of the General Conclusions prepared each year by the Committee under this heading.

V. Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference

Introduction

45. In accordance with its terms of reference the Committee this year examined the following information supplied by governments of States Members, pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) information on action taken to submit to the competent authorities, within the constitutional time-limits of 12 or 18 months, the instruments adopted by the Conference at its 43rd Session (June 1959): the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Occupational Health Services Recommendation, 1959 (No. 112);
- (b) additional information on action taken to submit to the competent authorities the Conventions and Recommendations adopted by the Conference from its 31st Session (1948) to its 42nd Session (1958)—Conventions Nos. 87 to 111 and Recommendations Nos. 83 to 111;
- (c) replies to the observations and requests for information made by the Committee of Experts in 1960.

Forty-third Session

46. Information relating to the submission to the competent authorities of the instruments adopted by the Conference at its 43rd Session has been received from 43 countries. The Committee is pleased to note that the Governments of the following 35 countries have indicated that all these instruments have been submitted to the competent authorities: Albania, Belgium, Burma, Byelorussia, Canada, Ceylon, Costa Rica, Denmark, Dominican Republic, France, Federal Republic of Germany, Haiti, Honduras, Iceland, India, Indonesia, Ireland, Israel, Japan, Mexico, Morocco, New Zealand, Norway, Philippines, Rumania, Sweden, Switzerland, Tunisia, Turkey, Ukraine, Union of South Africa, U.S.S.R., United Kingdom, United States, Yugoslavia. A further seven countries have stated that the three Conventions—Nos. 112, 113 and 114—adopted at that session have been submitted to the competent authorities; the countries in question are China, Guatemala, Guinea, Iraq, Liberia, Peru and Spain. It also appears from the information supplied by Brazil that Recommendation No. 112 has been submitted to the competent authorities.

Thirty-first to Forty-second Sessions

47. The Committee notes with satisfaction from the information supplied to the Conference Committee in 1960 and the information that has since come to hand, that since last year 16 further countries have been added to the list of States which have stated that all the instruments adopted at the 41st Session (1958) have been submitted to the competent authorities. These countries are: Argentina, Austria, Brazil, Burma, France, Guatemala, Iceland, Ireland, Israel, Italy, Mexico, New Zealand, Portugal, Tunisia, United States and Venezuela. In addition, the following ten additional countries have reported that all the instruments adopted at the 42nd Session (1958) have been submitted to the competent authorities: Burma, Denmark, France, Iceland, India, Israel, Italy, Mexico, Pakistan and Venezuela.

48. The Committee also notes that information on the submission to the competent authorities of various instruments adopted by the Conference since its 31st Session has now been provided by several countries, among them Burma (in respect of all instruments adopted since the 37th Session, which had not yet been submitted), Venezuela (in respect of all Conventions and Recommendations adopted by the Conference at its 32nd to 42nd Sessions), Brazil (Recommendations Nos. 83 to 112), China (Recommendations Nos. 83 to 111), and Iran (Recommendations Nos. 89 to 98).

General Assessment

49. In Part Two of this report (Chapter III), the Committee makes individual observations on those points which it considers should be brought to the special attention of governments having regard to the obligations laid down by article 19. As in previous years, requests have also been addressed directly to a number of governments on other points; the States to which such requests have been addressed are listed at the end of Chapter III in Part Two of this report. In this connection the Committee is pleased to note that the majority of countries have supplied information in reply to earlier requests. It has nevertheless been found necessary in several cases to formulate further requests, or even to repeat those previously made. The Committee recalls that this procedure of addressing requests direct to governments is intended, *inter alia*, to reduce, in accordance with the wishes expressed by the Conference Committee, the number of observations in respect of which the latter Committee each year requests governments to provide explanations. It also has the effect of facilitating the work of governments. However, this practice will answer the purpose only if the requests are scrupulously acted upon in all cases, as otherwise the Committee will only have to make new observations on the points in question. The Committee therefore requests the Office to bring these remarks to the notice of the governments concerned when forwarding on the Committee's behalf the direct requests in question.

50. The Committee notes that 43 countries, just over half of the 80 States which were Members of the Organisation at the 43rd Session of the Conference, have reported that the three Conventions adopted at that session have been submitted to the competent authorities, though only 35 of these countries have stated that Recommendation No. 112 has likewise been submitted. The proportion of countries reporting that all the instruments in question have been duly submitted is thus rather lower than in previous years. The Committee trusts that this is only due to exceptional circumstances, especially the fact that the Conventions in question deal with a special subject, namely fishermen, and it hopes that information will shortly be supplied by the various countries which have stated that only some of the instruments adopted at the 43rd Session have been submitted or which have not yet provided information on the subject.

51. On the other hand, the Committee is pleased to note that further progress has been made in various fields, thus confirming the favourable trend referred to last year in the Committee's general review of the discharge since 1950 of the obligations concerning submission to the competent authorities.

52. In the first place, as is apparent from the above remarks regarding the information received on the submission of instruments adopted by the Conference since its 31st Session, a number of countries which had not previously taken the necessary steps to submit a large number of Conventions or Recommendations adopted by the Conference at its successive sessions, have now reported that the obstacles that they faced have been overcome and that steps have been taken to

fulfil the obligations laid down in article 19, either in respect of all instruments for which information was outstanding (Burma), or in respect of the majority of such instruments (Brazil, Iran, Venezuela). Various countries, including Costa Rica, Ecuador, Greece, Guatemala, Lebanon and Thailand, have also stated that action will be taken to this end. The Committee trusts that progress along these lines will materialise in the countries concerned as well as in the other countries to which it has again had occasion this year to present observations on this point.

53. In the second place, the Committee has noted with interest that further progress has been made or is in the process of being made with regard to the determination of the authorities to which Conventions and Recommendations must be submitted. As the Conference Committee recalled in 1960, the procedure prescribed by article 19 has two main purposes: "On the one hand it serves to bring each instrument before the body or bodies which, in virtue of the national constitution of each State, can take the necessary measures to give effect to it; and on the other hand it helps to create an informed public opinion in States Members by means of the submission of all Conventions and Recommendations, whatever action it is intended to take, to the most representative legislative bodies as defined by the national constitution of each State."

54. The information supplied by certain countries which seemed to have certain doubts on this point shows that the national parliament or congress is considered to be the "competent authority" for the purposes of the procedure laid down in article 19. This is the case of France, Ghana, Viet-Nam and also Brazil (where the doubts in question had arisen in connection with the submission of Recommendations).

55. Moreover, one of the countries which as recently as last year did not consider it necessary to submit Conventions and Recommendations to the most representative legislative bodies provided for in their national constitutions, i.e. Spain, has stated that the Conventions adopted at the 43rd Session have been submitted to this body (the Cortes). The statements made by the Government representatives of Czechoslovakia, Hungary, Portugal and Rumania to the Conference Committee in 1960 point to progress in the same direction. The Committee notes that the Government of one of the other countries, i.e. Albania, where a problem of the same nature had arisen, has not confirmed that the necessary steps have been taken in this matter, as certain of the Government's earlier statements appeared to suggest; the Committee noted, on the other hand, that the statements made to the Conference Committee in 1960 by the representatives of certain other countries—Bulgaria, Byelorussia, Ukraine and the U.S.S.R.—show that the desirability of wide publicity being given to Conventions and Recommendations has not been overlooked in these countries. The Committee trusts that all the countries concerned will take the appropriate steps to submit Conventions and Recommendations to the most representative legislative bodies provided for in their national constitutions.

56. The Committee was also pleased to note that further progress has been made with regard to the necessity of presenting appropriate statements or proposals to the authorities to whom Conventions and Recommendations are submitted on the effect to be given to these instruments. The fundamental importance of this question is clear from the fact that the objectives contemplated by article 19, both as regards the decisions to be taken and as regards the enlightenment of public opinion, can only be fully achieved if the above-mentioned authorities are enabled to take stock of the situation existing in the fields covered by the instruments submitted to them and to determine whether action should or should not be taken thereon. The Committee is happy to note that several more countries (Chile, Ireland, Israel, Italy, New Zealand)

have stated in reply to its direct requests that the necessary arrangements have been made and have supplied information on the statements they have submitted to parliament. In addition measures to this effect have been announced by the Governments of the following countries: Burma, Ceylon, Costa Rica, Greece, Poland and Viet-Nam. The Committee trusts that these advances will soon materialise, also in regard to the various countries which do not yet appear to have taken all the necessary steps in this matter, or at least have not supplied all the information requested on this subject in the *Memorandum concerning the Obligation to Submit Conventions and Recommendations to the Competent Authorities* adopted by the Governing Body at its 140th Session.

57. The Committee's main intention this year has been to supplement the remarks it made in 1960 on the progress that has been or is being made to fulfil the obligations laid down in article 19 regarding submission to the competent authorities. It proposes to take up the whole question again next year in the light of any additional information which may have been received in the meantime, especially on the points raised in its observations and requests this year. In particular, the Committee has taken note of the exchange of views in the Conference Committee in 1960 on the problems peculiar to federal States and the implementation of the special provisions in paragraph 7 of article 19 on this subject. In order to examine these problems in all their aspects, in response to the wish expressed by the Conference Committee at the close of the above-mentioned exchange of views, the Committee considers it necessary this year to appeal specially to the countries concerned to supply information which will supplement the material already available in the replies from various countries to the questions on this subject in the *Memorandum* adopted by the Governing Body and which will enable the Committee to take into account any new developments in this field. For this reason the Committee requests the Office to ask the governments concerned, on its behalf, to indicate in those cases where Conventions or Recommendations call for action which falls partly or wholly within the competence of the constituent states, provinces or cantons, what arrangements have been made to—

- (i) submit Conventions and Recommendations not only to the appropriate federal authorities but also to the appropriate authorities of the constituent states, provinces or cantons, as provided in article 19, paragraph 7 (b) (i), of the I.L.O. Constitution;
- (ii) arrange for periodical consultations between the federal authorities on the one hand and the authorities of the constituent states, provinces or cantons on the other with a view to promoting within the federal state co-ordinated action to give effect to the provisions of Conventions and Recommendations (article 19, paragraph 7 (b) (ii), of the Constitution).

The Committee trusts that the governments of the countries concerned will supply full information on the points mentioned above and will, pursuant to article 19, paragraph 7 (b) (iii), give "particulars of the authorities regarded as appropriate and of the action taken by them".

VI. Reports Submitted by Governments on an Unratified Convention

(a) Supply of Reports

58. The reports which the governments were asked by the Governing Body to supply for this year under article 19 of the Constitution of the I.L.O. relate to the Social Security (Minimum Standards) Convention, 1952 (No. 102).

59. The total number of reports requested this year in this connection on that Convention was 73. The total received by the time the Committee met was 47, i.e. 64.4 per cent. A list showing the reports supplied by the various governments will be found in the Appendix to Part Three of this report. In addition reports were requested under Article 76 of the above Convention from eight countries which have ratified the Convention but for which certain Parts only of the Convention are in force; all these reports were received.

(b) Examination of Reports by the Committee

60. The Committee's general conclusions arising from the examination of the reports submitted by the governments this year on the unratified Convention will be found in Part Three of this report. The Committee has again this year included in these general conclusions a survey of the position in regard to the matters dealt with in countries which have ratified the Convention in question as well as other Conventions in the field of social security and submitted reports thereon under article 22 of the Constitution. As a result the total number of countries, metropolitan and non-metropolitan, to which the survey relates is no less than 176, i.e. 89 States Members of the I.L.O. and 87 non-metropolitan territories.

* * *

61. The Committee records its gratitude and thanks to all the members of the staff of the International Labour Office who were concerned in the preparation for and the conduct of its present session. Their specialised knowledge and skill which were placed freely at the service of the Committee were as in former years indispensable to the Committee in the performance of the task assigned to it by the Governing Body.

Geneva, 29 March 1961.

(Signed) P. TSCHOFFEN,
Chairman.

H. S. KIRKALDY,
Reporter.

PART TWO

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning Annual Reports on Ratified Conventions (Article 22 of the Constitution)

A. GENERAL OBSERVATIONS

Albania. The Committee notes with regret that none of the 11 reports due from this country has been received. A review of the position reveals that in 1959 and 1960 no reports had been received by the time the Committee met and that moreover seven of the reports due are first reports.

The Committee is thus obliged to limit its examination to the five reports which became available after its 1960 Session and to ask the International Labour Office to send to the Government its previous observations concerning two of the Conventions on which reports are outstanding. It recalls in this connection that the Conference drew special attention in 1960 to the serious position existing in respect of one of these instruments, the Night Work (Women) Convention, 1919 (No. 4).

The Committee would strongly urge the Government to supply all its reports in future, to do so by the dates requested and to eliminate the discrepancies pointed out in the past.

Australia. The first report on the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) was received too late to permit the Committee to examine it at its present session. The Committee was obliged therefore to postpone this examination to its next session.

Bolivia. For the fifth year in succession the Government has failed to supply any reports, including three first reports. As pointed out by the Conference in 1960 this persistent disregard of Bolivia's obligations in respect of the six Conventions by which it is bound effectively prevents the Committee of Experts and the Conference Committee from performing their task.

In these circumstances the Committee is concerned at the seriousness of the situation and addresses once again to the Government through the International Labour Office copies of the requests previously made as regards three Conventions. It strongly urges the Government to supply its reports in future so as to enable the Committee to assess the application of ratified Conventions in Bolivia.

Byelorussia. The Government's reports arrived too late to permit the Committee in all cases to complete their examination at the present session. The Committee was obliged therefore in certain cases to postpone final consideration of the reports until 1962.

It is regrettable that serious delays should thus occur in evaluating reports which contain additional information on doubtful points raised in previous years. The Committee trusts that the Government will make every effort to supply future reports by the date requested.

Colombia. The Committee was most interested to learn that the Minister of Labour placed before the Congress in October 1960 a comprehensive revision of the

Labour Code which, according to the accompanying "Explanatory Statement" is designed, *inter alia*, "to incorporate into the juridical system of the country those instruments ratified by Colombia".

As the Government refers specifically in its report to 18 Conventions (Nos. 1, 2, 3, 5, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 20, 22, 23, 26) which have been taken into account in the above-mentioned revision, the Committee feels that no useful purpose would be served at this stage by repeating its previous observations regarding the discrepancies which exist between some of these Conventions and the labour legislation currently in force.

The Committee must recall however that these Conventions were ratified almost 30 years ago and that previous efforts to achieve legislative conformity with them were not successful. In these circumstances it is to be hoped that speedy action will be taken to ensure compliance with ratified Conventions and that the Government will be able to inform the 1961 Session of the Conference of the progress made in this connection. The Committee trusts, moreover, that the Government's next report will describe in detail, for each Convention, the relevant provisions in the revised Labour Code.

Cuba. The Committee notes with regret that the 57 reports due from this country have not been received. This is all the more regrettable because no reports had been supplied in 1960 either.

The Committee takes due note of the Government's promise, in a recent communication, that replies to the Committee's previous observations and requests are being prepared. Pending receipt of this information the Committee asks the International Labour Office to communicate the text of these observations and requests once more to the Government.

The Committee trusts that full particulars on the application of all the Conventions by which Cuba is bound will thus be available for examination at its next session.

Dahomey. The Committee regrets that the 15 reports requested have not been supplied. It trusts that reports on all the Conventions by which this country is bound will be available for examination at its next session.

Ecuador. The Committee notes with regret that the reports due from this country have not been received. This is all the more regrettable because already in 1960 the Committee had drawn attention to the very cursory character of the information then available and because a Government representative had promised the Conference Committee, in reply, that detailed reports would be supplied in future on all ratified Conventions, including in particular the Equal Remuneration Convention, 1951, which had recently entered into force for his country.

In these circumstances the Committee must reiterate its previous observations and requests. It trusts that the Government will keep its promises and will not fail to supply the relevant information and that it will do all in its power to ensure the full implementation of the Conventions which Ecuador undertook to apply and report on, in ratifying these instruments.

Gabon. The Committee regrets that the seven detailed reports requested have not been supplied. It trusts that reports on all the Conventions by which this country is bound will be available for examination at its next session.

Guinea. The Committee notes that the Government does not indicate whether copies of the reports have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee hopes that future reports will contain this information.

Haiti. The Government indicates in reply to the Committee's observations that it has taken due note of these suggestions but that the relevant amendments have not yet been approved by the legislature. The Government refers, moreover, to economic and administrative reasons which have prevented the implementation of certain Conventions, particularly those concerning sickness insurance.

The Committee shares the hope voiced by the Government that the next reports will indicate substantial progress in ensuring compliance with ratified Conventions. It trusts that these reports will, at the same time, reply in detail to the requests for additional information which the Committee had made in a number of cases.

Hungary. The Committee notes that the Government does not indicate whether copies of the reports have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee hopes that future reports will contain this information.

Luxembourg. The Committee notes with regret that 21 of the 27 reports requested, including 13 first reports, have not been received. In 1960 the Committee had been unable to examine three first reports which were received after the opening of its session. The Conference Committee had moreover pointed to certain shortcomings which it found in these first reports and a Government representative had promised on that occasion that the relevant draft legislation would be suitably amended.

The Committee learned from a communication received from the Government in the course of its present session that measures to this effect were receiving high priority and that the reports outstanding would shortly be supplied. The Committee deplores the fact that it has again been prevented from examining a large number of first reports and urges the Government to supply all future reports by the date requested.

Republic of Mali. The Committee regrets that the seven detailed reports requested have not been supplied. It trusts that reports on all the Conventions by which this country is bound will be available for examination at its next session.

Nicaragua. The Committee notes with regret that 17 of the reports requested have not been received and that in the case of one only of the ten reports supplied has the Government provided new information in reply to the Committee's previous observations. In the remaining cases the Government merely repeats the previous affirmation that a Bill has been prepared to ensure conformity with the Conventions ratified by Nicaragua, but that it is for the Legislative Branch—which is completely independent of the Executive Branch—to take action on this draft legislation.

In these circumstances the Committee can only draw attention, as did the Conference in 1960, to the seriousness of the situation which has thus persisted ever since Nicaragua ratified the relevant Conventions in 1934. In many cases the Committee has pointed in the past to the absence of any specific legislation or to shortcomings in the existing national provisions. The Committee asks the International Labour Office to communicate to the Government the text of its repeated observations (Conventions Nos. 1, 4, 6, 7, 9, 13, 15, 16, 22, 23) as well as of its previous requests (Conventions Nos. 2, 3, 5, 8, 19, 24, 25, 26, 28, 29).

The Committee is seriously disturbed at the situation and would hope that the competent authorities in Nicaragua will at last take the necessary measures to discharge the obligations entered into by their country in ratifying the above-mentioned Conventions.

The Committee also notes the Government's statement that it will be pleased to communicate copies of its reports to the representative organisations of employers and workers, as requested by the Committee. The Committee would be glad to

learn whether this has in fact been done, in accordance with article 23, paragraph 2, of the I.L.O. Constitution.

Panama. The Committee notes with regret that only one of the six first reports due from this country has been received. This is all the more regrettable because three of these reports were already due for examination in 1960.

The Committee notes, moreover, that the report supplied does not indicate whether copies thereof have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution.

The Committee trusts that the Government will supply all its reports in future and will indicate whether they have been communicated to the representative organisations.

Poland. The first reports on the Forced Labour Convention, 1930 (No. 29), and on the Abolition of Forced Labour Convention, 1957 (No. 105), were received too late to permit the Committee to examine them at its present session. The Committee was obliged therefore to postpone this examination to its next session.

The Committee notes, moreover, that the reports on Conventions Nos. 35, 36, 37, 38, 39 and 40 do not indicate whether copies have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee hopes that all future reports will contain this information.

Sudan. The Committee notes that workers' and employers' organisations are now being formed according to the new legislation and that copies of the reports will be supplied to them when their formation is complete. The Committee hopes that future reports will indicate that this has been done, in accordance with article 23, paragraph 2, of the Constitution.

Turkey. The Committee notes that the Government does not indicate whether copies of the reports have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee hopes that future reports will contain this information.

Ukraine. The Government's reports arrived too late to permit the Committee in all cases to complete their examination at the present session. The Committee was obliged therefore in certain cases to postpone final consideration of the reports till 1962.

It is regrettable that serious delays should thus occur in evaluating reports which contain additional information on doubtful points raised in previous years. The Committee trusts that the Government will make every effort to supply future reports by the date requested.

U.S.S.R. The Government's reports arrived too late to permit the Committee in all cases to complete their examination at the present session. The Committee was obliged therefore in certain cases to postpone final consideration of the reports till 1962.

It is regrettable that serious delays should thus occur in evaluating reports which contain additional information on doubtful points raised in previous years. The Committee trusts that the Government will make every effort to supply future reports by the date requested.

The Committee noted, moreover, with regret that despite its repeated requests the Government has not supplied the text of the Labour Codes of the various Republics of the Union and merely refers in general terms in its reports to provisions corresponding to those in the Code of the Russian Socialist Federal Soviet Republic.

In these circumstances the Committee can only urge the Government to communicate as soon as possible the Labour Codes in force in the various Union Republics as well as all the other legislative texts referred to in its observations and direct requests.

Uruguay. The Committee notes with regret that none of the 32 reports due from this country has been received. This is all the more regrettable because the Committee and the Conference have had occasion in the past to make repeated observations and requests regarding the application of a considerable number of Conventions. The Committee asks the International Labour Office to send its previous observations and requests to the Government once again.

It urges the Government to eliminate the long-standing and important divergencies between the national legislation and the ratified Conventions to which attention had to be drawn over all too long a period. It hopes that the Government will inform the 1961 Conference of the progress made in this connection and will supply full reports on the Conventions by which Uruguay is bound.

Venezuela. The Committee notes that the reports on Conventions Nos. 1, 3, 5, 11 and 26 do not indicate whether copies have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee hopes that all future reports will contain this information.

Yugoslavia. The first reports on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), were received too late to permit the Committee to examine them at its present session. The Committee was obliged therefore to postpone this examination to its next session.

In 1959 and 1960 the Committee had asked the Government in a general direct request to indicate for each Convention whether collective agreements have been concluded for all workers covered by the Convention who are employed by private employers, as provided for in section 377 of the Act respecting Employment Relationships, 1957. As no information has been received in response to these requests the Committee expresses the hope that the Government will provide the relevant data in its next reports and will enclose specimen copies of such agreements.

In the same general direct request the Committee had also inquired what legislation had been adopted in the various Republics to give effect to the provisions of each Convention in the case of domestic help, caretakers of buildings, workers engaged in local crafts, agricultural workers employed by private employers and other similar types of workers to whom under section 415 of the above Act the provisions of this Act cannot be applied directly. The Government has indicated in one of the reports that legislation has been adopted in the Republics. The Committee would appreciate it if similar information could be provided in the case of all the other relevant Conventions and if the text of any legislation and regulations could be supplied with the next reports.

B. INDIVIDUAL OBSERVATIONS

Convention No. 1 : Hours of Work (Industry), 1919

Czechoslovakia (ratification: 1921). The Committee notes with interest that an Act was to introduce progressively a 40-hour working week in mines and a 42-hour

week in other branches, as from 1 January 1961. It hopes that it will be possible for the Government to forward a copy of this Act with its next report.

The Committee notes with regret that the Government has again failed to supply copies of the ministerial directives, requested in 1958 and 1960, which contain detailed stipulations as to the cases in which overtime may be worked and which fix the number of additional hours permitted. The importance attached by the Committee to these texts is explained by the fact that the basic Act of 1918 respecting hours of work permits exceptions on a wide scale; thus, the Act provides that up to 240 hours overtime may be worked in the year "when extra work is necessitated . . . in the public interest or for other reasons" and leaves a certain degree of latitude in view of the wording of section 1, i.e. that "the actual hours of work of workers shall, in principle, not exceed 8 hours within 24 hours, or 48 hours in the week". Consequently any texts such as the above-mentioned ministerial directives which contain further provisions respecting overtime and which may ensure closer conformity with the Convention, might be extremely useful. The Committee hopes therefore that the Government will not fail to attach copies of these directives to its next report, together with the text of Act No. 37/1959, which was mentioned in the Government's report.

Dominican Republic (ratification: 1933). The Committee notes that legislative measures have been adopted with a view to reducing normal hours of work from 48 to 44 per week.

While learning of this development with interest, the Committee must point out that it in no way affects the discrepancies which are still outstanding between the Convention and the national legislation. The Committee recalls that the Government's attention was first drawn to these discrepancies in 1953 and that, although a number of steps have been taken towards the wider implementation of the Convention, and although consideration has apparently been given to the measures which are to be taken with a view to eliminating these divergencies, a number of workers are still outside the scope of the hours of work provisions. The Committee hopes therefore that steps will be taken in the near future in regard to the following points:

1. The Government has repeatedly stated that consideration is being given to the modification of section 269 of the Labour Code, which excludes persons employed on transport vehicles operating between two or more municipalities from the scope of the hours of work provisions. The Committee hopes that such modification will shortly be introduced, so as to ensure that the average working hours of the road transport workers in question shall not exceed 48 per week.

2. The Government has stated that it is making a careful study of the measures suggested by the Committee in 1958 as regards undertakings which operate continuously. The Committee hopes that these measures will soon be taken and recalls that they relate to the following points:

- (i) The legislation should specify that exceptions in regard to work which is carried on continuously may be permitted only in "those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts", as required under Article 4 of the Convention.
- (ii) The legislation should fix maximum working hours for such processes, not exceeding 56 in the week on the average, as required under Article 4 of the Convention.
- (iii) The legislation should not authorise the prolongation of the working day by one hour for the shift workers concerned, permitted under section 148 of the Labour Code, as such an extension is not provided for in the Convention.
- (iv) The Government should supply a list of processes deemed to be necessarily continuous, as required under Article 7 (a) of the Convention.

3. The Committee notes that no provision seems to exist fixing the maximum number of additional hours over a given period of time which may be authorised in cases of exceptional pressure of work. It points out that Article 6, paragraph 2, of the Convention specifically requires that the maximum number of additional hours shall be fixed and it hopes therefore that the Government will take steps in the near future to ensure compliance with the provision. In this connection the Committee also points out that, in conformity with Article 6, paragraph 2, of the Convention, employers' and workers' organisations must be consulted as regards the maximum number of additional hours to be permitted.¹

Greece (ratification: 1920). The Committee notes with interest that, further to a request made in 1960 in relation to a statement from the Greek trade union concerned, a Royal Decree was issued on 19 August 1960 prescribing a 48-hour working week, subject to certain exceptions, for urban bus drivers and conductors.

The Committee is impressed by the rapid action taken by the Government in the above-mentioned case and regrets all the more the continued delay regarding the long-outstanding discrepancy between the Convention and the hours of work provisions for certain categories of railway workers. It seems clear from the Government's replies to the Conference and in its report not only that no positive steps have been taken towards the application of the hours of work provisions to those railway workers excluded from their scope, but that no immediate improvement may be expected since the Governments' efforts are centred on the general reorganisation of the railway network and since the question of working hours and rest periods is deferred until the larger problem has been settled.

The Committee can only reiterate its deep regret that neither its own repeated observations over the past 12 years, nor the numerous calls addressed to the Government by government, employers' and workers' representatives at the Conference, nor the definite undertakings given by the Government during this period, have resulted in measures ensuring the application of the Convention to all categories of railway workers.¹

Haiti (ratification: 1952). The Committee takes note of the Government's reply to the observation made in 1959.

Article 1 of the Convention. As regards section 8 of the Act of 25 September 1958 (according to which the provisions restricting hours of work in sections 2 and 4 of the Act do not apply to land transport services and to a number of other undertakings) the Government states (*a*) that these undertakings are not excluded from the provisions fixing maximum daily and weekly hours of work since section 8 contains the following proviso: "provided that the said establishments shall either draw up a duty roster for the staff or else pay overtime"; and (*b*) that the undertakings in question are merely authorised to pursue their activities beyond the legal closing time but their staff is not in any way excluded from the protective measures regarding hours of work which are prescribed by law.

The Committee points out in this connection that section 8 of the Act as presently drafted clearly excludes the transport and other undertakings from section 2 (which fixes the 8 and 48-hour maxima) and section 4 (which fixes the maximum number of overtime hours) and that neither of these sections refers to the legal closing time. As regards the Government's affirmation that the proviso to section 8 ensures the application to the undertakings in question of the hours of work provisions, the Committee points out that neither the obligation to draw up a duty roster nor the

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

obligation to pay overtime can be considered as sufficient, in the absence of any other obligatory provision, to ensure that hours shall not exceed 8 a day or 48 a week, as required by Article 2 of the Convention.

The Committee hopes, therefore, that the Government will take steps to modify section 8 of the Act of 1958 so as to ensure that the undertakings, such as land transport services, which are specifically covered by the Convention, are no longer excluded from the provisions restricting hours of work in sections 2 and 4 of the Act.

Article 6. The Committee notes the Government's statement that abuses as regards the number of additional hours worked were prevented by section 4 of the Act of 1958, which provides that recourse may be had to overtime with the approval of the labour inspector and after consultation with the workers' organisations and that hours of overtime may be prohibited in periods of unemployment. The Committee appreciates the restrictive value of this provision but points out that Article 6, paragraph 2, of the Convention specifically requires that regulations made by public authorities shall fix the maximum number of additional hours. It hopes, therefore, that steps will be taken to ensure the application of this provision of the Convention by the adoption of appropriate regulations for industrial undertakings.

The Committee notes with regret that in its reports for 1958-59 and 1959-60 the Government has failed to reply on any of the points raised in the request which was addressed to it in 1959. It finds it necessary, therefore, to repeat its questions which were as follows:

Article 5 of the Convention. The Committee would appreciate a statement from the Government in its next report indicating whether or not recourse is had to this permissive clause.

Article 7, paragraph (a). The Government indicates the categories of undertakings authorised to operate continuously; the Committee would be glad to know whether these are the only undertakings falling under section 9 of the Act, which authorises a 56-hour week in certain processes required to be carried out continuously.

Article 8, paragraph 1. The Committee would be glad if the Government would supply specimen copies of the notices to be posted up by employers in virtue of section 13 of the Act, as requested in the report form.

Article 8, paragraph 2. The last paragraph of section 13 of the Act provides that "it shall be unlawful to employ a person outside the hours fixed in virtue of paragraph (b) of this section". As paragraph (b) refers to rest periods, the Committee wonders whether it was not the intention of the Legislature to prohibit employment outside the established working hours, i.e. outside the hours fixed in virtue of paragraph (a) of section 13 of the Act.

The Committee notes that section 54 of the Act of 1958 provides for the repeal of all Acts or provisions of Acts which are contrary thereto. It would be glad to know whether section 1, fifth paragraph, of the Act of 5 May 1948 is now considered as repealed (this clause provided that time spent by an employee in rectifying errors for which he was responsible should not be counted as overtime).

The Committee trusts that the Government's next report will provide information regarding all the above points.

Peru (ratification: 1945). The Committee notes with interest from the Government's report that, during the present semester, a decree is to be issued which will ensure that hours in excess of 8 per day and 48 per week may be worked only within the limits prescribed in Articles 3, 4, 5 and 6 of the Convention. It also notes that the Government hopes to be able to inform the Conference in June 1961 of the issue of the new decree.

The Committee welcomes this information and trusts that the proposed decree will result in the full and immediate application of the Convention. In this connection the Committee refers to its observations of 1959 and 1960 on this Convention, which it asks the International Labour Office to make again available to the Government.

Rumania (ratification: 1921). The Committee notes with regret that the report for 1958-60 contains no information on the observation made in 1960. It is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes from the information supplied by the Government—in regard to Article 6, paragraph 2, of the Convention—that in recent years the Council of Ministers has taken no decisions under section 57 of the Labour Code to authorise additional overtime in certain branches. As this provision of the Code is liable, however, to give rise to infractions of the Convention, the Committee suggests that either the Government should introduce a measure limiting the number of additional hours which might be permitted in virtue of such decisions by the Council of Ministers or it should repeal the last paragraph of section 57 of the Labour Code, which provides for this additional overtime.

The Committee takes note of the information that the payment of overtime is covered solely by the provisions of section 39 of the Labour Code, which prescribes a minimum increase of 50 per cent. of the standard wage. In this connection the Committee recalls that, as already noted in previous observations, sections 28 et seq. provide that a worker whose output falls below a given standard will receive only part of the standard wage or no pay whatever. The Committee would therefore be glad to know how overtime payment is calculated in such cases, that is whether a worker receives a 50 per cent. increase on the standard wage or on the lower pay he has received because of his unsatisfactory output.

The Committee hopes that the Government will make every effort to take the necessary action without further delay.

Spain (ratification: 1929). The Committee thanks the Government for the detailed information supplied in regard to each of the points on which observations had been addressed to it. In particular the Committee thanks the Government for having taken steps, by the issue of an Order on 11 May 1960, to ensure that in practice additional hours worked in certain branches of the metallurgical industry under section 49 of the Act of 9 September 1931 should not exceed the limits prescribed for other branches by section 4 of this Act.

The Committee notes that, with this one exception, the Government considers that the points raised in the observations do not correspond with the actual situation in Spain and that the Convention is fully applied in the country. However, the additional information supplied by the Government is not such as to confirm this statement. In fact the information available to the Committee shows that a considerable number of discrepancies are still outstanding.

As an example, the Committee points to the case of road transport: on several occasions it has called attention to the discrepancy between the Convention and section 101 of the Act of 9 September 1931 which authorises a 72-hour week for drivers of vehicles. In reply the Government has stated that section 101 has been repealed by the National Labour Regulations for Road Transport, 1947 (Government's report for 1956-57), that these Regulations prescribe an 8-hour day and 48-hour week, that any exceptions permitted by them correspond with the requirements of Article 6 of the Convention (Government's reply to the Conference in 1960), and that Labour Regulations cannot curtail rights already granted by the general legislation (Government's reply on Convention No. 30 to the Conference in 1960).

Yet examination of the above-mentioned Labour Regulations shows a somewhat different position. In the first place the Regulations provide for a 72-hour working week, as permitted under section 101 of the 1931 Act; thus section 71 of the Regulations provides for annual permits to be issued by the provincial labour inspectorate authorising a 72-hour week in the case of urban goods transport, urban transport services, inter-urban transport of goods and passengers, etc. (section 61 of the Regulations and resolution of 18 February 1954). Moreover the National Labour Regulations go further than the provisions of section 101 of the Act, since the latter permits exceptions only in the case of drivers of vehicles, whereas the Regulations authorise exceptions for drivers, conductors, assistants and auxiliary staff (section 61,

first paragraph). Finally, the exceptions in question do not correspond with the requirements of Article 6 of the Convention, since they do not fall into any of the categories specified in paragraph 1 of this Article, and since the hours in excess of 48 per week are paid only 10 per cent. more than the normal rate, instead of at the increased rate of 25 per cent. prescribed by the Convention. In short it would appear that section 101 of the Act, which is contrary to the Convention, has not in fact been repealed and that the corresponding National Labour Regulations constitute an even graver violation of the Convention's provisions.

The Committee recalls therefore that the substance of the observations made in previous years on the hours of work Conventions has always been (a) that the basic legislation (Hours of Work Act, etc.) contains provisions which either are contrary to the terms of the Convention or are liable to interpretation resulting in violations of the Convention; (b) that, although it was possible that Labour Regulations might ensure more favourable conditions in certain industries or areas than those prescribed by law, this could not be ascertained without examining the Labour Regulations in question and that such examination was not possible in view of the very large number of these regulations and their relatively flexible character; and (c) that the Government has never supplied the information requested in the report form and by the Committee itself on the practical application of the Convention, so that there is nothing to show how effect is given in practice to the prescribed maximum hours.

In these circumstances the Committee trusts that there will be no delay in eliminating both the above-mentioned discrepancy regarding road transport, and the other divergencies dealt with under points 1 to 8 of the request addressed directly to the Government. It recalls the Government's statement (made in 1959) that account would be taken of the Committee's observations in the revision of the national labour legislation then under consideration. Once again it states its appreciation of this undertaking and it urges therefore the adoption of a comprehensive text with a scope covering all the undertakings listed in Article 1 of the Convention, prescribing both an 8-hour working day and a 48-hour working week, permitting only those exceptions authorised by the Convention, and providing for all safeguards required by the Convention; moreover, in the light of the latest information examined by the Committee, it would seem to be necessary to provide specifically in this comprehensive text that the minimum standards prescribed therein are to be observed in all labour regulations.

The Committee would be grateful if the Government would indicate in its next report what measures it has taken or intends to take as regards the discrepancy dealt with above, and those enumerated in the direct request.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium, Bulgaria, Burma, Canada, Chile, Greece, India, Luxembourg, Pakistan, Portugal, Rumania, Spain, Venezuela.*

Convention No. 2 : Unemployment, 1919

Chile (ratification: 1933). Further to its previous observations the Committee learned with satisfaction that Legislative Decree No. 308 of 6 April 1960 contains provisions regarding the functions of the Employment and Manpower Department

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

(section 11) and the establishment of advisory committees (section 39). The Committee would be grateful if the Government would keep it informed of the practical measures taken to implement these provisions.

Convention No. 3 : Maternity Protection, 1919

Argentina (ratification: 1933). The Committee notes with regret that, no reply having been communicated by the Government in its report to the requests made in 1957, 1958 and 1959, the information in question must now be requested for the fourth time, namely:

1. What are the legislative or other provisions which provide, in accordance with Article 3 (c) of the Convention, that "no mistake of the doctor or midwife in estimating the date of confinement shall preclude a woman from receiving the benefits to which she is entitled from the date of the medical certificate up to the date on which the confinement actually takes place"?

2. In what manner are maternity benefits ensured in the case of women to whom the Convention is applicable in the event of their not fulfilling the conditions as to length of service prescribed by the insurance system as necessary to give entitlement to benefits (Article 3 (c))?

3. What are the legislative provisions or regulations which provide that, in the event of a woman being absent from her work on maternity leave following illness arising out of her pregnancy, it shall not be lawful, until her absence shall have exceeded a maximum period to be fixed by the competent authority, for her employer to give her notice of dismissal during such absence or at such a time that the notice would expire during such absence (Article 4)?

The Committee trusts that the Government will include this information without fail in its next report.

Brazil (ratification: 1934). The Committee notes that proposals were made to Congress, when it was considering the Organic Social Welfare Bill, for the insertion of provisions whereby the social insurance scheme would have been responsible for the payment of maternity benefits. The Committee regrets that the necessary provisions were not included in the Social Welfare Act, as adopted on 26 August 1960, and that consequently individual employers, and not an insurance scheme or public funds (as required by Article 3 (c) of the Convention), are still liable for the payment of maternity allowances.

The Committee also notes that, in view of the above circumstances, the question of the denunciation of the Convention is once again being examined by the Civil Office of the President of the Republic. It trusts that, in considering whether such a measure is called for, the Government will bear in mind the fact that as indicated by the Committee in 1959 the Brazilian legislation appears to conform to the main provisions of the Convention with the exception of this one discrepancy, and that the possibility of eliminating this discrepancy should therefore be reconsidered.

The Committee hopes, therefore, that the Government will find a way of bringing the national legislation into full conformity with the Convention on this point also, rather than denouncing the Convention.

France (ratification: 1950). As the Government's report for 1958-60 contains no information on the observations made in 1960, the Committee can only repeat these observations, which were as follows:

In 1956 a workers' organisation (the French Confederation of Christian Workers) pointed out that, under section 29 of Book I of the Labour Code, an employer could not terminate the contract of a woman during her 12 weeks' absence on maternity leave because of the pregnancy or confinement, but that the Code did not prohibit an employer from dismissing a woman during this period on other grounds. The organisation in question pointed out that, as it was always difficult to prove in a court on what grounds an employment contract had been terminated, a woman who was pregnant, or who had recently been confined, might frequently be unable to prove that she has been dismissed because of pregnancy. Following an observation by the Committee, a Government repre-

sentative at the Conference stated that "the Government had tried to act on these observations" and referred to "the Act of 2 September 1941 on Maternity Protection, which provides for penalties in the case of contracts being terminated at the time of pregnancy or confinement". The Government representative added that "although this Act was much wider in meaning than the above-mentioned section of the Labour Code, the Government considered it advisable to ask for an investigation to examine whether abuses had occurred; this investigation had been negative.... The Government considered that the period of notice should be extended by a period equal to that of the statutory maternity leave."

In 1957 the Committee took note with satisfaction of this statement.

The attention of the Committee has been drawn to a decision of the Court of Cassation dated 16 May 1958, which refers to section 29 of Book I of the Labour Code but fails to mention the Act of 2 September 1941 on Maternity Protection, to which the Government representative had referred in 1956, and states that "section 29 of Book I of the Labour Code may only be invoked if it is proved that the termination of the contract of employment is due to the stoppage of the work mentioned therein". The Committee notes that this principle, which appears also in other decisions of the Court of Cassation, raises the problem to which the French Confederation of Christian Workers had drawn attention in 1956. The Committee would therefore be grateful if the Government would indicate what measures are contemplated to amend the provisions of the existing legislation so as to provide that, in accordance with Article 4 of the Convention, "it shall not be lawful [for the employer] until her absence shall have exceeded a maximum period to be fixed by the competent authority in each country... to give [a woman] 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", i.e. the period of 12 weeks provided for in Article 3 of the Convention.

The Committee hopes that measures will be taken to make the necessary amendments to the legislation and to ensure full conformity with Article 4 of the Convention.

The Committee also finds it necessary to repeat the direct requests made in 1958 and 1959 respecting Article 3 (*d*) (nursing periods). It trusts that the Government will not fail to supply the requested information in its next report.

Federal Republic of Germany (ratification: 1927). The Committee notes with regret that the Bill (under consideration since 1954) by which the 1952 Maternity Protection Act was to be brought into conformity with the Convention has not yet been submitted to Parliament.

However, the Committee also notes the Government's statement that the observations on this Convention will be borne in mind when the Act is amended. It expresses the hope that the amendment in question will be tabled in the near future and will be such as to eliminate the divergencies between the national legislation and the following provisions of the Convention: Article 3, paragraph (*c*)—payment of maternity benefits to salaried women employees not covered by compulsory insurance; Article 3, paragraph (*d*)—at least two nursing periods to be granted daily; and Article 4—stricter measures prohibiting dismissal during maternity leave or at such time that notice of dismissal would expire during such leave.

Hungary (ratification: 1928). The Committee notes with regret that the new Labour Code which was to have given full effect to Article 4 of the Convention (general prohibition of dismissal of women workers while absent on maternity leave) has not yet been adopted.

The Committee hopes that the Government will soon be able to announce the adoption of this Code and the abolition of a discrepancy which has been outstanding for many years.

Italy (ratification: 1952). The Committee notes from the statement made by a Government representative to the Conference that consideration is still being given to the question of ensuring that social insurance maternity benefits should be paid to women workers at present excluded from the insurance schemes; but that the necessary reorganisation of the insurance system is unlikely to take place in the near future.

The Committee recalls that this matter has been under consideration by the Government since 1955, and hopes that measures will be taken to accelerate the procedure and ensure that maternity allowances are provided either out of public funds or by means of insurance (and not by the employer), as required by Article 3, paragraph (c), of the Convention.

Spain (ratification: 1923). The Committee takes note with interest of the information supplied by the Government to the Conference Committee in reply to a request made in 1959 concerning the differentiation of treatment between national and foreign women workers as regards the granting of maternity benefits.

It notes that, according to the Government representative, the actual situation in Spain does not give rise in practice to any violation of the provisions of the Convention and that the setting up of a national social security system, which would ensure equal treatment for all workers regardless of their nationality, is at present being studied.

The Committee expresses the hope that the draft legislation in question will soon be adopted.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Chile, France, Greece, Rumania, Spain, Venezuela*.

Information supplied by *Italy* in answer to a direct request has been noted by the Committee.

Convention No. 4 : Night Work (Women), 1919

Bulgaria (ratification: 1922). The Committee notes that this Convention on which observations were made in previous years has been denounced by Bulgaria. The Committee notes, moreover, that in the report in which the Government announces the denunciation, the Government adds that measures intended to restrict the night work of women are being studied.

Convention No. 5 : Minimum Age (Industry), 1919

Bulgaria (ratification: 1922). The Committee thanks the Government for the information supplied in reply to the observation of 1958 and the request made in 1959, and has noted with satisfaction that circular No. 21375 of 5 November 1958 compels managers of all undertakings and directors of all establishments and organisations to keep a register of young persons under 18 years of age who are in their employment, in accordance with Article 4 of the Convention.

Denmark (ratification: 1923). The Committee notes that the Government states in its report that it intends, when a suitable occasion arises, to bring its legislation into full conformity with Article 4 of the Convention (registers for all young persons under the age of 16 years including apprentices).

Haiti (ratification: 1955). In 1959 and 1960 the Committee drew attention to the discrepancy which existed between the national legislation and the main provision of the Convention. In its reports for 1958-59 and 1959-60, the Government stated in this connection that it was considering amending the legislation within the framework of a wider revision of labour standards.

While recognising the difficulties encountered by the Government and the fact that it is in practice rare for children under 14 years of age to be employed in industry, by reason of the number of persons at present unemployed and the impossibility of entering into a contract of apprenticeship before the age of 14, the Committee must, however, insist once more that the Bill which is to raise from 12 to 14 years the minimum age of admission to work in industry—a Bill to which the Government has referred a number of times—be adopted in the nearest possible future. The Committee trusts that the Government will not fail to take the necessary measures to bring its legislation into conformity with the Convention.

Viet-Nam (ratification: 1953). The Committee notes with satisfaction that Order No. 115 BLD-LD-ND, dated 5 November 1958, has amended the Order of 7 August 1953, by imposing on employers the obligation to include in their registers the date of birth of their workers, in conformity with Article 4 of the Convention.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Brazil, Cameroun, Congo (Brazzaville), Greece, Poland, Rumania, Spain, Switzerland, Venezuela.*

Information supplied by *Yugoslavia* in answer to a direct request has been noted by the Committee.

Convention No. 6 : Night Work of Young Persons (Industry), 1919

Denmark (ratification: 1923). The Committee notes with interest that, as a result of the observations it has addressed to the Government since 1956, the Government has discussed with the representative employers' and workers' organisations the possibility of extending to the building industry the provisions of the Act of 11 June 1954 respecting the prohibition of night work for young people and that it has been decided to amend the Act when the occasion arises.

The Committee hopes that this amendment will be adopted in the near future.

Hungary (ratification: 1928). The Committee notes with regret that the Government has not yet taken the necessary measures to extend to young persons under the age of 18 years (Article 2 of the Convention) the prohibition of night work which has hitherto only been applied to young persons under the age of 16 years. The Committee continues to express the hope that a reform of the Labour Code will in the immediate future bring national legislation into full conformity with this basic provision of the Convention.¹

Ivory Coast (ratification: 1960). The Committee takes note with interest of the information provided by the Government in reply to the Committee's request in 1960. It notes with satisfaction that the decree of 27 July 1960 has had the effect of bringing domestic law into conformity with the provisions regarding the application of the Convention to salaried employees and to various categories of undertakings (Articles 1 and 2), and with those which limit the exceptions allowed to work which has to be carried out continuously day and night (Article 2, paragraph 2), and to cases of *force majeure* (Article 4).

Spain (ratification: 1932). The Committee notes with satisfaction that the decree of 2 June 1960 gives full effect to the Convention (Articles 2 and 3), by extending to

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

young persons under the age of 18 years the prohibition of night work, during 11 consecutive hours.

The Committee would be glad if the Government would supply in its future reports specific information about the practical application of the Convention.

Convention No. 7 : Minimum Age (Sea), 1920

A request regarding certain points is being addressed directly to *Venezuela*.

Convention No. 8 : Unemployment Indemnity (Shipwreck), 1920

Argentina (ratification: 1933). The Committee notes from the statement made by a Government representative to the Conference Committee in 1960 that the Joint Ministerial Committee in charge of the adaptation of national legislation with Conventions Nos. 8, 22 and 23 had transmitted its first report to the Executive, which had drafted the corresponding Bills in order to place them before the Legislature. The Government was however waiting for another committee which was in charge of studying certain amendments to the Commercial Code to complete its work before drafting the amendments to the maritime labour laws, which were to be co-ordinated with the revised Commercial Code. The Conference Committee expressed the hope that the Government would in its next reports communicate the text of the provisions giving effect to the above-mentioned Conventions.

As the Government's reports on the above Conventions contain no new information, the Committee must urge the Government to take all necessary measures to bring its national legislation into conformity with the provisions of the Conventions, and to communicate in its next reports the texts of the relevant legislation.

Mexico (ratification: 1937). The Committee noted with interest that the Government proposes to amend section 126 (XII) of the Federal Labour Act to bring it into conformity with the Convention; under this section the payment of unemployment indemnities to sailors whose contract has been terminated on account of an unforeseen event or *force majeure* is made dependent on the existence of an insurance and on the actual payment of the insurance indemnities to the employer—conditions which are not envisaged by the Convention.

The Committee hopes that this amendment will soon be adopted and that the Government will shortly be able to communicate the text of the new legislation.

Rumania (ratification: 1930). In its reply to the direct request of 1959 the Government states that section 20 (c) of the Labour Code, as amended by the decree of 13 July 1956—which authorises the termination of employment if "operations cease for more than a month"—is not applied in practice because seamen would in such a case find employment on another ship.

While taking due note of this statement, the Committee must again point out that the above-mentioned provision of the Labour Code does not ensure the payment of the unemployment indemnity provided for in Article 2 of the Convention. As, according to the Government, no practical effect is given to this provision of the Code, the Committee trusts that a suitable amendment will be introduced so as to give full effect to the Convention.

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In addition, requests regarding certain other points are being addressed to the following States: *Federal Republic of Germany, Mexico, Spain, Sweden*.

Convention No. 9 : Placing of Seamen, 1920

Requests regarding certain points are being addressed directly to the following States: *Bulgaria, Poland, Spain.*

Convention No. 10 : Minimum Age (Agriculture), 1921

A request regarding certain points is being addressed directly to *Albania.*

Convention No. 11 : Right of Association (Agriculture), 1921

Brazil (ratification: 1957). The Committee notes the information supplied in the report which states that persons engaged in agriculture, other than wage earners, are covered by Legislative Decree No. 7038 of 10 November 1944 on agricultural organisation (by virtue of sections 1 and 2 of this decree). It regrets, however, that the report does not contain any information in respect of the other observations made in 1960, except to state that it is by virtue of the National Constitution that ratified Conventions acquire the force of law. In these circumstances it would appear that the Government should have no difficulty in carrying out the obligation which it undertook on ratifying the Convention: "to repeal any statutory or other provisions restricting" the rights of association and combination of agricultural workers as compared with those of industrial workers. The Committee hopes, therefore, that the Government's next report will indicate the measures that it intends to take to repeal or modify the following provisions which restrict the right of association of agricultural workers.

1. Under Legislative Decree No. 7038 of 10 November 1944, agricultural workers and their organisations do not benefit from the same rights as industrial workers as regards protection against acts of anti-trade union discrimination and the protection of collective agreements in force (see, for industrial workers, sections 543 and 624 of Legislative Decree No. 5452 of 1 May 1943).

2. Under Legislative Decree No. 9070 of 15 March 1946, agriculture is considered an "essential activity" in which strikes are considered to be a reason for terminating contracts of employment (in most industries, the only limitation in this field is the prior exhaustion of conciliation and arbitration procedures).

Byelorussia (ratification: 1956). With respect to workers who are members of kolkhozes and persons engaged in agriculture in the non-socialised sector of the economy, see under Convention No. 87.

Chile (ratification: 1925). The Committee takes note of the fact that the committee which was set up to study the revision of the Labour Code and, in particular, of the provisions relating to the right of association of agricultural workers, with a view to giving full effect to the Convention, is still at work. It regrets to note that no progress has yet been made towards abolishing the serious limitations on the right of association and combination of agricultural workers, which have been introduced since 1947.

This year again, therefore, the Committee must stress the main discrepancies existing between the Convention and the legislation:

1. Whereas, according to section 366 of the Labour Code, trade unions of industrial workers may set up two types of unions—works unions or occupational trade unions—agricultural workers,

under section 426 of the same Code, may constitute trade unions only within the limits of the agricultural undertaking. As a result of the difference established by the legislation in this respect, agricultural workers, not having the right enjoyed by industrial workers to set up occupational trade unions, are deprived of—

- (a) the right to set up trade unions extending beyond an agricultural undertaking;
- (b) the right to set up federations and confederations.

2. Comparison between the legislative provisions applicable to trade unions of industrial workers having chosen the form of the works union and the regulations applicable to trade unions of agricultural workers also reveals differences in treatment, some of which have the effect of limiting considerably the right to combine of agricultural workers. Thus with respect to the administration of their funds, the trade unions of agricultural workers are subject to stricter rules than those of industrial workers. Further, under section 470 (section 53 of Act No. 8811) unions of agricultural workers may not present statements of claims "during the sowing and harvesting periods, which are fixed in each zone by regulations, the duration of each being at least 60 days. Claims may not be presented more than once a year." As the Committee has already emphasised, and especially in 1952, such a restriction, which has no equivalent in the legislation relating to industrial workers—who apparently may present claims at any time (section 505)—leads in practice to a denial to agricultural workers of any right to organise effectively, particularly in the case of seasonal or casual workers who, in agriculture, often represent a considerable proportion of the workers employed.

3. The provisions of section 433 of the Labour Code result in fact in prohibiting seasonal or casual workers from setting up trade unions. By virtue of this section, workers who wish to form a union must have more than one year's continuous service on the same estate and must represent at least 40 per cent. of the workers on that estate. A provision of this nature is even likely to result in prohibiting all possibility of setting up a union, in particular on estates which employ a large proportion of seasonal or casual workers.

The Committee therefore addresses an urgent appeal to the Government to take the necessary measures to fulfil the international obligation which it undertook on ratifying the Convention, and trusts that, at the 45th Session of the Conference, the Government will indicate the action taken to bring its legislation into conformity with the Convention.¹

Nicaragua (ratification: 1934). The Committee notes that, according to the report supplied in 1959, when there is a difference between the provisions of the Labour Code and those of "the Trade Union Regulations", it is the provisions of the Labour Code (which make no distinction between agricultural and other workers) which are applied. It appears to the Committee, however, that as long as the Trade Union Regulations have not been repealed or amended, these regulations, which take the form of regulations issued under the Labour Code, will continue to be applied by the administrative authorities and observed by employers and workers. It must again insist, therefore, that the Government take the necessary measures to repeal or amend, as soon as possible, the following provisions of the Trade Union Regulations which, as was pointed out in 1958 in the following terms, restrict "the rights of association and combination" of "persons engaged in agriculture", compared with the rights given to industrial workers:

... Section 6 of these Regulations provides that "when over 60 per cent. of the workers wishing to form an agricultural union are unable to read and write... they can only form a works union (*de empresa*)"; whereas industrial workers can choose between four different types of union (*gremiales, de empresa, industriales, mixtos*).

The Committee found that the indirect result of the elimination of the possibility of choosing between the various types of unions, which affects only agricultural workers, might be to prohibit the establishment of any union in undertakings giving permanent employment to less than 42 workers, since works unions, which are the only type that may be formed by agricultural workers, must have at least 25 members (section 203 of the Labour Code) and their members must comprise at least 60 per cent. of the workers in the undertaking (section 8 of the Regulations). In addition, the above-mentioned provisions in combination with those in section 38 of the Regulations which

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

provide for the cancellation of registration, that is to say for the dissolution of any union the membership of which falls below the prescribed minimum, in fact prohibit seasonal workers from forming unions.

Ukraine (ratification: 1956). With respect to workers who are members of kolkhozes and persons engaged in agriculture in the non-socialised sector of the economy, see under Convention No. 87.

U.S.S.R. (ratification: 1956). With respect to workers who are members of kolkhozes and persons engaged in agriculture in the non-socialised sector of the economy, see under Convention No. 87.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Argentina, Austria, Bulgaria, China, Czechoslovakia, Greece, Federation of Malaya, Peru, Poland, Rumania, United Arab Republic (Egypt), Venezuela, Yugoslavia.*

Convention No. 13 : White Lead (Painting), 1921

Hungary (ratification: 1956). The Committee regrets that it has as yet been unable to assess the extent of the application of the Convention in Hungary in view of the fact that the legislation cited by the Government as giving effect to the Convention has not been supplied to the Committee. The Committee therefore urges the Government to forward the following legislation without fail: Ministry of Health Decree No. 8300/22/1952; and Ministry of Health Ordinance No. 36/1957.

* * *

In addition, a request regarding certain other points is being addressed directly to the *Ivory Coast*.

Convention No. 14 : Weekly Rest (Industry), 1921

China (ratification: 1933). The Committee notes with regret that the Government's report contains no fresh information about the revision of the Factory Act of 1932 and the Mines Act of 1936, in spite of the requests which it addressed to the Government on the subject in 1958 and 1959.

The Committee expresses the hope that the Government will in the near future take the necessary measures to revise these two Acts and to bring the national legislation into conformity with the provisions of Article 7 of the Convention, which provides for the posting of notices making known the days and hours of the weekly rest period.

Poland (ratification: 1924). In 1958 and 1959 the Committee had made a direct request concerning the application of this Convention. In the absence of a report, the Committee must deal with this matter once again in a direct request.

The Committee trusts that the Government will not fail to supply its next report and that it will provide the information requested.

Turkey (ratification: 1946). The Committee thanks the Government for the information supplied in reply to the Committee's direct request of 1959, and for the copies of the circulars enclosed with the report. It notes with interest that an amendment to section 44 of the Labour Code, 1936, is at present under study, with a view

to providing for compulsory weekly rest in all industrial establishments, regardless of their location or of the number of salaried workers employed.

The Committee trusts that the next report will indicate what amendments have been adopted to this effect.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Canada, Denmark, Greece, Hungary, Morocco, Poland, Venezuela, Viet-Nam, Yugoslavia.*

Information supplied by the following States in reply to direct requests has been noted by the Committee: *Rumania, Tunisia.*

Convention No. 15 : Minimum Age (Trimmers and Stokers), 1921

Morocco (ratification: 1958). The Committee notes with interest that the Government is preparing an amendment to section 176 (5) of the Merchant Shipping Code with a view to bringing it into conformity with Article 1 of the Convention (which covers all ships and boats engaged in maritime navigation, excluding ships of war). The Committee expresses the hope that this amendment will soon be adopted.

Ukraine (ratification: 1956). The Committee notes with satisfaction from the reply to its request made in 1959, that a list dated 29 August 1959, annexed to section 129 of the Labour Code of the Ukraine S.S.R., forbids the employment of young persons under 18 years of age on board sea-going vessels in any capacity, except as deck boys or apprentices, and that its request concerning trimmers appears thus to have been satisfactorily answered.

U.S.S.R. (ratification: 1956). The Committee notes with satisfaction from the reply to its request made in 1959, that Decree No. 629 of 29 August 1959 forbids the employment of young persons under 18 years of age on board sea-going vessels in any capacity except as deck boys or apprentices; and that its request concerning trimmers appears thus to have been satisfactorily answered.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Burma, Ceylon, New Zealand, Turkey.*

Information supplied by *Ghana* in answer to a direct request has been noted by the Committee.

Convention No. 16 : Medical Examination of Young Persons (Sea), 1921

Brazil (ratification: 1936). Following upon its previous observations, the Committee notes with satisfaction that Decree No. 48274 of 8 June 1960 gives full effect to the provisions of the Convention.

Burma (ratification: 1922). In 1958, 1959 and 1960 the Committee had made a direct request concerning the application of this Convention. In the absence of a report, the Committee must deal with this matter once again in a direct request.

The Committee trusts that the Government will not fail to supply its next report and that it will provide the information requested.

* * *

In addition, a request regarding certain other points is being addressed directly to *Burma*.

Convention No. 17 : Workmen's Compensation (Accidents), 1925

Haiti (ratification: 1955). The Committee thanks the Government for the information supplied in reply to the observations of 1959-60.

With respect to Article 7 of the Convention, the Committee must raise the matter again and would ask the Government to take the necessary measures to ensure the application of this provision of the Convention which provides for the granting of additional compensation to victims of accidents, whose incapacity makes them require the constant help of a third person.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Burma, Haiti, Malaya, Nicaragua*.

Convention No. 18 : Workmen's Compensation (Occupational Diseases), 1925

Requests regarding certain points are being addressed directly to the following States: *Ivory Coast, Tunisia*.

Convention No. 19 : Equality of Treatment (Accident Compensation), 1925

Haiti (ratification: 1955). See under Convention No. 17 (Article 2).

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In addition, requests regarding certain other points are being addressed directly to the following States: *Australia, Israel, Malaya*.

Convention No. 20 : Night Work (Bakeries), 1925

Argentina (ratification: 1955). The Committee takes note with interest of the decrees issued by the Governors of the provinces of La Rioja and Corrientes, relating to the temporary exceptions which may be granted in accordance with Article 3 (d) and Article 4 of the Convention. The Committee would be glad if the Government would include in its next report, as it stated that it would do, the texts of the regulations adopted in the other provinces as well as the texts of those which determine in what circumstances permanent exceptions may be made by virtue of paragraphs (a) and (c) of Article 4 of the Convention.

The Committee observes that the Government has failed to reply to the following paragraph of the request made in 1958 and 1959:

The Committee would be glad if the Government would (a) supply the text of Collective Agreement No. 150 of 5 August 1954, and of the relevant decision of the Arbitration Tribunal (No. 30/56), together with the text of any other collective agreement applicable in bakeries; (b) supply the information requested under Point V of the report form, in particular as regards the number of workers covered by the relevant legislation, the exceptions allowed under Articles 3 and 4, number of workers affected by these exceptions, the nature of the contraventions reported, etc.

The Committee trusts that the Government will not fail to supply this information in its next report.

Bulgaria (ratification: 1929). The Committee notes with regret that the report for 1959-60 has not been received. The Committee is bound, therefore, to repeat its previous observation which was as follows:

The Committee notes from the Government's report that a draft ordinance is being prepared by which night work in bakeries is to be prohibited. As this question has been pending since 1955 the Committee hopes that there will be no further delay in issuing an ordinance which will ensure full conformity with Articles 1 to 4 of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action without further delay.¹

Finland (ratification: 1928). In 1957 the Committee noted that the prohibition of night work in bakeries applied only to the manufacture of goods for sale; the Government replied that, in practice, there was no night work in bakeries attached to non-profit-making institutions. The Committee took note of this information and, in 1958, asked the Government to bring its legislation into conformity with this practice, when next revision was being envisaged; the Government thereupon informed the Conference Committee that it would reply to this observation in its next report.

However, the Committee finds that the last two reports contain no new information on this point. It would be grateful if the Government would indicate whether the legislation has been brought into conformity with the Convention as regards the above-mentioned point.

Spain (ratification: 1932). The Committee notes with satisfaction that the prohibition of night work by young persons has been extended to young persons under the age of 18 years by a Decree of 2 June 1960, in accordance with Article 3 (a) of the Convention.

It hopes that the revision of the Regulation of 12 July 1946, which had been announced by the Government in 1958 and which would have the effect of forbidding expressly night work in bakeries during a seven-hour period—as laid down by Article 2 of the Convention—will soon take place.

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In addition, a request regarding certain other points is being addressed directly to *Sweden*.

Convention No. 21 : Inspection of Emigrants, 1926

A request regarding certain points is being addressed directly to *Japan*.

Convention No. 22 : Seamen's Articles of Agreement, 1926

Argentina (ratification: 1950). See under Convention No. 8.

China (ratification: 1936). The Committee notes with regret that in spite of the statement made by a Government delegate to the Conference Committee in 1960, referring to the possible modification of the legislation, the Bill which is to revise the legislation and to give effect to the Convention is still being studied by the legislative

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

assembly. The Committee is, therefore, bound to insist once more that the Bill in question be soon adopted so as to bring the legislation into conformity with the Convention, and in particular with Articles 3, 4, 9 and 14.

Convention No. 23 : Repatriation of Seamen, 1926

Argentina (ratification: 1950). See under Convention No. 8.

Convention No. 24 : Sickness Insurance (Industry), 1927

Haiti (ratification: 1955). The Committee notes with regret that the Government's report fails to indicate whether the sickness insurance scheme provided for under the Act of 12 September 1951 has now been brought into operation in Haiti. It would thus appear that the Convention is still not applied. The Committee once more trusts that the Government will spare no effort to ensure the bringing into force of the sickness insurance scheme, as it undertook to do upon ratifying this Convention.

Article 2 of the Convention. See under Convention No. 17 (Article 2).

Article 3. Section 66 of the Act of 12 September 1951 provides for the granting of benefit after a waiting period of seven days, whereas the Convention only authorises "a waiting period of not more than three days".

With regard to section 69 of the Act, which prescribes that the insured person shall be deprived of cash benefits in certain cases (refusal to submit to medical examination or to obey the instructions of the doctor), whereas the Convention only authorises the withholding of these benefits in such cases, the Committee notes that according to the Government's report the deprivation incurred by the insured person only lasts as long as he persists in his default and is thus equivalent to suspension. The Committee consequently hopes that the Government will take the necessary measures to bring the terms of the legislation into conformity with this interpretation, so as to eliminate any uncertainty in the practical application of the provisions in question.

Article 4. Section 64 of the Act makes the granting of medical aid dependent on the fulfilment of a qualifying period of insurance, whereas Article 3 of the Convention only authorises this condition in the case of payment of cash benefits, but not in the case of medical care.

The Committee trusts that the Government will adopt without delay all the necessary measures to ensure the application of the Convention.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Haiti, Hungary*.

Convention No. 25 : Sickness Insurance (Agriculture), 1927

Haiti (ratification: 1955). See under Convention No. 24.

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

* * *

In addition, a request regarding certain other points is being addressed directly to *Haiti*.

Convention No. 26 : Minimum Wage-Fixing Machinery, 1928

Requests regarding certain points are being addressed directly to the following States: *Argentina, Brazil, Burma, Czechoslovakia, Ecuador, Republic of Guinea, India, Italy, Mexico, Morocco, Venezuela*.

Information supplied by the following States in answer to direct requests has been noted by the Committee: *China, Dominican Republic, Sudan, Viet-Nam*.

Convention No. 27 : Marking of Weight (Packages Transported by Vessels), 1929

India (ratification: 1931). The Committee notes that the Government proposes to introduce a Bill in Parliament as soon as possible, to amend the Marking of Heavy Packages Act, 1951, so as to permit the appointment of officials responsible for the application of the Convention.

The Committee hopes that this Bill, which has been under consideration by the Government since 1952, will be adopted without delay, and that the effective application of the Convention will thus be ensured.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Bulgaria, Burma, China, Finland, Hungary, Indonesia, Mexico, Rumania, Venezuela*.

Convention No. 29 : Forced Labour, 1930

Bulgaria (ratification: 1932). The Committee thanks the Government for the information supplied in answer to the direct requests made by it in 1958, 1959 and 1960.

1. The Committee notes the Government's statement that all persons liable to call-up under the Act of 1958 concerning regular military service cannot be enrolled in the armed forces, by virtue of the restrictions imposed by the Peace Treaty of 10 February 1947, and that those who cannot be assigned to military service are enlisted in the Special Labour Services. The Committee observes that, by virtue of the Decree of 27 March 1954 concerning these Services, as amended by Decree of 15 October 1955, the work undertaken by conscripts includes construction work and agricultural work, and that the period of compulsory labour service is two years.

The above provisions appear to permit the exaction of forced labour under the compulsory military service laws for work which is not of a purely military character and which accordingly does not fall within the exception to the definition of "forced or compulsory labour" provided for in Article 2, paragraph 2 (a), of the Convention. Nor is such compulsory labour service, which is expressly prohibited by the Convention, part of the normal civic obligations of the citizens of a self-governing country, within Article 2, paragraph 2 (b), of the Convention, as the Government suggests in its report. The Committee therefore trusts that measures will be taken without delay to abolish the above-mentioned form of compulsory labour.

2. The Committee notes that, under the Act of 6 February 1958 respecting the self-taxation of the population and the Ordinance issued thereunder on 14 February 1961 by the State Planning Commission and the Bulgarian Investment Bank, labour may be exacted as a tax for the execution of public works. In effect, section 1 of the Ordinance of 14 February 1961 provides that capital investment projects not covered by the national economic plan shall be carried out in this manner, and lists such schemes as the electrification of villages, water supplies, local improvement schemes, schools, reading rooms, bakeries, baths, roads, drainage, trade union homes, etc. Under section 8 of the Act of 6 February 1958 all men between 18 and 60 years and all women between 18 and 55 years are liable to contribute annually 40 hours of labour (or, in certain cases, 80 hours of labour), although this liability may be commuted by cash payments.

Under Article 10 of the Convention, the Government was bound to abolish forced or compulsory labour exacted as a tax or for the execution of public works. The introduction of such form of forced labour by the above-mentioned legislation is therefore incompatible with the Government's obligations under the Convention, and the Committee trusts that measures will be taken without delay to repeal the provisions in question.

Czechoslovakia (ratification: 1957). In 1960, following examination of the Government's first report, the Committee made a direct request to the Government on a number of points. Having regard to the importance of some of these points, the Committee requested that detailed information thereon be supplied in a report for 1959-60. The Committee regrets to note that the Government has not supplied the report so requested. In the circumstances, it is repeating the direct request made last year, and trusts that the Government will not fail to supply full information in reply thereto for examination at the Committee's next session.

Greece (ratification: 1952). The Committee is pleased to note that the hiring out of prisoners to private individuals or bodies has been prohibited by section 29 of Legislative Decree No. 4090 of 4 August 1960, thus bringing national legislation into conformity with Article 2, paragraph 2 (c), of the Convention.

The Committee observes with regret however that the Government's report contains no information on the measures taken to ensure that persons called up under the compulsory military service laws are employed exclusively on work of a purely military character, although the Government informed the Conference in 1960 that it was giving careful consideration to this problem. As the Committee has pointed out in its previous observations, the provisions of the Presidential Order of 14-27 March 1928 and Order No. 290/57 of the Council of Ministers, which permit the use of military units for work of a non-military character—and which, according to available information, have been invoked to a considerable extent for work in connection with land development, construction of roads, etc.—contravene the requirement in Article 2, paragraph 2 (a), of the Convention that services exacted under compulsory military service laws shall be for work of a purely military character. Having regard to the Government's statement to the Conference in 1960 that increasing numbers of civilian workers are now in fact being employed on the works in question, no undue practical difficulties would seem to stand in the way of the discontinuance of the use of military units thereon. The Committee trusts that the necessary measures to this end will be taken without further delay, and would be glad to be kept informed of all such measures.

Hungary (ratification: 1956). The Committee notes that, under section 28 of the Labour Code, an employment relation of indefinite duration may be terminated by agreement between the worker and the undertaking. Moreover, sections 30 and

32 of the Code specify a limited number of circumstances in which an employment relation of indefinite duration may be terminated by a worker unilaterally. It would appear however that, if none of these specified circumstances exists, a worker may terminate his employment only if "by reason of family circumstances, his state of health or other personal circumstances or for any other reason it is essential that he should terminate the employment relation" (section 30 (1) (f)) and he obtains "the consent of the director of the undertaking" (section 30 (3)). In case of refusal by the director to give his consent, the worker may appeal to the conciliation committee. However, if this committee does not give consent to the termination, the worker is bound to stay in the employment, failing which he is liable to certain penalties for abandonment of work (section 36).

Furthermore, it appears that a worker may for economic reasons be transferred without his consent to another workplace within the undertaking or to another undertaking, and even to a workplace or undertaking in a different locality or to a different type of employment (section 133 of the Labour Code). He may appeal to the conciliation committee against the transfer, but, if the appeal is not successful, he is bound to take up the new post; failure to do so also constitutes wilful abandonment of employment (section 136).

It appears to the Committee that the above-mentioned provisions may oblige workers, under the menace of a penalty, to perform work for which they do not, or no longer, offer themselves voluntarily and which would therefore constitute forced or compulsory labour as defined in Article 2 of the Convention. The Committee consequently trusts that measures will be taken, in accordance with Article 1, paragraph 2, to abolish these forms of forced or compulsory labour within the shortest possible period, and would be glad to be kept informed of such measures.

The Committee notes the suggestion in the Government's report that the above-mentioned restrictions upon the right of a worker to terminate his employment are a counterpart to restrictions upon the undertaking's right to dismiss him. The Committee wishes to point out, however, that no such exception is provided for by the Convention, and that restrictions upon an employer's right to dismiss a worker cannot provide justification for compelling the latter to labour against his will.

Liberia (ratification: 1931). The Committee regrets that the Government has once again this year failed to supply a report on the Convention.

The Committee notes that at the Conference in 1960 a Government representative once more stated, as has been done since 1954, that the legislation referred to in the Committee's previous observations had become obsolete. The Committee observes, however, that every one of these provisions has nevertheless been incorporated in the new Liberian Code of Laws adopted by the Legislature in 1956, of which copies have now become available to the Committee.

The Committee must accordingly record its profound concern and surprise at the fact that, although Liberia ratified the Convention exactly three decades ago this year and thereby undertook to abolish forced or compulsory labour in all its forms within the shortest possible period and has given assurances to this effect, the legislation of Liberia still makes provision for the exaction of various forms of forced labour, particularly the following:

1. Forced labour for public works. Under sections 221 and 222 of the Aborigines Law (Title 1, Liberian Code of Laws, 1956), forced labour may be exacted *in the Hinterland* for the construction and maintenance of public works. As Article 10 of the Convention required forced labour for public works to be progressively abolished, measures to this end should have been taken long ago. Moreover, practically none of the detailed conditions and safeguards which, in accordance with Articles 10 to 17 of the Convention, should have been applied to such forced labour

during the transitional period pending its suppression are provided for in the legislation.

2. Compulsory portage. Sections 240 to 248 of the Aborigines Law make provision for the exaction of compulsory portage for the benefit of officials and of private travellers, to whom, according to section 241, the chief of the area must promptly supply the desired number of carriers. Under Article 18 of the Convention, compulsory portage for the benefit of private persons otherwise than in cases of very urgent necessity should have been abolished immediately and other forms of compulsory portage should have been abolished within the shortest possible period. Moreover, in this case also, most of the conditions and safeguards required by the Convention to be applied during the transitional period pending complete abolition of compulsory portage are not laid down in existing legislation.

3. Compulsory labour for prospecting, mining and farming. Sections 249 and 250 of the Aborigines Law provide for the exaction of compulsory labour for persons engaging in prospecting, mining and farming operations. These provisions are contrary to Article 4 of the Convention, which prohibits forced labour for the benefit of private individuals, companies or associations, and to Article 21, which prohibits the use of forced or compulsory labour for work underground in mines.

4. Compulsory female labour. Section 251 of the Aborigines Law provides for the exaction of certain services from women. By virtue of Articles 1 and 11 of the Convention, such forced labour should have been abolished immediately upon ratification.

5. Compulsory cultivation. Section 423 of the Aborigines Law provides that every able-bodied male aborigine *in the Hinterland* shall plant crops for the market and take them when ready to market. As Article 19 of the Convention authorised recourse to compulsory cultivation during the transitional period pending complete suppression of forced labour only as a precaution against famine or a deficiency of food supplies, appropriate measures to abolish this form of forced labour should also have been taken.

The Committee is bound to point out once more that it is the Government's solemn duty to take measures without further delay to bring national legislation, which is in manifest contradiction with the Convention, into conformity with the Convention on the above points, so that an end may at last be put to all the repeatedly indicated clear violations of the Convention by Liberian legislation, and also to provide effective penal sanctions for the illegal exaction of forced labour, in accordance with Article 25 of the Convention.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Burma, Czechoslovakia, Ecuador, Hungary, Iceland, Israel, Liberia, Rumania, Ukraine.*

Convention No. 30 : Hours of Work (Commerce and Offices), 1930

Haiti (ratification: 1952). The Committee refers to its previous observations and requests on this Convention. It finds that further information or action is necessary on some provisions of the Convention and it hopes that the Government will follow up the various points raised in the request addressed to it directly by the Committee.

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

Norway (ratification: 1953). The Committee takes note of the detailed information sent by the Government in reply to the observation and request made in 1959. It finds, however, that the 1958 amendment of the Workers' Protection Act of 1956, although introducing a shorter working week, did not remove the discrepancies between the said text and the provisions of the Convention, to which the Committee had drawn attention.

The Committee trusts that the detailed indications given in a direct request, both as regards measures to be taken with a view to ensuring the application of certain provisions of the Convention (restrictions on the number of hours which may be worked in a day, and on the cases in which overtime may be worked) and as regards the supplementary information needed in respect to some points, will facilitate the elimination of these discrepancies.

Spain (ratification: 1932). The Committee thanks the Government for the detailed information supplied in regard to the various points on which observations have been addressed to it. However, as the Government appears to consider that the application of the Convention is fully ensured by the existing legislation, the Committee must point out that the available information shows, on the contrary, that there are numerous discrepancies between the national texts—which are rather complex—and the provisions of the Convention. These discrepancies are dealt with in detail under points 1 to 7 of the request addressed directly to the Government.

The Committee refers, therefore, to the final paragraphs of its observation on Convention No. 1, and trusts that it will be possible to adopt in the near future a comprehensive legislative text, taking full account of the comments made in the request, and ensuring the complete application of Convention No. 30. It hopes that the Government will indicate in its next report what measures it has taken or intends to take as regards the discrepancies enumerated in the direct request.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Chile, Finland, Haiti, Norway, Spain*.

Convention No. 32 : Protection against Accidents (Dockers) (Revised), 1932

Argentina (ratification: 1950). The Committee noted in 1952, upon examining the Government's first report, that the legislation in force contained only provisions of a very general nature which were insufficient to ensure the application of a Convention containing extremely detailed technical provisions. The Committee has since reminded the Government on several occasions of the necessity of adopting legislation complying with the Convention, and has taken note of the setting up of a Committee of Specialists entrusted with the task of studying the means of bringing the legislation into conformity with Conventions 8, 22, 23 and 32.

The Committee notes with regret that the text of the decree regulating loading and unloading operations in the Port of Buenos Aires, enclosed with the Government's latest report, gives only very limited effect to Article 12 of the Convention concerning the precautions to be taken for work carried out in proximity to dangerous materials, but in no way corresponds to the other provisions of the Convention. The Committee must therefore insist once more that the Government take the necessary measures to ensure the full application of the Convention.¹

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

Belgium (ratification: 1952). The Committee notes that a Royal Order dated 8 May 1959 excludes vessels engaged in inland navigation from the scope of section 541 of the General Regulations for the protection of dockers, which prescribes the measures to be taken in the case of work carried out close to openings which might prove dangerous. This decision means that inland navigation is excluded from the scope of Article 6 of the Convention, respecting the protection of hatchways.

The Committee considers this decision to be contrary to the terms of the Convention, since the latter provides in Article 1 that it shall apply to inland navigation and since the exemptions permitted under Article 15 of the Convention do not provide for such general exceptions. It would therefore be grateful if the Government would reconsider this matter.

Bulgaria (ratification: 1949). The Committee has noted with interest the provisions of the Water Transport Safety Regulations, 1959, which were adopted to secure the application of the Convention.

However, the Committee has not been able to ascertain what effect is given to certain Articles of the Convention, which are enumerated in a direct request. As the Committee has, in the absence of a detailed report, been unable fully to assess the situation, it would be glad if the Government would indicate in its next report, in respect of each Article of the Convention, the relevant provisions of national legislation, as well as the measures which have been taken or which it is proposed to take with regard to the matters mentioned in the direct request.

China (ratification: 1935). The Committee takes note of the instructions addressed to the Harbour Service of the province of Taiwan asking the harbour authorities to draw up regulations complying with the provisions of the Convention. The Committee expresses the hope that these regulations will fill the gaps in the national legislation, which the Committee has been pointing out since 1957 and which it must enumerate once again:

(a) there are no provisions giving effect to the following provisions of the Convention:

Article 5, paragraph 2, subparagraphs (d) and (e), paragraph 3;
Article 8, paragraph 1;
Article 9, paragraph 2, subparagraphs (1), (3) and (4);
Article 11, paragraph 4;
Article 13, paragraph 2;
Article 17, paragraph 3;

(b) the following provisions of the Convention are applied only in very small part:

Article 5, paragraph 2, subparagraph (a);
Article 9, paragraph 2, subparagraph (5);
Article 11, paragraph 3;
Article 12;
Article 13, paragraph 1;
Article 15 (the legislation does not apply to ships owned by public authorities—an exception not allowed by the Convention);
Article 17, paragraphs 1 and 2.

The Committee trusts that, in view of these observations, the Government will ensure that the aforesaid harbour regulations are brought into full conformity with the Convention.

France (ratification: 1955). The Committee thanks the Government for the information supplied in its report. It notes with regret that Decree No. 55314, by

which the provisions of the Convention are intended to be implemented and the application of which is entrusted to the Minister of the Mercantile Marine, relates solely to the loading and unloading of sea-going vessels, whereas the scope of the Convention includes ships engaged in inland navigation (Article 1 of the Convention). The Committee hopes that measures will be taken for the protection of workers employed in the loading and unloading of ships engaged in inland navigation.

Moreover in 1958, 1959 and 1960 the Committee made a direct request concerning other Articles of the Convention; it notes with regret that the Government has failed to reply to these questions and that they must therefore be repeated in another direct request. The Committee trusts that the Government will not fail to supply, in its next report, the information requested.

Italy (ratification: 1932). The Committee notes that by a circular of 12 May 1960 the Minister of Merchant Marine invited the harbour authorities to keep the text of the Convention in mind when preparing or redrafting their safety regulations.

It notes, furthermore, that the Government is continuing with the task it had previously undertaken of unifying and completing the regulations designed to ensure the application of the Convention.

The Committee trusts that the new set of regulations, which have been under study for many years, will be adopted in the near future.

Mexico (ratification: 1934). The Committee notes with interest that, according to a statement made by a Government representative at the 1960 Conference, the Bill to give effect to the Convention, which was already to have been submitted to the legislature in 1959, was to be tabled at the earliest possible date. The Committee, however, regrets to observe that, for the second time in succession, the Government's report has not been received. Consequently, it must renew its previous observations, which were worded as follows:

The Committee notes with regret that, in spite of the repeated observations made concerning the lack of legislation in Mexico giving effect to the provisions of the Convention which require the adoption of specific laws and regulations (particularly Articles 4, 6, 9, 11, 12 and 13) and despite the wish expressed in this connection by the Conference Committee in 1958, the Government's report contains no information concerning the legislation which gives effect to these Articles. Thus, the Committee cannot but once more urge the Government to decide to take all necessary measures with a view to the adoption at an early date of legislation in conformity with the provisions of this Convention which Mexico ratified in 1934.

The Committee trusts that the Government will make every possible effort to adopt without delay the measures referred to above.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Finland, France, Italy, Pakistan, Spain*.

Information supplied by *Norway* in answer to a direct request has been noted by the Committee.

Convention No. 33 : Minimum Age (Non-Industrial Employment), 1932

Austria (ratification: 1936). The Committee notes that in its statements to the Conference Committee as well as in its report, the Government declares that a new

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

Bill has been prepared to give effect to the provisions of the Convention, but that differences of opinion have so far prevented the Bill from being submitted to Parliament.

Since children are at present excluded from the scope of the Act of 1 July 1948, the Committee must insist once more that measures prohibiting occasional work by children, or regulating such work in accordance with Article 3 of the Convention, be adopted as soon as possible so as to ensure full application of the Convention, which was ratified 25 years ago.¹

Spain (ratification: 1934). The Committee notes with satisfaction that Decree No. 1119/1960 of 2 June 1960 prohibits the engagement as domestic servants of children under the age of 14 years and children under the age of 16 years who have not yet obtained a certificate of primary education, and the employment of such children on work outside their homes.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Cameroun, Central African Republic, Chad, Congo (Brazzaville), Dahomey, Gabon, Guinea, Ivory Coast, Malagasy Republic, Republic of Mali, Niger, Senegal, Spain, Togo, Upper Volta.*

Convention No. 35 : Old-Age Insurance (Industry, etc.), 1933

Argentina (ratification: 1955). The Committee regrets to note that the Government's report does not contain the information requested in 1959. The Committee hopes that the Government will not fail to reply in its next report to this request which is being addressed to it again.

Bulgaria (ratification: 1949). The Committee notes, from the Government's reply to the request made in 1959, that pensions may be suspended as an additional punishment by a court of law for certain crimes against persons, public property, or the national economy, in virtue of sections 122, 125, 180, 203 and 232 of the Penal Code. The Committee points out that such a sanction is not allowed by the Convention, which in Article 8 gives an exhaustive list of the cases of penal suspensions authorised. It points out that Article 22, which authorises the suspension of the right to a pension of insured persons who have been sentenced to imprisonment for a criminal offence, does not apply to Bulgaria as it relates only to countries where, on 18 July 1937 (date on which the Convention came into force), there existed a non-contributory pension scheme (Article 15 of the Convention).

The Committee would be glad if the Government would indicate in its next report what measures are to be taken to amend the above-mentioned provision of the Penal Code.

Peru (ratification: 1945). The Committee notes, from the statement made by a Government representative to the Conference Committee in 1960, that the revision of the insurance legislation—to which reference has been made over recent years—would be adopted before the end of the year and that it would be drawn up in the light of the observations made by the Committee of Experts. The Committee notes with regret that this revision has not yet taken place. It notes, however, that the

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

work of the responsible committee is practically complete and that the revision will in fact render insurance compulsory for domestic servants and will provide for special tribunals which would be competent for dealing with appeals made by insured persons, their dependants and heirs.

The Committee notes, however, that the Government does not indicate in its report whether the revision would also bring about the elimination of the discrepancies between the legislation and the Convention which it had pointed out in its previous observations, in the following terms:

(a) although a legislative decree of 1948 provides for the compulsory insurance of all salaried employees, salaried employees in private undertakings are not yet effectively covered by old-age insurance, while the Convention provides that compulsory insurance shall apply both to manual and non-manual workers (Article 2, paragraph 1, of the Convention);

(b) compulsory old-age insurance in Peru covers only persons employed in industrial and commercial undertakings, while the Convention provides that workers in the liberal professions must also be covered by insurance (Article 2, paragraph 1, of the Convention).

The Committee hopes that the Government will take these two observations into account. It trusts that every effort will be made to hasten the adoption of the revision and hopes that the Government will supply information in its next report on the measures taken to this effect.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Bulgaria, Chile, France*.

Convention No. 36 : Old-Age Insurance (Agriculture), 1933

Argentina (ratification: 1955). See under Convention No. 35.

Bulgaria (ratification: 1949). See under Convention No. 35.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Bulgaria, France*.

Convention No. 37 : Invalidity Insurance (Industry, etc.), 1933

Bulgaria (ratification: 1949). See under Convention No. 35.

Peru (ratification: 1945). See under Convention No. 35, as regards the scope of the insurance and right of appeal of insured persons.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Chile, France*.

Convention No. 38 : Invalidity Insurance (Agriculture), 1933

Bulgaria (ratification: 1949). See under Convention No. 35.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, France*.

Convention No. 39 : Survivors' Insurance (Industry, etc.), 1933

Bulgaria (ratification: 1949). See under Convention No. 35.

Peru (ratification: 1945). See under Convention No. 35 as regards the scope of the insurance and the right of appeal of insured persons.

* * *

In addition, a request regarding certain other points is being addressed directly to *Bulgaria*.

Convention No. 40 : Survivors' Insurance (Agriculture), 1933

Bulgaria (ratification: 1949). See under Convention No. 35.

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In addition, a request regarding certain other points is being addressed directly to *Bulgaria*.

Convention No. 41: Night Work (Women) (Revised), 1934

Hungary (ratification: 1936). In 1958 the Government informed the Conference Committee that it intended to include in the new Labour Code provisions complying with the Convention.

The Committee regrets to note, however, that in its report the Government envisages only a partial abolition of night work by women, and that, in any case, the promulgation of the new Code seems again to have been postponed.

The Committee is therefore obliged to insist once more that national legislation, which at present forbids only the employment at night of women who are pregnant or nursing, be brought into full conformity with the Convention which establishes such a prohibition with regard to all women employed in industrial undertakings.¹

Convention No. 42: Workmen's Compensation (Occupational Diseases) (Revised), 1934

Haiti (ratification: 1955). The Committee takes note of the information supplied by the Government in reply to its 1958, 1959 and 1960 requests. It notes with interest that the Government is contemplating revising the list of occupational diseases in the near future and expresses the hope that the list will in fact soon be revised, taking into account the discrepancies pointed out in a new direct request to the Government.

The Committee also hopes that the Government will not fail, in its next report, to supply the information, requested several times already, concerning the scope of the Social Insurance Act, 1951.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Burma, Haiti, Spain*.

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

Convention No. 43: Sheet-Glass Works, 1934

Czechoslovakia (ratification: 1938). The Committee notes that, according to the statement made by a Government representative to the Conference Committee in 1960, Conventions Nos. 43 and 49 are at present fully applied in practice.

However, the Committee observes that the Government's report for 1959-60 contains no detailed information as was requested by the Committee in 1960. It hopes therefore that the next report will be drawn up in conformity with the report form, and will contain all the information requested therein, in particular with regard to the relevant legislation at present in force.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Mexico*.

Convention No. 45: Underground Work (Women), 1935

Hungary (ratification: 1938). The Committee takes due note of the Government's assurance that the employment of women underground has in practice entirely ceased, and that the new Labour Code will contain provisions prohibiting such employment in conformity with the Convention. As the Government has referred to the revision of the Labour Code since 1957, the Committee trusts that the national legislation will be brought into conformity with the Convention without further delay.

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In addition, a request regarding certain other points is being addressed directly to *Spain*.

Information supplied by *Australia* in answer to a direct request has been noted by the Committee.

Convention No. 47: Forty-Hour Week, 1935

Requests regarding certain points are being addressed directly to the following States: *Byelorussia, Ukraine, U.S.S.R.*

Convention No. 48: Maintenance of Migrants' Pension Rights, 1935

Hungary (ratification: 1937). The Committee has examined attentively the Government's comments on the observation made in 1960. It regrets to note that no progress seems to have been made in adopting the legislation or regulations necessary for the general application of the Convention to nationals of all countries which have ratified it. The Government considers that this Convention can only be applied through bilateral agreements, which in any case have been concluded by Hungary with only three of the member States having ratified the Convention. The Committee points out that the Convention, by virtue of Article 1, establishes directly between the member States which have ratified it a scheme for the maintenance of the pension rights of migrant workers, the principal technical rules of which it lays down in detail. Even if the Convention provides in certain Articles (such as Articles 6 and 19) for the

conclusion of special agreements on particular points, it is nevertheless clear that the general application of the Convention must be ensured independently of bilateral treaties. Although such treaties may prove useful as additional measures to regulate certain points, of a financial nature for example, the national legislation must in any case contain the necessary provisions regarding the maintenance of the pension rights of migrant workers to whom the Convention applies, as is the case with the other member States which have ratified it, according to the information supplied by them. The Committee therefore trusts that the Government will soon be able to take the necessary measures in this regard.¹

Convention No. 49: Reduction of Hours of Work (Glass-Bottle Works), 1935

Czechoslovakia (ratification: 1938). See under Convention No. 43.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Mexico*.

Convention No. 50: Recruiting of Indigenous Workers, 1936

Argentina (ratification: 1950). The Committee notes with interest that provision was made by Decree No. 5463 of 1958 and Decree No. 7391 of 1959 for the establishment of a National Directorate for Native Affairs, and that, under section 8 of the former Decree, the Directorate is responsible for measures aimed at safeguarding the conditions under which indigenous workers are employed.

The Committee trusts that appropriate legislation will now be adopted to implement the provisions of the Convention, and that the Government will be able to supply full information thereon in its next report.

* * *

In addition, a request regarding certain other points is being addressed directly to *Ghana*.

Convention No. 52: Holidays with Pay, 1936

Burma (ratification: 1954). The Committee notes with interest from the Government's report for 1958-59 (received too late to be examined in 1960) and from the Government's statement to the Conference in 1960, that the modification of the Leave and Holidays Act on the lines suggested by the Committee is being considered by the Burmese Labour Legislation Committee.

The Committee refers to the various points listed in the requests addressed to the Government in 1959 and 1960—and repeated in the request made at the present session of the Committee—and trusts that the above-mentioned amendments to the legislation will be such as to ensure the full application of the Convention, throughout the national territory.

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

Finland (ratification: 1949). The Committee takes note with satisfaction of the Act of 30 April 1960 respecting holidays with pay. It notes that this text contains provisions respecting Article 2, paragraph 3 (*b*), of the Convention (exclusion from holidays of interruptions of attendance of work due to sickness) and Article 7 (records of holidays), on which observations had been made in previous years.

Ukraine (ratification: 1956). The Committee finds that neither the report for 1958-59 (received too late to be examined in 1960 by it or by the Conference Committee), nor the report for 1959-60 makes any reference to the observations of 1959 and 1960. It expresses the hope that full account will be taken of these observations, which read as follows:

The Committee notes that under sections 91, 116 and 120 of the Labour Code, provision is made for the replacement of the holiday by compensation in cash or for the postponement of the holiday. The Committee points out that the Convention authorises no exceptions whatever to the granting of annual leave with pay, and that, in virtue of Article 4 of the Convention, any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday, shall be void. It hopes therefore that the Government will take the necessary measures to ensure that the legislation is brought into conformity with the Convention.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Burma, Finland, Hungary, Ukraine*.

Convention No. 53: Officers' Competency Certificates, 1936

A request regarding certain points is being addressed directly to *Liberia*.

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936

Requests regarding certain points are being addressed directly to the following States: *Liberia, Morocco*.

Convention No. 56: Sickness Insurance (Sea), 1936

A request regarding certain points is being addressed directly to *Yugoslavia*.

Convention No. 58: Minimum Age (Sea) (Revised), 1936

Belgium (ratification: 1938). The Committee notes with interest that the Bill aimed at bringing the Act of 5 June 1928 into conformity with the Convention, by raising the minimum age for maritime employment from 14 to 15 years, was approved by the Senate on 16 June 1960 and was forwarded to the Chamber of Representatives on the same day.

The Committee trusts that this legislation will be enacted shortly.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Iraq, Liberia*.

Convention No. 59: Minimum Age (Industry) (Revised), 1937

China (ratification: 1940). The Committee notes that the amendment to the Mines Act, which is to bring the Act into conformity with the Convention, is still being studied.

The Committee must repeat the observation it has been making since 1958, urging the Government to take the necessary measures to raise the age of admission of children to underground work, at present fixed by law at 14 years, to 15 years, in accordance with the provisions of Article 8 (3) of the Convention for all categories of work in mines (and not only underground work). It would be grateful if the Government would supply any text adopted to this end.

Italy (ratification: 1952). The Committee notes that the Bill prepared by the Ministry of Labour, which is to raise to 15 years the minimum age for admission to work, in accordance with the provisions of Conventions Nos. 59 and 60, has been sent to the national departments concerned for their approval and will then speedily be submitted to Parliament.

The Committee trusts that this Bill will be adopted without delay so as to bring national legislation into conformity with these Conventions which were ratified in 1952.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Ghana, Luxembourg, Pakistan*.

Convention No. 60: Minimum Age (Non-Industrial Employment) (Revised), 1937

Italy (ratification: 1952). See under Convention No. 59.¹

New Zealand (ratification: 1947). The Committee takes note of the Government's report in which the Government again states that denunciation of the Convention appears to be the proper step to take, in view of the problems which would arise if the legislation were amended to bring it into strict conformity with the Convention; it also notes that an Education Bill, at present before Parliament, provides for some relaxation of the requirements for school attendance until 15 years of age, and will if adopted slightly widen the gap between the national legislation and the Convention.

The Committee can only note with regret the Government's renewed declaration regarding the denunciation of the Convention. It finds this all the more regrettable because it shares the conviction expressed by the Government that there is no exploitation of child labour in New Zealand.

Convention No. 62: Safety Provisions (Building), 1937

France (ratification: 1950). The Committee takes note of the measures taken by the Government with a view to bringing about the revision of the decree of 9 August 1925. It hopes that, consequently, the Government will shortly be in a position to

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

ensure full conformity between the regulations and the following articles of the Convention, which are not yet applied by legislative provisions: Article 7, paragraphs 1, 2, 3 (c), 5-8; Article 8, paragraph 1 (a) (b); Article 9, paragraph 2; Article 10, paragraphs 1 and 5; Article 13, paragraph 2; Article 16, paragraph 1.

Mexico (ratification: 1941). The Committee once more deplores the fact that, 20 years after the ratification of the Convention, no measure has yet been taken, except in the Federal District, to give effect to those provisions of the Convention which are not in themselves self-executing but call for the adoption of special measures by the national authorities. These deficiencies, which have been pointed out repeatedly between 1947 and 1958, are the subject of a request which is being addressed directly to the Government.

The Committee trusts that the Government will finally adopt the necessary statutory measures to give full effect to the Convention throughout the country.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Finland, France, Federal Republic of Germany, Hungary, Mexico, Netherlands, Poland, Spain.*

Convention No. 63: Statistics of Wages and Hours of Work, 1938

Burma (ratification: 1955). The Committee has noted the information supplied at the Conference in 1960, and the statistics published in the *Burma Labour Gazette* in June 1959 and January 1960. These statistics show the average monthly incomes of permanent workers, and the hourly earnings and average daily hours of temporary workers, in a number of undertakings in selected industries. The Committee notes, however, that the statistics do not include particulars of hours actually worked by permanent workers and that, with the possible exception of the rice and saw-milling industries, they do not yet appear to cover a representative sample of establishments and wage earners in the industries concerned. The Committee hopes that the Government will develop the existing measures for the compilation of statistics to meet these points and to give effect to the various detailed requirements of Part II of the Convention.

The Committee also hopes that the Government will find it possible to adopt the necessary measures to permit the implementation of Parts III and IV of the Convention, possibly in consultation with the Office, as indicated in its statement at the Conference in 1959.

Finally, noting that the statistics published in 1960 relate to 1957, the Committee hopes that it will be possible in future to publish all relevant statistics within the time limits laid down in Article 1 of the Convention.

Sweden (ratification: 1939). The Committee notes from the Government's reply to its observations of 1960 that work on statistics in the building and construction industry is proceeding, and that the Government hopes to be able to report progress in its next report regarding the compilation and publication of statistics of hours actually worked in that industry. The Committee trusts that the necessary measures to this end will be taken at an early date.

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In addition, a request regarding certain other points is being addressed directly to *Austria*.

Convention No. 64: Contracts of Employment (Indigenous Workers), 1939

A request regarding certain points is being addressed directly to *Ghana*.

Convention No. 68: Food and Catering (Ships' Crews), 1946

Argentina (ratification: 1956). The Committee notes with regret that no new provisions have yet been adopted with a view to ensuring the application of the Convention. The Committee hopes that the Government, as it indicated in 1960, will not fail to adopt in the near future the necessary measures to bring the legislation into conformity with the Convention.

Portugal (ratification: 1952). Following its direct request made in 1959, the Committee notes with interest the publication of Decree No. 42978 of 14 May 1960 concerning food and catering of ships' crews.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, France, Italy, Netherlands, Norway, Portugal*.

Information supplied by the following States in answer to direct requests has been noted by the Committee: *Belgium, Canada, Ireland, Poland*.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

Requests regarding certain points are being addressed directly to the following States: *Hungary, Luxembourg, Ukraine*.

**Convention No. 78: Medical Examination of Young Persons
(Non-Industrial Occupations), 1946**

Requests regarding certain points are being addressed directly to the following States: *Hungary, Israel, Ukraine*.

Convention No. 79: Night Work of Young Persons (Non-Industrial Occupations), 1946

Israel (ratification: 1953). The Committee notes that the re-election of Parliament has made necessary the depositing of a new Bill amending section 25 (a) of the Youth Work Act. It trusts that the Bill, which is intended to confirm existing administrative practice, will soon be enacted in order that internal law may be in conformity with Article 3, paragraph 2, of the Convention, which provides that the extension of work of youths of 14 to 18 years up to 11 o'clock at night can only be authorised in certain exceptional circumstances.

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In addition, a request regarding certain other points is being addressed directly to *Ukraine*.

Convention No. 81: Labour Inspection, 1947

France (ratification: 1950). Further to its observation of 1960, regarding delays in the publication of the annual general report on the work on the inspection services, the Committee notes with interest that by letter of 22 April 1960 the Government transmitted to the International Labour Office the relevant report covering partly the year 1957 and partly the year 1958, as published in the March 1960 issue of *Labour and Social Security Statistics*.

As the information on the results of inspection, provided in the Government's report on the application of the Convention during the period 1959-60, again involves one year's additional delay in the case of statistics of industrial accidents and occupational diseases (which relate to 1958), the Committee hopes that the annual general report on the work of the inspection services will in future be published within 12 months after the end of the year to which it relates (Article 20, paragraph 2, of the Convention) and that the statistics provided will all cover the same period.

Pakistan (ratification: 1953). The Committee took note of the information supplied to the Conference Committee and in the report, in reply to its observation of 1960. The report indicates that the revision of the Mines Act, 1923, and the Factories Act, 1934, is being expedited. As this revision has been mentioned by the Government since 1956 and as it is designed, *inter alia*, to bring about conformity with certain important provisions of the Convention (Articles 12, 14, 15), the Committee hopes that the enactment in question will not be further delayed.

The Committee also takes due note of the Government's statement that the position in relation to the publication of annual reports on various laws has improved and that all efforts are being made to publish such reports within the time limit. The Committee observes in this connection that the data published in the *Pakistan Labour Gazette* (January-March 1960) on the working of certain Acts fail to satisfy all the requirements of Article 21 of the Convention because such subjects as statistics of workplaces liable to inspection, of workers employed, of inspection visits and of violations are not dealt with in several cases. The Committee considers that a fuller and clearer picture of the working and results of inspection would be gained if the Government would publish an annual general report, combining the individual reports published hitherto (Article 20 of the Convention) and dealing with all the subjects specified in Article 21.

The Committee trusts that the legislative and administrative changes referred to above will lead at an early date to full compliance with this basic Convention.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Denmark, Morocco, Panama*.

Convention No. 84: Right of Association (Non-Metropolitan Territories), 1947

Central African Republic. The Committee regrets to note that the Government has supplied no report, although it undertook, on its admission to the I.L.O. in October 1960, to apply the provisions of this Convention until it was able to ratify the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Committee hopes, therefore, that the Government will supply a detailed report for

the period to 30 June 1961 and that this report will arrive in time to enable the Committee to examine it at its next session in 1962.¹

Ghana. The Committee regrets to note that the Government has not supplied information on the application of this Convention, although it undertook, on its admission to the I.L.O. in 1957, to apply the provisions thereof until it had ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee hopes, therefore, that the Government will supply a detailed report for the period from 1 July 1958 to 30 June 1961 and that this report will be sent in time to enable the Committee to examine it at its next session in 1962.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Nigeria, Somali Republic.*

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

One member of the Committee, Mr. Gubinski, stated that he could not associate himself with the Committee's observations regarding the application of the Freedom of Association Conventions in a certain number of countries (Albania, Byelorussia, Poland, Ukraine and U.S.S.R.), since in his opinion account should be taken of the economic and social system existing in these countries. The Committee considered that it is not called upon to express a view concerning the economic and social systems of different countries but simply to examine how far countries which have ratified Conventions give effect to the obligations resulting from those Conventions.

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Albania (ratification: 1957). The Committee has taken note with interest of the first report of the Government, which was received too late to be examined in 1960.

1. The Committee has noted that according to section 228 of the Labour Code "the structure, operation and duties of the trade unions shall be determined in their rules, as approved by the Albanian Congress of Trade Unions". The obligation for trade unions to have their structure "approved" by a confederation designated by name in legislation does not appear to be compatible with the Convention. It is in fact evident that section 228 permits the "Albanian Congress of Trade Unions" to oppose the establishment of an organisation which might wish to remain outside the trade union hierarchy (as enumerated in section 227 of the Code) of which the Congress is one of the higher organs. This kind of delegation of powers established by legislation to an organisation, therefore, leads in fact to a requirement of "previous authorisation" contrary to Article 2 of the Convention. Further, this provision does not appear to respect the "freedom of choice" of the founders of an organisation who, according to the Convention, shall have the right to establish, if they so desire, a new organisation independent of any organisation already in existence.

2. As the Committee has already had occasion to emphasise in other cases, there is a fundamental difference, with respect to the guarantees of freedom of association and protection of the right to organise, "between a situation in which a trade union monopoly is instituted or maintained by legislation and the factual situations which are found to exist in certain countries in which all the trade union

¹ The Government is asked to report in detail in 1961.

organisations join together voluntarily in a single federation, or confederation, without this being the direct or indirect result of legislative provisions applicable to trade unions and to the establishment of trade union organisations. The fact that workers and employers generally find it in their interests to avoid a multiplication of the number of competing organisations does not, in fact, appear sufficient to justify direct or indirect intervention by the State", and especially intervention by the State by means of legislation.

3. Section 228 imposing the requirement of approval by the Albanian Congress of Trade Unions of the rules and, in consequence, of the "functioning" and "tasks" of trade unions, and the penultimate paragraph of section 229, according to which trade union rules "and the directives issued by the Central Council of Trade Unions shall determine the extent" to which the rights accorded to trade unions "shall be exercised by the different trade union authorities" result in a primary trade union organisation being prohibited from formulating a programme of activity independent of that of the inter-union organisation. These provisions are not compatible with Article 3 of the Convention, according to which workers' and employers' organisations shall have the right "to draw up their constitutions and rules" and "to organise their administration and activities and to formulate their programmes", the public authorities being required to "refrain from any intervention which would restrict this right or impede the lawful exercise thereof".

4. Finally, the provisions referred to above are also not in conformity with the provisions of Articles 5 and 6 of the Convention, according to which federations and confederations shall enjoy all the guarantees prescribed by the Convention with respect to the establishment and functioning of primary organisations.

The Committee therefore expresses the hope that the Government will take all necessary measures to repeal or amend the provisions referred to above.

Burma (ratification: 1955). The Committee has noted the Government's report and is addressing a direct request to the Government concerning certain new legislative provisions. Having regard to the importance of freedom of association and protection of the right to organise, the Committee would be glad if the Government would supply the information requested in a report for 1960-61.¹

Byelorussia (ratification: 1956). In 1960 the Committee noted that new labour legislation was being prepared. It therefore expressed the hope that, in the course of the revision, the Government would take all necessary measures to take account of the different points mentioned in a direct request.

The Committee has taken note of the information furnished by the Government in its report this year. It observes with regret that the report does not refer to any revision of existing legislation, although several provisions thereof are incompatible with the Convention.

As is apparent from the various comments made below, the main provisions which may restrict the rights provided for in the Convention and infringe the guarantees laid down therein are sections 152, 153, 156, 157 and 158 of the Labour Code, the decrees of 23 June 1933 and 21 August 1934, the order of 15 May 1935, article 18 of the Civil Code and possibly also the provisions applying the federal decree of 6 January 1930. The Committee expresses the hope that the Government will take all necessary measures to amend, repeal or supplement the provisions in question having regard to the observations made below, which relate to the direct request made by the Committee in 1960 and to the information contained in the Government's report.

¹ The Government is requested to furnish a report for the period 1960-61.

1. In 1960 the Committee made the following comments in paragraphs 1 and 2 of its request:

In the first place the Committee has observed that the Government refers to the provisions of article 101 of the Constitution of the Byelorussian S.S.R. which, it declares, "guarantees to all citizens without distinction the right to form social organisations including trade unions". It notes, however, that this constitutional provision establishes a right which is exercised according to rules established by law: thus "social organisations" are set up and function in accordance with certain rules prescribed by law in respect of each of them. It is necessary therefore to consider to what extent the legislation in force guarantees freedom of association as defined by the Convention.

In this connection the Committee observes that the legislation of the Byelorussian S.S.R. draws a distinction between salaried and wage-earning workers, on the one hand, and self-employed (non-salaried) workers, on the other.

2. The Government merely states that the Constitution is the basic law, and that the legislation makes no distinction between the various categories of workers.

3. The Committee is, however, bound to observe once more that different legislative provisions apply to the various kinds of "social organisations", each one of which corresponds to a different category of workers: "trade union organisations" for salaried and wage-earning workers, "unions" for certain non-manual, non-salaried workers, and "co-operatives" for certain non-salaried workers in agriculture and crafts.

4. Firstly, as regards salaried workers, the Committee pointed out in 1959 and 1960 that—

the provisions of articles 152 and 153 of the Labour Code, read together, resulted in a requirement of previous authorisation which is not compatible with Article 2 of the Convention.

5. The Committee also observed that—

from the information available, the Central Council of Trade Unions would appear to have a dual character: firstly, that of a superior federal organisation of all the trade unions, and secondly, that of an organ invested with the exercise of a part of the powers of the State, because it has the function of "issuing" the rules for the application of labour legislation. In these circumstances it does not always seem possible to ascertain in which capacity this organ is acting on each occasion that it performs a function, especially where it is effecting the registration of a trade union.

6. The Committee also noted that—

quite apart from the capacity in which this organ acts when effecting registration, it is clear from the terms of article 153 of the Labour Code that no trade union can legally exist as such if it has not been registered with an organ, the "Central Council of Trade Unions", on which this power is conferred by a law which also leaves it full freedom to grant or to refuse the registration requested.

7. The Committee was therefore led to the conclusion that—

articles 152 and 153 of the Labour Code, by prescribing a formality of a substantial character, compliance with which is indispensable before trade unions can "claim the rights of trade unions" must therefore be regarded as establishing a "previous authorisation" within the meaning of Article 2 of the Convention.

8. In its report the Government states that—

trade unions may be established freely without previous authorisation by state organs and are not subject to registration in any state agencies. The only organs empowered to register trade unions are the occupational federations.

9. As regards the Central Council of Trade Unions, the Government states that it is only an organ of the Soviet trade unions and has no dual character, and that there are no grounds for affirming that it is both judge and party. It adds that articles 152 and 153 of the Labour Code do not provide for any refusal of registration or for the cancellation of such registration.

10. The Committee must observe, however, that the registration of a trade union with an inter-union organisation—designated by name in the legislation, “the Central Council of Trade Unions”—which is free to refuse registration and which imposes upon all new organisations registered with it the condition of having rules in conformity with its own rules (article 56 of the Trade Union Rules), constitutes an *indispensable formality* which must be fulfilled in order that a trade union can *legally* exist as such. In fact, article 153 of the Labour Code specifically provides that “no trade union which has not been registered with an inter-union organ . . . can style itself a trade union or claim the rights of a trade union”.

11. It would also appear from the information before the Committee that, in fact as well as in law, the Central Council of Trade Unions has not merely the character of the supreme executive trade union organ; it is also an organ endowed with a portion of the state power, in view of the fact that it can, among other things, by virtue of the decrees of 23 June 1933 and 21 August 1934, issue regulations governing the application of labour legislation. Moreover, in view of the fact that, in accordance with the legislation, registration must be effected with “the Central Council of Trade Unions” and that the latter is responsible for the application of labour legislation—including provisions relating to the establishment of trade unions—it would appear, as the Committee observed in 1960, that even if this organ acts in its capacity as the supreme organ of the existing trade unions, it is thus placed in a position in which it is both judge and interested party.

12. It would therefore seem, as the Committee already pointed out in 1959 and in 1960, that articles 152 and 153 of the Labour Code result in a requirement of “previous authorisation” within the meaning of Article 2 of the Convention.

13. With regard to the establishment of organisations of the workers’ “own choosing”, the Committee noted in 1960 that—

the Government has stated that “the requirement of registration does not limit the right of association, but expresses a fact—the unity of the trade union movement”. The Committee observes, however, that this obligation to register with a central organisation designated by name precludes any “free choice” by the founders in respect of the organisation they might wish to establish, which is incompatible with the Convention. Under the terms of Article 2 of the Convention, workers shall have the right to establish organisations “of their own choosing”, including, if they so wish, new organisations independent of all other existing organisations. They are prohibited from doing so by articles 152 and 153 of the Labour Code which, in this respect also, are not compatible with the Convention and should, therefore, be repealed or amended.

14. The Committee observes that the Government has not made any comment on this matter. It also observes that, when a unified trade union movement in a country results solely from the will of the workers, this situation does not require to be sanctioned by legal texts, the existence of which might give the impression that the unified trade union movement is merely the result of existing legislation or is kept in force only through such legislation.

15. In 1960 the Committee observed that articles 152 and 153 of the Labour Code might—

also be regarded as constituting an “interference” by the State which is incompatible with Article 3 of the Convention, because they result in prohibiting a trade union organisation from drawing up its constitution and rules, organising its administration and activities and formulating its programme “in full freedom”, because every organisation is placed compulsorily under the control of an inter-union organisation.

16. In its report the Government declares that articles 152 and 153 of the Labour Code do not provide for any supervision of trade unions by the inter-union organisations.

17. The Committee notes, however, that according to the available information (see paragraph 10 above) the Central Council of Trade Unions may refuse to register the rules of a trade union if they are not in accordance with the Rules of the Soviet Trade Unions. In view of the fact that such refusal of registration may result, by virtue of article 153 of the Labour Code, in a trade union being prohibited from existing as such (see also paragraph 10 above), it would appear that articles 152 and 153 place restrictions on the right of organisations to draw up their constitutions and rules in freedom, to organise their administration and activities and to formulate their programmes. From this point of view, therefore, articles 152 and 153 of the Labour Code constitute an "interference" on the part of the public authorities, through the medium of legislation, which is incompatible with Articles 3 and 8 of the Convention.

18. With respect to the establishment by primary organisations of federations and confederations, the Committee pointed out in 1959 and 1960 that, even in the absence of any specific provisions to that effect, articles 152 and 153 of the Labour Code have the effect of prohibiting the establishment of federations or confederations outside the existing trade union movement. It pointed out that the fact that this situation was created by legislation was incompatible with Articles 5 and 6 of the Convention, under which trade unions should have the right to establish the federations and confederations "of their own choosing".

19. In its report the Government merely states that nothing in articles 152 and 153 of the Labour Code prohibits the establishment of new trade union federations or confederations.

20. The Committee, however, observes that, by virtue of the legislation, it would clearly be impossible for primary organisations to establish a new federation or confederation "of their own choosing" without the prior consent of the "Central Council of Trade Unions", which would be entitled to refuse. The establishment of such a new federation or confederation could in effect be decided only by two or more existing trade unions which, in order to be entitled "to claim the rights of such unions"—including the right to create "inter-union organisations"—would first have to be registered with the "Central Council of Trade Unions" and thus place themselves under the control of this body designated by name in the legislation (see above, paragraphs 10, 11 and 17).

21. The Committee had also referred to articles 156, 157 and 158 of the Labour Code. The Government indicates in its report that these articles merely state that the workers employed in any given undertaking and belonging to the same trade union shall be represented by a committee from that trade union, but do not exclude the possibility of there being more than one committee as organs of different trade unions in one and the same undertaking.

22. The Committee observes, however, that the manner in which articles 156, 157 and 158 of the Labour Code are drafted would seem, on the contrary, to preclude the possibility of a second organisation representing the same categories of workers being set up. As the fact of this being prescribed by legislation would not be compatible with the Convention, the articles in question should be amended so as to preclude any possibility of their being interpreted erroneously.

23. With respect to the managers of undertakings, the Committee made the following comments in 1960:

The Committee has taken note with interest of the statement contained in the Government's report that the managers of undertakings have the same rights as other citizens with respect to the

formation of organisations. The Committee takes this to mean that the directors of socialist undertakings can, and, in fact, do adhere to the same trade unions as do the workers employed in the undertakings which they direct. The Committee would be glad if the Government would indicate in its next report the provisions according to which these directors can form their own organisations.

24. In its report the Government declares that no provisions in the legislation restrict the freedom of association of managers of undertakings. As the Committee understands the position it would seem that, under the legislation in force, if managers of undertakings wished as wage earners to set up their own occupational organisations, they would have to register their organisations with the "Central Council of Trade Unions". With respect to the associations or "unions" which managers of undertakings might set up outside the trade union movement of salaried workers, they would have to be established in accordance with the procedures laid down in the federal decree of 6 January 1930 (see below).

25. The Committee has also examined the question of non-salaried workers, as the Convention covers workers "without distinction whatsoever". The number of such workers (including members of producers' co-operatives) is considerable.

26. In 1960 the Committee made the following comments with regard to the various categories of non-salaried workers:

It appears to the Committee that non-salaried workers . . . may not set up "trade union organisations" within the meaning of the Labour Code, which does not apply to them. On the other hand, according to the legislation in force, these workers may, subject to certain conditions, set up "unions", such as, according to the Government's report, the Artists' Union, the Writers' Union, etc., and, under certain conditions, these unions may defend the legal and economic interests of their members. According to the decree of 6 January 1930 of the Central Executive Committee and the Council of People's Commissars, the procedure for establishing and dissolving unions shall be prescribed by the legislation of each of the Republics of the U.S.S.R.

The Government declares that the above-mentioned decree does not apply to "trade union organisations". The Committee has taken note of this information, but, as it understands the position, according to the legislation and the terminology used in Byelorussia, the term "trade union organisation" means exclusively the organisations of wage-earning and salaried workers and does not therefore apply to the organisations of non-salaried workers. It can therefore only insist that the legislative texts in force in Byelorussia with respect to the establishment and dissolution of unions be appended to the Government's next report.

The Committee has also examined again the situation, as regards the application of the Convention, of the non-salaried workers who are excluded from the application of the Labour Code, by reason of their membership of kolkhozes and producers' co-operatives. It has observed that the kolkhozes and producers' co-operatives cannot be regarded, either in fact or in law, as "organisations" of workers within the meaning of Article 10 of the Convention. It has also noted that the Government refers, in respect of the right of association of these workers, to the provisions of article 101 of the Constitution of Byelorussia. This reference to article 101 still leaves some doubt subsisting: if this article in fact applies to all "social organisations", the legislation in force (Labour Code) with regard to "trade union organisations" is not applicable to members of kolkhozes and producers' co-operatives; the latter nevertheless appear to be able to combine in "voluntary associations" and "unions" pursuant to other provisions, and in particular, those of the decree of 1930 and of the legislation referred to earlier. In this connection the Government states in its report that "this decree is not applicable to co-operative organisations and collective farms (kolkhozes)" because their establishment and administration are governed by special legislation. The Committee observed however that, although the legislative texts in question in fact do not apply to kolkhozes and producers' co-operatives as such, they might be applicable to individuals who are members of kolkhozes and producers' co-operatives if these workers should choose to combine in a "voluntary association". If that should be the case, the establishment by such workers of "unions", that is to say, organisations which might defend the legal and economic interests of their members, would have to be effected pursuant to the decree of 1930 and of the legislation in application of that decree. In this connection, therefore, the Committee can only repeat the request made earlier with respect to non-salaried workers generally.

27. In its report the Government states that—

members of voluntary associations and unions for the furtherance of members' economic and legal interests may and do join the appropriate trade unions. It points out again that the decree of 6 Janu-

ary 1930 of the U.S.S.R. does not relate to trade unions, or to co-operative organisations such as collective farms (kolkhozes) and adds that "members of collective farms wanting to set up some special organisation for the furtherance of their economic and legal interests would be limited in their activities by this decree.

28. The Committee regrets to note that, notwithstanding its repeated requests, the Government has not supplied copies of the legislation adopted in Byelorussia pursuant to the federal decree of 6 January 1930 to regulate the establishment and functioning of voluntary associations and "unions". It trusts that the Government will not fail to transmit these texts at the 1961 Conference.

29. It would appear that, even if these provisions did not apply to "trade union organisations" as this expression is used in Byelorussia—that is, according to the report, organisations "grouping wage earners and salaried employees"—and having regard moreover to the fact that the existing legislation does not provide specifically for the creation of such organisations by non-salaried workers, the fact that under the general provisions governing associations the public authorities had the right to control ordinary associations would necessarily enable them to control the establishment of any new organisation "for furthering and defending the interests" of non-salaried workers (Article 10 of the Convention). The Committee notes, moreover, that according to certain official Soviet legal textbooks, "unions" are distinguishable from ordinary "voluntary associations" precisely because they have the object of protecting and representing the economic and legal interests of their members.¹ The Committee must accordingly once more urge that copies of the legislation in question be provided.

30. It also appears that, in order to ensure the application of Article 8 of the Convention, it would be necessary to undertake the revision of various legislative provisions of more general application. For example, the order of 15 May 1935, making it necessary to obtain the authorisation of the competent authorities for any meeting, conference, etc. should be amended. In this connection the Committee has noted that, under section 7 of the regulations regarding the rights of factory and local trade union committees, such committees may hold meetings without the prior authorisation of the public authorities. It would appear, however, that the order of 15 May 1935 and the other relevant provisions concerning meetings would give the public authorities the right, if they chose to exercise it, to oppose the establishment of any new organisation or of any new federation or confederation by refusing, for example, to authorise the meeting of the constituent assembly. The Committee therefore expresses the hope that the Government will take all necessary measures to give full effect to Article 8, paragraph 2, of the Convention, according to which "the law of the land shall not be such as to impair nor shall it be so applied as to impair" the various rights provided for in the Convention.

31. As regards the right to organise of foreigners, the Committee made the following comments in 1960:

As the Committee understands the position, the fact that article 101 of the Constitution refers only to citizens does not mean that aliens are prohibited from establishing and joining trade unions. The Committee nevertheless feels obliged to point out to the Government that, when the different provisions of the Labour Code referred to above are amended, it would be desirable to amend article 151 of the Code, which refers specifically only to citizens. As regards the trade union constitution, the Committee observes that article 1 thereof also refers only to citizens.

32. In its report the Government states—

¹ D. M. GENKIN, S. N. BRATUS, L. A. LUNTS and N. B. NOVITSKI: *Sovietskoe Grajdanskoe Pravo* (State Law Publishing House, Moscow, 1950), Vol. 1, pp. 189 ff.

Article 151 of the Labour Code and the Rules of the Soviet Trade Unions contain no provisions stating that members of trade unions must be Soviet citizens. Foreigners are also entitled to join trade unions.

33. The Committee notes with interest that the Rules of the Trade Unions have been amended on this point. It observes, however, that article 151 of the Labour Code still refers only to citizens. It therefore hopes that when the Labour Code is revised, as will be necessary in order to ensure the application of the Convention, article 151 of the Code will be amended accordingly.

34. In 1960 the Committee noted with interest the statement by the Government that article 18 of the Civil Code of the Byelorussian S.S.R. "is not applied to trade union organisations". The terminology of this article, which provides that "the existence of a legal entity may be terminated by the proper organ of government authority . . .", like that of articles 13 and 14, appears to be very broad and to apply equally to all legal entities. The Committee expressed the hope that a specific provision might be inserted in the Civil Code of the Byelorussian S.S.R. in order to give sanction to this practice. As the Government's report gives no information on this point, the Committee hopes that measures may be taken without delay to exclude specifically not only the "trade union organisations" of wage-earning and salaried workers covered by the Labour Code but also all other organisations set up by salaried workers and non-salaried workers for the purpose of "furthering and defending the interests" of their members.

35. Article 101 of the Constitution of the Byelorussian S.S.R., which relates to the various forms of association, provides that the right of citizens to unite in the different "public organisations" is guaranteed "in conformity with the interests of the working people, and in order to develop the organisational initiative and political activity of the masses of the people". The Committee would be glad if the Government would indicate—(a) which authorities would be competent to decide whether in any given case the right of association has been exercised "in conformity with the interests of the working people"; (b) what legal provisions, whether of general application or not, would be applicable in such a case and what kind of sanction could be applied in the event of the competent authorities being of the opinion that certain individuals or organisations did not act in conformity with the interests of the working people; (c) whether there exist any legal decisions relating to these matters.

36. In 1959 and 1960 the Committee made the following direct request to the Government:

The Committee noted that under article 101 of the Constitution "the Communist Party . . . is the leading core of all organisations of the working people, both public and State. The effect of this provision appears to prohibit members of trade unions and their leaders from belonging to any other political party and also to place all organisations of workers under the direction of this Party. The Committee would be glad to know whether the effects of this provision would therefore make it legally impossible for any group of workers, should they so desire, to establish a trade union independent of the Party.

37. In its report the Government states that—

the Soviet trade unions are a mass social non-party organisation grouping on voluntary principles wage earners and salaried employees of all occupations without any distinction. It adds that, following the change of régime, "there is no basis for the existence of any other party than the Communist Party, which has no other interests than those of the workers," and that "the policy of the Communist Party is approved and supported by all the workers. It also states that "it is the trade unions themselves which directly and voluntarily recognise and approve the dominant position of the Communist Party" and refers in this connection to the Rules of the Soviet Trade Unions.

38. The Committee notes that, as it had already observed, all possibility for workers to belong to, or for their organisations to be associated with, any party other than the party in power is necessarily excluded. However, having regard to the fact that the Convention provides for the right of workers to establish "organisations of their own choosing", the Committee would be glad if the Government would indicate whether it would *in law* be possible for any group of workers, if they so desired, to establish a trade union independent of the Party.¹

Central African Republic (ratification: 1961). The Committee has taken note with interest of the report of the Government, to which it addresses a direct request concerning certain new legislative provisions. In view of the importance of the question of freedom of association and the protection of the right to organise, the Committee would be grateful if the Government would be good enough to furnish the information requested in a report for the period 1960-61.²

Cuba (ratification: 1952). The Committee regrets to note that no report has been supplied since 1958. It also notes that certain legislation recently adopted in the field covered by the Convention impairs the guarantees provided for in the Convention (Article 8).

Act No. 22 of 20 January 1959 removed from office the executive committees of the General Confederation of Cuban Workers, trade union federations and trade unions. It appointed a provisional executive committee to direct the General Confederation, responsible for appointing in its turn provisional executive committees for the federations, which were to appoint provisional executive committees of primary trade unions. The Act provides that elections shall be held in primary trade unions for the appointment of their leaders. No corresponding provisions are contained in the Act with regard to federations and the Confederation. Consequently, the entire trade union movement may find itself placed under the direction of committees appointed by the State, and the organisations have been deprived, amongst other things, of the right "to elect their representatives in full freedom" at all levels, which is provided for in Articles 3 and 6 of the Convention.

The Committee also notes that section 7 (j) of Act No. 696 of 22 January 1960 empowers the Minister of Labour "for just cause and in accordance with the law, to control employers' undertakings and workers', employers' and occupational organisations when this is necessary for keeping the centres of production in activity or the exercise of trade union or social rights, by appointing for this purpose 'Controller-Delegates' judged by him to possess the necessary qualifications". The Committee would be glad if the Government would indicate the scope of these powers and whether the Minister of Labour has invoked them in respect of occupational organisations and, if so, in what circumstances.

Furthermore, in the absence of a report, the Committee recalls the observations made by it in 1958 regarding the right of public officials to establish trade unions, "political" activities of trade unions (Decree No. 2605 of 1933) and the presence of an official of the Ministry of Labour at trade union meetings (Decree No. 1683 of 1958). It has requested the I.L.O. to communicate the text of these observations to the Government directly.

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the period 1960-61.

² The Government is requested to furnish a report for the period 1960-61.

The Committee hopes that the Government will supply a detailed report on the application of the Convention and will take the necessary measures to bring the legislation into conformity therewith.¹

Denmark (ratification: 1951). The Committee took note of Act No. 154 of 7 June 1958 concerning public servants, which superseded Act No. 301 of 1946. It noted with interest that under the new Act the "recognition" of organisations by the administration for bargaining purposes is based on certain objective criteria with regard to the representative character of the organisation, and is subject to revision. The Committee also noted that under the new Act there is no limitation on the number of organisations that may be granted such recognition.

Dominican Republic (ratification: 1956). The Committee has noted that, according to the terms of section 265 of the Labour Code and of regulation 67 of Regulations No. 7676 to apply the Labour Code, the provisions of the Code shall not apply "to any agricultural undertaking, agricultural undertaking of an industrial type or stock-raising or forestry undertaking" which does not continuously and permanently employ more than ten persons. These provisions are not compatible with Article 2 of the Convention, according to which workers "without distinction whatsoever" shall have the right to establish and join organisations of their own choosing without previous authorisation.

The Committee hopes that in its next report the Government will indicate the measures that it intends to take to bring its legislation into conformity with the Convention in this respect.

Guatemala (ratification: 1952). The Committee has noted that Congress has not yet examined the draft revision of the Labour Code, but has been asked by the President of the Republic to adopt this legislation at an early date. The Committee recalls that the present Labour Code is incompatible with the standards of the Convention with respect to the following points: prohibition of the constitution of trade unions by public officials and employees in the service of the State; restrictions of the trade union rights of agricultural workers; period of office and prohibition of immediate re-election of trade union officers; previous authorisation for the functioning of trade unions; administrative supervision of trade unions; possibility of dissolution by administrative authority. All these divergences were the subject of detailed observations in 1957, 1958 and 1959; the Committee hopes that account will be taken of them in the revision of the Labour Code and that such revision will enable the Government to indicate at the 45th Session of the Conference that henceforth it fulfils the international undertakings assumed when it ratified this Convention in 1952.²

Honduras (ratification: 1956). The Committee has taken note with interest of the very detailed report furnished by the Government following the adoption of Decree No. 189 of 1 June 1959 to promulgate the Labour Code. It has observed, however, that the legislation in force contains the following divergences from the Convention.

1. The Committee pointed out in 1959 that the provision in the legislation then in force according to which two-thirds of the members of each occupational associa-

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1959-61 period.

² The Government is asked to supply full particulars to the Conference at its 45th Conference and to report in detail for the 1960-61 period.

tion must be nationals of Honduras was not compatible with Article 2 of the Convention, which provides that workers and employers "without distinction whatsoever" shall enjoy the right to organise. It regrets to observe that this provision is aggravated in the new Labour Code (sections 475 and 504), according to which at least 90 per cent. of the members of a trade union must be nationals of Honduras.

2. Section 472, which provides that not more than one works union may exist within a given undertaking, institution or establishment and that, if for any reason more than one such union does exist, only the union having the largest number of members shall be retained, is not compatible with Article 2 of the Convention, according to which workers shall have the right "to establish . . . organisations of their own choosing without previous authorisation".

3. Section 510 (c), which provides that an officer of a trade union must, at the time of his election, be regularly employed in an activity, occupation or trade covered by the union and have been so employed for more than six months during the previous year, would seem to be incompatible with Article 3 of the Convention, according to which workers' organisations shall have the right "to elect their representatives in full freedom". Further, this provision might impede the formation or functioning of certain trade unions.

4. The Committee has noted that the provisions in the Labour Code fixing the necessary majorities for the validity of certain decisions by the trade union require, in particular, a majority of two-thirds of all the members of the union by secret ballot in order to declare a strike (sections 495 and 563) or lockout (sections 495 and 575) and that, in addition, the non-application is punishable by the administrative authorities. Thus, with regard to workers' organisations, sections 570 and 571 provide that the Ministry of Labour and Social Welfare may, by order, impose sanctions, going as far as dissolution, on a trade union which has taken part in a strike which was not decided upon by the necessary majority. Such provisions constitute an intervention by the public authorities in the activities of trade unions which is of a nature to restrict the rights of such organisations, contrary to Article 3 of the Convention.

5. Moreover, section 571 referred to above, providing that the order declaring a strike to be unlawful, has the effect of suspending for from two to six months the legal personality of the union which has furthered or supported the stoppage and may, in addition, pronounce the dissolution of a trade union, is contrary to Article 4 of the Convention, which provides that "workers' . . . organisations shall not be liable to be dissolved or suspended by administrative authority". Also incompatible with this Article are the provisions of section 500 (2) (c), according to which the Ministry of Labour and Social Welfare may suspend the legal personality of a trade union guilty of a contravention of the Code, and the provisions of section 500 (2) (b), which make it possible to suspend the members of the managing committee from the performance of their trade union duties by administrative decision when they have been responsible for a breach of the provisions of the Code.

6. By virtue of section 537, federations and confederations have no power to call a strike; according to section 541, the members of the managing committees of federations or confederations must have been employed in the activity or trade represented by the organisation for more than one year prior to election. These provisions are not compatible with Article 6 of the Convention, which applies Article 3 of the Convention with respect to the functioning of federations and confederations. Indeed, according to this provision, trade union organisations shall

have the right "to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes", while the public authorities shall refrain "from any interference which would restrict this right or impede the lawful exercise thereof".

The Committee expresses the hope that the Government will not fail to take appropriate measures to repeal or amend the provisions in question in order to bring its legislation into full conformity with the Convention. By doing so it would remove any doubt as to the nature of the rules which are applicable, as according to the report the ratified Convention has become part of the legislation of the Republic and applicable as such (article 133 of the Constitution).

Hungary (ratification: 1957). The Committee thanks the Government for the detailed information and texts which it has forwarded in response to the requests made in 1960. It addresses a direct request to the Government to clarify the meaning of some of the information furnished and to give additional information on other points. In view of the importance of the question of freedom of association and protection of the right to organise, the Committee would be grateful if the Government would be good enough to furnish this information in a report for the period 1960-61.¹

Malagasy Republic (ratification 1960). The Committee has taken note with interest of the report of the Government, to which it addresses a direct request concerning certain new legislative provisions. In view of the importance of the question of freedom of association and the protection of the right to organise, the Committee would be grateful if the Government would be good enough to furnish the information requested in a report for the period 1960-61.¹

Mexico (ratification: 1950). The Committee regrets that the Government has furnished no information in its report on the measures taken to bring its legislation into conformity with the Convention, although it had indicated its intention to do so in its previous report. The Committee notes that the Government affirms that the national legislation is in conformity with the Convention. In these circumstances the Committee must again draw attention to the discrepancies existing between the federal legislation and the Convention, which may, moreover, be found also in the legislation of some of the constituent states of Mexico.

1. According to the provisions of sections 49 and 50 of the "New Statute for Workers in the Service of Authorities of the Union", no organisation of public officials may be set up and registered when another organisation already exists in the service, and only the registered organisation enjoys legal personality. Provisions of a similar nature are contained in the legislation relating to the civil services in the following federated states: Oaxaca (regulations to apply the legislation), Morelos (sections 44 and 49, 33 (implicitly), Zacatecas (sections 30 and 33), Tlaxcala (sections 41 and 47), Queretaro (sections 39 and 42), Chihuahua (sections 92 and 96). It follows that, contrary to Article 2 of the Convention, workers in the service of the State are deprived by legislation of the right "to establish organisations of their own choosing without previous authorisation".

2. Under section 47 of the Statute, workers "in positions of confidence" and those who "perform similar duties" are deprived of all right to organise. Provisions

¹ The Government is requested to furnish a report for the period 1960-61.

of a similar nature are contained in the legislation relating to the civil services in the following federated states: Morelos (section 46), Michoacan (section 35), Tlaxcala (section 44), Queretaro (section 53), Chihuahua (section 95). These provisions do not appear to be compatible with Article 2 of the Convention, which provides that workers "without distinction whatsoever" shall have the right to establish and join organisations.

3. According to section 53 of the Statute, re-election of members of the management committee of a trade union is prohibited. Provisions of the same nature are contained in the legislation of the following federated states: Morelos (section 50), Tlaxcala (section 49), Chihuahua (section 99). As the Committee has already pointed out on several occasions, provisions of this kind are not compatible with Article 3 of the Convention, which provides that "organisations shall have the right ... to elect their representatives in full freedom".

4. Section 56 of the Statute prohibits organisations of public officials from adhering to federations or confederations of industrial or agricultural workers. Provisions of the same nature are contained in the legislation of the following federated states: Morelos (section 53), Zacatecas (section 36 (v)), Queretaro (section 46). It seems difficult to reconcile these provisions with Article 5 of the Convention, which provides that "workers' and employers' organisations shall have the right to establish and join federations and confederations".

5. According to section 60 of the Statute, the provisions applicable to trade unions of public officials and, in particular, sections 49, 50 and 53, are also applicable to any federation of such trade unions and, therefore, do not appear to be compatible with Article 6 of the Convention, which provides that Articles 2, 3 and 4 of the Convention "apply to federations and confederations of workers' and employers' organisations". The same incompatibility with Article 6 of the Convention is to be found in the provisions contained in the legislation of the federated states according to which trade unions must join together in one or other designated federation of workers of the state: Morelos (section 54), Michoacan (section 39 (iv)), Queretaro (section 50), Chihuahua (section 93).

6. Bearing in mind that legal personality appears to be indispensable for trade unions in Mexico, the fact that the acquisition of legal personality by a trade union organisation of public officials is subject to the rules laid down in the sections of the Statute and of the legislation of the federated states referred to above in paragraph 1, according to which no new organisation can be recognised when an organisation already exists in the service concerned, does not appear to be compatible with Article 7 of the Convention, which provides that "the acquisition of legal personality by ... organisations ... shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4" of the Convention.

7. Finally, the provisions of section 47 of the Statute, which provide that a public official who has joined a trade union must compulsorily remain a member of that trade union (unless he is expelled by the union), taken together with sections 49, 50 and 60 of the same Statute, according to which only a single trade union organisation can exist in one service and only one federation for the whole of the workers concerned, result in the establishment of a trade union monopoly by legislation. The same consequence ensues in the state of Morelos when the provisions of sections 44, 45, 49 and 54 of the relevant legislation are read together, and in the state of Chihuahua by virtue of sections 92 to 94 and 96. As the Committee has already emphasised on several occasions, an intervention by the State in order to establish

a trade union monopoly by legislation is liable to contravene the fundamental guarantees laid down in the Convention, which provides that "workers and employers ... shall have the right to establish and ... to join organisations of their own choosing" (Article 2) and that workers and employers may "exercise freely the right to organise" (Article 11).

The Committee expresses the hope that the Government will indicate in its next report—

- (a) the measures that it intends to take to repeal or amend the provisions of the "New Statute for Workers in the Service of Authorities of the Union" which are not in conformity with the Convention;
- (b) the measures that it has taken with respect to the federated states in order that the latter may undertake similar action with respect to the above-mentioned provisions in their respective laws relating to the right to organise of public officials, having regard to the fact that by virtue of article 133 of the national Constitution the ratified Convention has become part of the national law;
- (c) the measures that it has taken to bring the observations made above to the notice of the competent authorities of the federated state of Coahuila, in order that the latter may take account thereof when drawing up the draft regulations for public officials in the service of that state which are at present being studied.

Netherlands (ratification: 1950). The Committee has taken note of the further report from the Government which was received during this session. It regrets to observe that the Government does not contemplate amending specifically the provisions of the Act of 22 April 1855 which are not in conformity with Articles 2, 3, 7, 8 and 10 of the Convention.

1. The Committee had noted that the Act of 22 April 1855 permits the Government to refuse to accord legal personality to a workers' or employers' organisation for reasons of public interest, that is to say, for example, according to the Government when it is considered that the association "is not likely to endure" or when "the composition of its committee of management does not offer sufficient guarantees that it will manage the association with due respect for the laws and its constitution and rules". The Committee had also noted that according to the terms of the Act of 24 December 1927 only organisations having legal personality can conclude collective agreements pursuant to that Act. Having regard to the fact that the negotiation of collective agreements is one of the essential means open to organisations for "furthering and defending the interests" of their members (Article 10 of the Convention), the Committee had concluded that the Act of 1855 was not in conformity with the Convention.

2. In 1958, referring to the provisions of article 66 of the Constitution of the Netherlands, by virtue of which the provisions of a ratified Convention override the provisions of all national laws or regulations (constitutional provisions to which the Government had previously made reference), the Committee requested the Government to indicate whether it regarded the Act of 1855 as having been amended *ipso facto* with respect to employers' and workers' organisations in such a manner that the establishment of such organisations could not be the subject of any "previous authorisation" (Article 2 of the Convention), and whether in consequence the application for the acquisition of legal personality presented by such an organisation could not meet with refusal on the part of the Government (Article 7 of the Convention). In 1959 the Government indicated in its report that in its view the Act of 1855 was in no way in contradiction with the Convention and that the ratification of the Convention, therefore, had had no effect on the internal legislation.

3. In its supplementary report the Government indicates that it considers that the Collective Agreements Act of 24 December 1927 raises no questions in relation to the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948, because the Act of 1927 merely adds to the existing possibilities the possibility for organisations having legal personality to conclude collective agreements on a statutory basis.

4. The Committee notes, however, that the acquisition of legal personality by organisations is indispensable if they are to be able to conclude collective agreements in accordance with the Act of 1927. Further, according to the information previously communicated by the Government, collective agreements as defined in the Act of 1927 are the only kind which are in practice utilised by organisations in view of the advantages which they present. The Committee observes that, apart from the possibility of concluding collective agreements in accordance with the Act of 1927, the acquisition of legal personality by an organisation also confers numerous advantages on the organisation itself and on its members (possibility of bringing and defending legal proceedings, personal immunity of its officers for acts performed in that capacity within the limits of their competence, etc.). It follows that, even if the acquisition of legal personality is not indispensable to enable an organisation to exist *de facto*, the advantages conferred by having that status are such that an organisation which did not have it would have great difficulty in "furthering and defending the interests" of its members (Article 10 of the Convention) or might even in practice find it impossible to do so. As the Committee pointed out in its general remarks in 1959 "it is clear that in such cases, if the authority competent... has power to refuse this formality in its discretion, the situation is not very different from that in cases in which previous authorisation is required."¹

5. The Committee must therefore observe once again that the Act of 22 April 1855 allows the Government very considerable discretion in assessing the desirability of according or refusing legal personality to a workers' or employers' organisation, whereas, according to Article 7 of the Convention, "the acquisition of legal personality by workers' and employers' organisations, federations and confederations" should not be "made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4" of the Convention. The Committee notes that, even if the decision of the Government is not a previous decision in the sense that the organisation can exist as such *de facto*, the decision nevertheless constitutes a "previous authorisation" within the meaning of Article 2 of the Convention, in view of the fact that, so long as the decision has not been taken, the organisation can hardly "further and defend the interests" of its members (Article 10). Moreover, the possibility accorded by the Act to the Government to judge whether an organisation is "likely to endure" or whether its officers offer "sufficient guarantees" hardly appears to be compatible with Article 3 of the Convention, according to which "the public authorities shall refrain from any intervention which would restrict" or impede the exercise of the right of organisations "to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes". Finally, the provisions of the legislation referred to above are also not in conformity with Article 8 (2) of the Convention, according to which "the law of the land shall not be such as to impair... the guarantees provided for in this Convention".

6. The Committee notes, as it has done previously, that, from the information available, the legislative provisions referred to above (sections 1 and 7 of the Act of

¹ I.L.O.: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part IV) International Labour Conference, 43rd Session, Geneva, 1959 (Geneva, 1959), p. 107, para. 27.

1855) seem never in fact to have been utilised in order to prohibit the establishment of any trade union organisation. Nevertheless, as the Committee has already emphasised on several occasions, it is not sufficient that the application of legislative provisions shall be in accordance with the guarantees prescribed by the Convention only in practice, as such practice may always be modified; further, it would appear that in order to comply fully with its international obligations a government should not find it difficult to repeal or amend legislative provisions, especially if it is in order to sanction an established practice.

The Committee must therefore again urge the Government to take the necessary measures expressly to amend or repeal sections 1 and 7 of the Act of 22 April 1855, in so far as organisations of workers and employers are concerned, and to bring the legislation into conformity with the Convention.¹

Niger (ratification: 1961). The Committee has taken note with interest of the report of the Government, to which it addresses a direct request concerning certain new legislative provisions. In view of the importance of the question of freedom of association and protection of the right to organise, the Committee would be grateful if the Government would be good enough to furnish the information requested in a report for the period 1960-61.²

Pakistan (ratification: 1951). The Committee notes that the committee entrusted with the examination of the observations respecting Article 2 of the Convention, with a view to recommending suitable action to the Government, will complete its work shortly. The Committee trusts that the Government will find it possible to inform the Conference at its 45th Session that considerable progress has been made with a view to amending the legislation now in force which, as stressed by the Committee since 1954, does not permit public servants to establish and join freely organisations of their own choosing.¹

Philippines (ratification: 1953). The Committee notes that the Bill relating to the elimination of the affidavit requirement from officers of trade unions regarding their political opinions is still pending in Congress. It also notes with interest from the report that the competent department will bring to the attention of Congress the points raised by the Committee in 1959. The Committee hopes that the Government will be able to indicate what measures have been taken to this effect and what progress may thus have been made with a view to bringing the legislation into conformity with Article 3, paragraph 1, of the Convention, which provides that workers' and employers' organisations shall have the right to elect their representatives in full freedom, and with Article 4 of this instrument, which provides that workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.²

Poland (ratification: 1957). The Committee has noted the information supplied by the Government to the Conference but observes with regret that this year the Government has not supplied the report requested.

1. Information from the Government and the text of legislation reveal that the Central Council of Trade Unions has a dual character: it is the supreme trade union

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the period 1960-61.

² The Government is requested to furnish a report for the period 1960-61.

body (as recognised by section 6 of the Act of 1949) and a body with certain state powers. As the Committee noted in 1960, "the rules followed by the Central Council of Trade Unions with respect to the registration of trade unions have, both in fact and in law, the force of regulations governing the application of the Act of 1 July 1949". This is confirmed by the statement of the Government representative at the Conference, who stated that the implementation of the Act "was ensured not by government decisions but by decisions taken by the trade unions themselves". This is also to be deduced from the fact that the Central Council is empowered by law to grant legal personality to trade unions, which must of necessity be registered with it (section 9).

2. In these circumstances it is not possible to decide in what capacity the Central Council is acting when it registers a trade union. Even if it be admitted that it is acting as the supreme trade union body, it is thus statutorily entitled to act both as a judge and as a party to the proceedings, and to refuse registration to any new organisation which does not wish to join the confederation (sections 8 (*d*), 21 (*e*) and 23 of the rules of the confederation)—in other words, it may deny a union any legal right to exist.

3. It follows from what has just been said that the Act of 1 July 1949 delegates to a body designated by name the exercise of certain powers, including the power of itself deciding whether a union may or may not exist as such. This is therefore an "authorisation" under Article 2 of the Convention, and the fact that the authorisation is granted not by the Government but by another body under a delegation of powers does not alter the situation.

4. In any case, as already pointed out by the Committee, the Act of 1 July 1949 has the effect of prohibiting workers from forming, if they so wished, any new organisation that would be independent of any existing one. Therefore it does not allow them to establish organisations "of their own choosing" (Article 2 of the Convention).

5. In this connection the Conference Committee noted that "the Convention did not impose trade union pluralism", but "it required the opportunity to be given to all workers to establish the trade unions of their own choosing" and that "trade union unity should therefore not be imposed by law".

6. The various items of information available also show that the legislation in force does not allow workers' organisations to draw up their own rules, etc., in full freedom as provided for in Article 3 of the Convention, since under the Act and the regulations issued under it such organisations are under the supervision of a body designated by the Act of 1 July 1949 (section 9) and must comply with the rules and instructions issued by that body (sections 8 (*d*), 21 (*e*) and 23 of the rules of the confederation).

7. The above-mentioned provisions are also incompatible with Articles 5 and 6 of the Convention, which provide the same guarantees for federations and confederations as for primary organisations (establishment without prior authorisation, free choice among existing organisations, freedom to draw up their constitutions and to organise their administration and activities).

8. According to the statement made by the Government representative to the Conference, directors of state undertakings are free to join existing trade unions. They belong to the same union as the workers in their undertakings and may also form their own trade union sections. In so far as such persons are regarded as

employees the foregoing remarks are also applicable to them, since in particular they may not form organisations " of their own choosing without previous authorisation " (Article 2 of the Convention).

The Committee expresses the hope that the Government will consider the action to be taken with a view to bringing its legislation into conformity with the Convention on these points and to ensure that workers are fully entitled " to establish . . . organisations of their own choosing without previous authorisation ".¹

Rumania (ratification: 1957). The Committee has noted with regret that the Government's report does not furnish any information on several points which were the subject of a direct request in 1960. As, in the absence of the information requested, it is impossible to examine how far effect is given to the Convention in Rumania, the Committee must urge that specific and detailed replies be furnished in respect of the different questions in the Government's next report.²

Senegal (ratification: 1960). The Committee has taken note with interest of the report of the Government, to which it addresses a direct request concerning certain new legislative provisions. In view of the importance of the question of freedom of association and protection of the right to organise, the Committee would be grateful if the Government would be good enough to furnish the information requested in a report for the period 1960-61.²

Ukraine (ratification: 1956). In 1960, although no report had been received³, the Committee expressed the hope that the Government would have regard, in the revision of the labour legislation which appeared to be in progress, to certain points mentioned in detail in a direct request.

The Committee has taken note of the information furnished by the Government in its reports. It observes with regret that the Government does not refer to any revision of existing legislation, although several provisions thereof are incompatible with the Convention.

As is apparent from the various comments made below, the main provisions which may restrict the rights provided for in the Convention and infringe the guarantees laid down therein are sections 152, 153, 156, 157 and 158 of the Labour Code, the decrees of 23 June 1933 and 21 August 1934, the order of 15 May 1935, article 18 of the Civil Code and possibly also the provisions applying the federal decree of 6 January 1930. The Committee expresses the hope that the Government will take all necessary measures to amend, repeal or supplement the provisions in question, having regard to the observations made below, which relate to the direct request made by the Committee in 1960 and to the information contained in the Government's reports.

1. The Committee observes that paragraphs 1 and 2 of the request of 1960 have not been commented on by the Government. These paragraphs read as follows:

In the first place the Committee has observed that the Government refers to the provisions of article 106 of the Constitution of the Ukrainian S.S.R. which, it declares, guarantees to the workers the right to establish trade unions without previous authorisation. It notes, however, that this

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

² The Government is requested to furnish a detailed report for the period 1960-61.

³ This report was received during the session of the Conference, and was referred to the Committee for examination. The Committee has accordingly taken into account the information contained therein, as well as the information in this year's report.

constitutional provision establishes a right which is exercised according to rules established by law; thus the "social organisations" referred to in the Constitution are set up and function in accordance with certain rules prescribed by law in respect of each of them. It is necessary therefore to consider to what extent the legislation in force guarantees freedom of association as defined by the Convention.

In this connection the Committee observes that the legislation of the Ukrainian S.S.R. draws a distinction between salaried and wage-earning workers, on the one hand, and self-employed (non-salaried) workers, on the other.

2. Firstly, as regards salaried workers, the Committee pointed out in 1959 and 1960 that—

the provisions of articles 152 and 153 of the Labour Code, read together, resulted in a requirement of "previous authorisation" which is not compatible with article 2 of the Convention.

3. The Committee also observed that—

from the information available the Central Council of Trade Unions would appear to have a dual character: firstly, that of a superior federal organisation of all the trade unions, and secondly, that of an organ invested with the exercise of a part of the powers of the State, because it has the function of "issuing" the rules for the application of labour legislation. In these circumstances it does not always seem possible to ascertain in which capacity this organ is acting on each occasion that it performs a function, especially where it is effecting the registration of a trade union.

4. The Committee also noted that—

quite apart from the capacity in which this organ acts when effecting registration, it is clear from the terms of article 153 of the Labour Code that no trade union can legally exist as such if it has not been registered with an organ on which this power is conferred by a law which also leaves it full freedom to grant or to refuse the registration requested.

5. The Committee was therefore led to the conclusion that—

articles 152 and 153 of the Labour Code, by prescribing a formality of a substantial character, compliance with which is indispensable before trade unions can "claim the rights of trade unions", must therefore be regarded as establishing a "previous authorisation" within the meaning of Article 2 of the Convention.

6. In its report the Government states that—

article 106 of the Constitution of the Ukrainian S.S.R. provides that all workers have the right to unite in social organisations, including trade unions. It stresses that the registration of the rules of trade unions is required by the Rules of the Soviet Trade Unions (rule 56), which were adopted by the representatives of the trade unions themselves, so that there exists no conflict between these provisions and articles 152 and 153 of the Labour Code. It adds that "these articles are not contrary to Article 2 of the Convention, since no previous authorisation is required either from a state organ or any other agent".

7. As regards the Central Council of Trade Unions the Government states that—

"the Central Council of Trade Unions is only an organ of the Soviet trade unions". "The fact that it has been entrusted with certain functions previously carried out by state bodies does not mean that it also carries out certain functions pertaining to the State." The Government points out that, in accordance with decisions which have been taken, certain state duties are gradually being transferred to social organisations and states that "the fact that certain functions of the State are entrusted to social organisations or trade unions does not mean that these come under state control, but merely that the nature of the functions themselves has changed and that, from being functions pertaining to the State, they have now become functions of a social nature".

8. The Committee must observe, however, that the registration of a trade union with an inter-union organisation—in this case, as the Government itself points out, the Central Council of Trade Unions—which can refuse registration, constitutes an *indispensable formality* which must be fulfilled in order that a trade union can *legally* exist as such. In fact, article 153 of the Labour Code specifically provides that "no trade union which has not been registered with an inter-union organ... can style itself a trade union or claim the rights of a trade union".

9. It would also appear from the information before the Committee that, in fact as well as in law, the Central Council of Trade Unions has not merely the character of the supreme executive trade union organ; it is also an organ endowed with a portion of the state power, in view of the fact that it can, among other things, by virtue of the decrees of 23 June 1933 and 21 August 1934, issue regulations governing the application of labour legislation. Moreover, in view of the fact that, as the Government itself confirms, registration must be effected with the Central Council of Trade Unions and that the latter is responsible for the application of labour legislation—including provisions relating to the establishment of trade unions—it would appear, as the Committee observed in 1960, that even if this organ acts in its capacity as the supreme organ of the existing trade unions, it is thus placed in a position in which it is both judge and interested party.

10. It would therefore seem, as the Committee has already pointed out in 1959 and in 1960, that articles 152 and 153 of the Labour Code result in a requirement of “previous authorisation” within the meaning of Article 2 of the Convention.

11. As the Committee noted in 1960—

the fact, put forward by the Government’s representative at the Conference [in 1959], that the requirement of registration laid down in the Labour Code does not amount to previous authorisation, because “registration of trade unions followed their establishment”, does not materially alter the elements of the problem because, in default of registration, a trade union could not operate as such and also could not have the legal personality which is necessary for its activities, as defined in Article 7 of the Convention.

12. In 1960 the Committee also made the comments set out below. As the report contains no indications with regard thereto, the Committee would be glad if the Government would supply the information requested:

The Committee has noted with interest that, according to the statement of the Government representative at the Conference [in 1959], “there exist organisations which are not registered with an inter-union organisation”. It would be grateful if the Government would state whether the “organisations” referred to are really “trade union organisations” within the meaning of this term under the law and practice of the Ukraine, that is to say, organisations of wage-earning or salaried workers, or whether they are other “social organisations” and, in the latter alternative, whether such organisations have the right, in accordance with Article 10 of the Convention, to “further and defend the interests” of their members.

13. With regard to the establishment of organisations of the workers’ “own choosing”, the Committee noted in 1960 that—

the Government emphasises that articles 152 and 153 of the Labour Code refer to “inter-union organisations” in the plural and, therefore, “do not limit the number of inter-union organisations which might be set up”. The Committee observes, however, that the establishment of a new “inter-union organisation” would, according to the legal provisions, clearly be impossible without the consent of the existing inter-union organisation, which has the full right to withhold it. Such establishment in fact could be achieved only by two trade unions already in existence which, in order “to claim the rights of a trade union” and especially the right to set up an “inter-union organisation” would first have to secure their registration by an existing inter-union organisation.

In any event it would appear also that the “free choice” by the founders in respect of the organisation they might wish to establish is limited by the aforesaid provisions of the Labour Code. Under the terms of Article 2 of the Convention, workers shall have the right to establish organisations “of their own choosing”, including, if they so wish, new organisations independent of all other existing organisations. They are prohibited from doing so by articles 152 and 153 of the Labour Code which, in this respect also, are not compatible with the Convention.

14. The Committee notes that the Government has not dealt with these points. It also observes that, when a unified trade union movement in a country results solely from the will of the workers, this situation does not require to be sanctioned by legal texts, the existence of which might give the impression that the unified trade

union movement is merely the result of existing legislation or is kept in force only through such legislation.

15. In 1960 the Committee observed that articles 152 and 153 of the Labour Code might—

also be regarded as constituting an “interference” by the State which is incompatible with Article 3 of the Convention, because they result in prohibiting a trade union organisation from drawing up its constitution and rules, organising its administration and activities and formulating its programme “in full freedom”, because every organisation is placed compulsorily under the control of an inter-union organisation.

16. In its report the Government declares that this conclusion is erroneous because—

articles 152 and 153 of the Labour Code do not provide for any compulsory control of trade unions by the inter-union organisations.

17. The Committee notes, however, that under rule 56 of the Rules of the Trade Unions, to which the Government refers in its report, the Central Council of Trade Unions may refuse to register the rules of a trade union if they are not in accordance with the Rules of the Soviet Trade Unions. In view of the fact that such refusal of registration may result, by virtue of article 153 of the Labour Code, in a trade union being prohibited from existing as such (see paragraph 8 above), it would appear that articles 152 and 153 place restrictions on the right of organisations to draw up their constitutions and rules in freedom, to organise their administration and activities and to formulate their programmes. From this point of view, therefore, articles 152 and 153 of the Labour Code constitute an “interference” on the part of the public authorities, through the medium of legislation, which is incompatible with Articles 3 and 8 of the Convention.

18. With respect to the establishment by primary organisations of federations and confederations, the Committee pointed out in 1959 and 1960 that, even in the absence of any specific provisions to that effect, articles 152 and 153 of the Labour Code have the effect of prohibiting the establishment of federations or confederations outside the existing trade union movement (see paragraph 13 above). The Government's report contains no information of a nature to modify this conclusion (see paragraph 14 above).

19. The Committee also referred to articles 156, 157 and 158 of the Labour Code. In its report the Government indicates that—

these articles do not preclude the existence in an undertaking of several committees, as organs of different trade unions. In actual fact, these articles merely state that the workers of the same undertaking, institute or organisation, who are members of the same trade union, shall be represented by the committee of that union. The situation is different in undertakings, institutions or organisations where there are workers belonging to different trade unions. It is obvious that each group of workers will be represented by the committee of the trade union to which the group belongs. That is a situation found, for instance, in higher educational establishments where the interests of the students are represented by the committee of one trade union and those of the teaching and administrative staff by that of another.

20. It would appear, however, that the practice referred to by the Government does not mean that when a trade union committee already exists in an undertaking in order to represent certain categories of workers the workers belonging to these categories may if they wish set up another organisation. The manner in which articles 156, 157 and 158 of the Labour Code are drafted would seem, on the contrary, to preclude the possibility of a second organisation representing the same categories of workers being set up. As the fact of this being prescribed by legislation

would not be compatible with the Convention, the articles in question should be amended so as to preclude any possibility of their being interpreted erroneously.

21. With respect to the managers of undertakings, the Committee made the following comments in 1960:

The Committee also understands that the directors of undertakings can, and, in fact, do adhere to the same trade unions as do the workers employed in the undertakings which they direct. The Committee would be glad if the Government would indicate in its next report whether these directors can "form their own organisations" that is, organisations which can "further and defend the interests" of their members, and, if so, what are the relevant legislative provisions or regulations.

22. The Government states in its report that—

"Article 106 of the Constitution grants all Soviet workers the right to unite in social organisations" (trade unions, voluntary associations, unions and co-operatives), and adds that "managers of Soviet undertakings are themselves workers and consequently the rules of article 106 of the Constitution apply to them as well".

23. As the Committee understands the position it would seem that, under the legislation in force, if managers of undertakings wished, as wage earners, to set up their own occupational organisations, they would have to register their organisations with the Central Council of Trade Unions. With respect to the associations or "unions" which managers of undertakings might set up outside the trade union movement of salaried workers, they would have to be established in accordance with the procedures laid down in the federal decree of 6 January 1930 (see below).

24. The Committee has also examined the question of non-salaried workers, as the Convention covers workers "without distinction whatsoever". The number of such workers (including the members of producers' co-operatives) is considerable.

25. In 1960 the Committee made the following comments concerning the various categories of non-salaried workers:

It appears to the Committee that non-salaried workers... may not set up "trade union organisations" within the meaning of the Labour Code, which does not apply to them. On the other hand, according to the legislation in force, these workers may, subject to certain conditions, set up "unions", such as the Artists' Union, the Writers' Union, etc., and, on certain conditions, these unions can defend the legal and economic interests of their members. According to the decree of 6 January 1930 of the Central Executive Committee and Council of People's Commissaries, the procedure for the setting-up and dissolution of these unions shall be determined by the laws of each of the Republics of the U.S.S.R.

As the Committee understands the position, while the above-mentioned decree is not applicable to "trade union organisations", properly so-called, the term "trade union organisation", according to the legislation and terminology used in the Ukraine, means exclusively the organisations of wage-earning and salaried workers and does not therefore apply to the organisations of non-salaried workers. The Committee must insist that the legislative texts in force in the Ukraine be appended to the Government's next report.

The Committee has also examined again the situation, as regards the application of the Convention, of the non-salaried workers who are excluded from the application of the Labour Code by reason of their membership of kolkhozes and producers' co-operatives. It has observed that the kolkhozes and producers' co-operatives cannot be regarded, either in fact or in law, as "organisations" of workers within the meaning of Article 10 of the Convention. It has also noted that the Government refers, in respect of the right of association of these workers, to the provisions of article 106 of the Constitution of the Ukraine. This reference to article 106 still leaves some doubt subsisting: if this article in fact applies to all "social organisations", the legislation in force (Labour Code) with regard to trade union organisations is not applicable to members of kolkhozes and producers' co-operatives; the latter nevertheless appear to be able to combine in "voluntary associations" and "unions" pursuant to other provisions and, in particular, those of the decree of 1930 and of the legislation referred to earlier. In this connection the Committee understands the situation to be that these provisions are not applicable to co-operative organisations and collective farms (kolkhozes) because their establishment and administration are governed by special legislation. The Committee observes however that, although the legislative texts in question in fact do not apply to kolkhozes and producers' co-operatives as such, they might be applicable to individuals who are

members of kolkhozes and producers' co-operatives if these workers should choose to combine in a "voluntary association". If that should be the case, the establishment by such workers of "unions", that is to say, organisations which might defend the legal and economic interests of their members, would have to be effected pursuant to the decree of 1930 and the legislation applying that decree. In this connection, therefore, the Committee can only repeat the request made earlier with respect to non-salaried workers generally.

26. In its report, the Government states that—

the organisation and registration of voluntary associations and unions is governed by articles 281-309 of the Administrative Code of the Ukrainian S.S.R. and a decree of the All-Union Central Executive Committee and the Council of People's Commissars of the Ukrainian S.S.R. of 20 February 1933. The associations and unions covered by these provisions do not come within the scope of the Convention, since as a rule their aims and tasks do not include the defence of the rights and economic interests of their members. This however does not preclude the right of members of such voluntary associations and unions to join trade unions in order to defend their rights and economic interests. Similarly there is no limitation on the right of members of collective farms to set up, should they think it necessary, any special organisation to defend their rights and economic interests.

27. The Committee thanks the Government for having specified the legislation applicable to associations and unions. It regrets to note, however, that, notwithstanding its repeated requests, copies of these provisions have not been supplied. It trusts that the Government will not fail to transmit these texts at the 1961 Conference.

28. It would appear that, even if these provisions did not apply to "trade union organisations" as this expression is used in the Ukraine—that is, organisations of wage-earning and salaried employees—and having regard, moreover, to the fact that the existing legislation does not provide specifically for the creation of such organisations by non-salaried workers, the fact that under the general provisions governing associations the public authorities had the right to control ordinary associations would necessarily enable them to control the establishment of any new organisation "for furthering and defending the interests" of non-salaried workers (Article 10 of the Convention). The Committee notes, moreover, that according to certain official Soviet legal textbooks, "unions" are distinguishable from ordinary "voluntary associations" precisely because they have the object of protecting and representing the economic and legal interests of their members.¹ The Committee must accordingly once more urge that copies of the legislation in question be provided.

29. It also appears that, in order to ensure the application of Article 8 of the Convention, it would be necessary to undertake the revision of various legislative provisions of more general application. For example, the order of 15 May 1935 making it necessary to obtain the authorisation of the competent authorities for any meeting, conference, etc. should be amended. In this connection the Committee has taken note of the Government's statement that the provisions of this order "have never applied to trade unions" and are considered obsolete. The Committee has also noted that, according to section 7 of the regulations regarding the rights of factory and local trade union committees, such committees may hold meetings without the prior authorisation of the public authorities. It would appear, however, that the order of 15 May 1935 and the other relevant provisions concerning meetings would give the public authorities the right, if they chose to exercise it, to oppose the establishment of any new organisation or of any new federation or confederation by refusing, for example, to authorise the meeting of the constituent assembly. The Committee therefore expresses the hope that the Government will take all the necessary measures to give full effect to Article 8, paragraph 2, of the Convention,

¹ D. M. GENKIN, S. N. BRATUS, L. A. LUNTS and N. B. NOVITSKI: *Sovietskoe Grajdanskoe Pravo*, op. cit., loc. cit.

according to which "the law of the land shall not be such as to impair, nor shall it be so applied as to impair" the different rights provided for in the Convention.

30. As regards the right to organise of foreigners, the Committee made the following comments in 1960:

The Committee understands that the fact that article 106 of the Constitution refers only to citizens does not mean that aliens are prohibited from establishing and joining trade unions. The Committee nevertheless feels obliged to point out to the Government that, when the different provisions of the Labour Code referred to above are amended, it would be desirable to amend article 151 of the Code, which refers specifically only to citizens. As regards the trade union constitution, the Committee observes that article 1 thereof also refers only to citizens.

31. In its report the Government states that—

the legislation of the Ukrainian S.S.R. and the Rules of the Trade Unions adopted at the Twelfth Congress place no restrictions on the right of foreigners to belong to Soviet trade unions.

32. The Committee notes with interest that the Rules of the Trade Unions have been amended on this point. It observes, however, that article 151 of the Labour Code still refers only to citizens. It therefore hopes that, when the Labour Code is revised, as will be necessary in order to ensure the application of the Convention, article 151 of the Code will be amended accordingly.

33. In 1959 and 1960 the Committee observed that—

under article 18 of the Civil Code, which—according to the preceding sections (especially article 13)—is applicable to trade union organisations, "the existence of a legal entity may be terminated by the proper organ of government authority if . . . the activities of the organs of the legal entity (general meeting or management) deviate in a direction contrary to the interest of the State". The Committee would be grateful if the Government would be good enough to state which, in relation to occupational organisations, is the "proper organ of government authority" that may terminate their legal entity and what procedure is followed in such cases.

34. In its report the Government states—

The bodies competent to decide such questions are the Presidium of the Supreme Soviet of the Ukrainian S.S.R., the Council of Ministers of the Ukrainian S.S.R. and also the executive committees of the relevant local soviets in the case of a local legal entity. There is no known case in the practice of the Ukrainian S.S.R. of the application of article 18 of the Civil Code to trade unions.

The Government adds that the legal capacity of trade unions is governed by the Labour Code of the Ukrainian S.S.R. and the federal decrees of 23 November 1929.

35. The Committee notes this information with interest. It nevertheless hopes that a specific provision will be inserted in the Civil Code of the Ukrainian S.S.R. in order to give sanction to this practice, and that measures will be taken without delay to exclude specifically not only "trade union organisations" of wage-earning and salaried workers covered by the Labour Code but also all other organisations set up by salaried workers and non-salaried workers for the purpose of "furthering and defending the interests" of their members.

36. Article 106 of the Constitution of the Ukrainian S.S.R., which relates to the various forms of association, provides that the right of citizens to unite in the different "public organisations" is guaranteed "in conformity with the interests of the working people, and in order to develop the organisational initiative and political activity of the masses of the people". The Committee would be glad if the Government would indicate—(a) which authorities would be competent to decide whether in any given case the right of association has been exercised "in conformity with the interests of the working people"; (b) what legal provisions, whether of general application or not, would be applicable in such a case and what kind of sanction could be applied in the event of the competent authorities being of the

opinion that certain individuals or organisations did not act in conformity with the interests of the working people; (c) whether there exists any legal decisions relating to these matters.

37. Finally, the Committee would be grateful if the Government would be good enough to furnish the information which was requested, in 1959 and 1960, in a direct request in the following terms:

The Committee has noted that under article 106 of the Constitution "the Communist Party . . . is the leading core of all organisations of the working people, both public and State". The effect of this provision appears to prohibit members of trade unions and their leaders from belonging to any other political party and also to place all organisations of workers under the direction of this party. The Committee would be glad to know whether the effects of this provision would therefore make it legally impossible for any group of workers, should they so desire, to establish a trade union independent of the Party.¹

U.S.S.R. (ratification: 1956). In 1960 the Committee noted that a legislative draft relating to the "principles of labour legislation" was under discussion and that, if this draft were adopted, the existing legislation would presumably be revised. It therefore expressed the hope that, in the course of the revision, the Government would take all necessary measures to take account of the different points mentioned in a direct request.

The Committee has taken note of the information furnished by the Government in its report this year. It observes with regret that the report does not refer to any revision of existing legislation, although several provisions thereof are incompatible with the Convention.

As is apparent from the various comments made below, the main provisions which may restrict the rights provided for in the Convention and infringe the guarantees laid down therein are sections 152, 153, 156, 157 and 158 of the Labour Code of the R.S.F.S.R., the decrees of 23 June 1933 and 21 August 1934, the decree of 30 July 1932 in the R.S.F.S.R. applying the federal decree of 6 January 1930, the order of 15 May 1935 and article 18 of the Civil Code of the R.S.F.S.R. The Committee expresses the hope that the Government will take all necessary measures to amend, repeal or supplement the provisions in question and all corresponding provisions in force in the other constituent Republics, having regard to the observations made below, which relate to the direct request made by the Committee in 1960 and to the replies contained in the Government's report.

1. The Committee observes that paragraphs 1 and 2 of the request of 1960 have not been commented on by the Government. These paragraphs read as follows:

In the first place the Committee has observed that the Government refers "above all" to the provisions of article 126 of the Constitution of the U.S.S.R. which, it declares, "guarantees to all citizens the right to create a social organisation without previous authorisation". It notes, however, that this constitutional provision establishes a right which is exercised according to rules established by law: thus "social organisations" are set up and function in accordance with certain rules prescribed by law in respect of each of them. It is necessary therefore to consider to what extent the legislation in force guarantees freedom of association as defined by the Convention.

In this connection the Committee observes that the legislation of the R.S.F.S.R. draws a distinction between salaried and wage-earning workers, on the one hand, and self-employed (non-salaried) workers, on the other.

2. Firstly, as regards salaried workers, the Committee pointed out in 1959 and 1960 that—

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the period 1960-61.

the provision of articles 152 and 153 of the Labour Code, read together, resulted in a requirement of "previous authorisation" which is not compatible with Article 2 of the Convention.

3. The Committee also observed that—

from the information available, the Central Council of Trade Unions of the U.S.S.R. would appear to have a dual character: firstly, that of a superior federal organisation of all the trade unions, and secondly, that of an organ invested with the exercise of a part of the powers of the State, because it has the function of issuing the rules for the application of labour legislation. In these circumstances it does not always seem possible to ascertain in which capacity this organ is acting on each occasion that it performs a function, especially where it is effecting the registration of a trade union.

4. It also noted that—

quite apart from the capacity in which this organ acts when effecting registration, it is clear from the terms of article 153 of the Labour Code that no trade union can legally exist as such if it has not been registered with an organ on which this power is conferred by a law which also leaves it full freedom to grant or to refuse the registration requested.

5. The Committee was therefore led to the conclusion that—

articles 152 and 153 of the Labour Code, by prescribing a formality of a substantial character, compliance with which is indispensable before trade unions can "claim the rights of trade unions", must therefore be regarded as establishing a "previous authorisation" within the meaning of Article 2 of the Convention.

6. In its report the Government declares that—

The establishment of trade unions is not subject to any previous authorisation by Government, and trade unions established in the country are not subject to any registration with Government agencies. . . . Trade unions are registered with the inter-union organisations, i.e. the All-Union Central Council of Trade Unions.

7. With regard to the All-Union Central Council of Trade Unions the Government indicates that—

The Central Council of Trade Unions is nothing but an organ of the Soviet trade unions, which act independently, being the wage-earning and salaried employees' own organisations. Under Socialist conditions the State and the trade unions work in close mutual co-operation because they are acting in the light of the same interests (those of the workers), although the means and forms of their activity differ. Performing a series of functions allotted to them by the State, the Soviet trade unions act on their own behalf as organisations of the workers, freely accepting these functions because they directly affect the vital interests of the workers.

8. It is further stated in the report that—

A trade union organisation . . . already exists at the moment of registration. Registration is not the event which constitutes the organisation. This is in accordance with article 126 of the Constitution . . . and registration . . . is therefore merely the act which brings the particular organisation into the Soviet trade union system as it has developed in the course of time. According to rule 56 of the Rules of the Trade Unions of the U.S.S.R., it is not the newly established trade union organisation itself, but its rules, which require to be registered by the Central Council. The rules of each trade union are registered with the Central Council only on condition that, expressing the particular character of the trade union, they are in accordance with the Rules of the Trade Unions of the U.S.S.R. If this condition is not fulfilled, the rules of the particular trade union are not registered with the Central Council. But this does not mean that such an organisation would no longer be able to exist in the capacity of a trade union organisation.

9. The Committee must observe, however, that the registration of a trade union with an inter-union organisation—in this case, as the Government itself points out, the Central Council of Trade Unions—which can refuse registration, constitutes an *indispensable formality* which must be fulfilled in order that a trade union can *legally* exist as such. In effect, article 153 of the Labour Code specifically provides that "no trade union which has not been registered with an inter-union organ . . . can style itself a trade union or claim the rights of a trade union".

10. It would also appear from the information before the Committee that, in fact as well as in law, the Central Council of Trade Unions has not merely the character of the supreme executive trade union organ; it is also an organ endowed with a portion of the state power, in view of the fact that it can, among other things, by virtue of the decrees of 23 June 1933 and 21 August 1934, issue regulations governing the application of labour legislation. Moreover, in view of the fact that, as the Government itself points out, "registration is made with the Central Council of Trade Unions" and that the latter is responsible for the application of labour legislation—including provisions relating to the establishment of trade unions—it would appear, as the Committee observed in 1960, that even if this organ acts in its capacity as the supreme organ of the existing trade unions, it is thus placed in a position in which it is both judge and interested party.

11. It would therefore seem, as the Committee already pointed out in 1959 and in 1960, that articles 152 and 153 of the Labour Code result in a requirement of "previous authorisation" within the meaning of Article 2 of the Convention.

12. As the Committee noted in 1960—

the fact, put forward by the Government's representative at the Conference [in 1959 and referred to in the report this year] that the requirement of registration laid down in the Labour Code did not amount to "previous" authorisation, because "only registration of a trade union which has already been set up" is required, does not materially alter the elements of the problems because, in default of registration, a trade union could not operate as such and also could not have the legal personality which is necessary for its activities, as defined in Article 7 of the Convention.

13. With regard to the establishment of organisations of the workers' "own choosing", the Committee noted in 1960 that—

the Government emphasises that articles 152 and 153 of the Labour Code refer to "inter-union organisations" in the plural and, therefore, "do not limit the number of inter-union organisations which might be set up". The Committee observes, however, that the establishment of a new "inter-union organisation" would, according to the legal provisions, clearly be impossible without the consent of the existing inter-union organisation, which has the full right to withhold it. Such establishment in fact could be achieved only by two trade unions already in existence which, in order "to claim the rights of a trade union" and especially the right to set up an inter-union organisation would first have to secure their registration by an existing inter-union organisation.

14. In its report the Government declares that this conclusion is the result of an—

"excessively formalistic interpretation . . . of articles 152 and 153 of the Labour Code of the R.S.F.S.R. [and] is not in keeping with the practice . . .". The Government emphasises that "these articles only provide a statutory confirmation of the system of trade union organisation which has developed in the U.S.S.R. in the course of time" and that "if these articles were [thus] interpreted . . . the conclusion would be reached that no trade unions can be established at all . . . without the existence of an inter-union organisation".

15. The Committee observes that the Government recognises that the provisions of articles 152 and 153 of the Labour Code of 1922 are capable of being applied in a manner incompatible with the Convention. It also observes that, when a unified trade union movement in a country results solely from the will of the workers, this situation does not require to be sanctioned by legal texts, the existence of which might give the impression that the unified trade union movement is merely the result of existing legislation or is kept in force only through such legislation.

16. The Committee also observes that paragraph 9 of the request of 1960 has not been commented on by the Government. This paragraph read as follows:

In any event it would appear also that the "free choice" by the founders in respect of the organisation they might wish to establish is limited by the aforesaid provisions of the Labour Code. Under the terms of Article 2 of the Convention, workers shall have the right to establish organisations "of their own choosing", including, if they so wish, new organisations independent of all other

existing organisations. They are prohibited from doing so by articles 152 and 153 of the Labour Code which, in this respect also, are not compatible with the Convention.

17. In 1960 the Committee observed that articles 152 and 153 of the Labour Code might—

also be regarded as constituting an “interference” by the State which is incompatible with Article 3 of the Convention, because they result in prohibiting a trade union organisation from drawing up its constitution and rules, organising its administration and activities and formulating its programme “in full freedom”, because every organisation is placed compulsorily under the control of an inter-union organisation.

18. In its report the Government declares that this conclusion is erroneous because—

articles 152 and 153 of the Labour Code do not provide for any supervision of trade unions by the inter-union organisations.

19. The Committee notes, however, as the Government indicates in its report (see paragraph 8 above), that the Central Council of Trade Unions may refuse to register the rules of a trade union if they are not in accordance with the Rules of the Trade Unions of the U.S.S.R. In view of the fact that such refusal of registration may result, by virtue of article 153 of the Labour Code, in a trade union being prohibited from existing as such (see paragraph 9 above), it would appear that articles 152 and 153 place restrictions on the right of organisations to draw up their constitutions and rules in freedom, to organise their administration and activities and to formulate their programmes. From this point of view, therefore, articles 152 and 153 of the Labour Code constitute an “interference” on the part of the public authorities, through the medium of legislation, which is incompatible with Articles 3 and 8 of the Convention.

20. With respect to the establishment by primary organisations of federations and confederations, the Committee pointed out in 1959 and 1960 that, even in the absence of any specific provisions to that effect, articles 152 and 153 of the Labour Code have the effect of prohibiting the establishment of federations or confederations outside the existing trade union movement (see paragraph 13 above). The Government's report contains no information of a nature to modify this remark (see paragraphs 14 and 15 above).

21. The Committee also referred to articles 156, 157 and 158 of the Labour Code. In its report the Government indicates that there is nothing in these articles which—precludes the existence of several committees in an undertaking if they are organs of different trade unions. For instance, it is a common practice in the U.S.S.R. for the medical or canteen personnel of an undertaking or institution, who belong to different trade unions from the other classes of persons employed there, to form independent primary trade union organs.

22. It would appear, however, that the practice referred to by the Government does not mean that, when a trade union committee already exists in an undertaking in order to represent certain categories of workers, the workers belonging to these categories may if they wish set up another organisation. The manner in which articles 156, 157 and 158 of the Labour Code are drafted would seem, on the contrary, to preclude the possibility of a second organisation representing the same categories of workers being set up. As the fact of this being prescribed by legislation would not be compatible with the Convention, the articles in question should be amended so as to preclude any possibility of their being interpreted erroneously.

23. With respect to the managers of undertakings, the Committee made the following comments in 1960:

The Committee has taken note with interest of the statement of the Government representative at the Conference that the managers of undertakings can “form their own organisations”, that they

are "workers themselves . . . and . . . can belong to the trade unions but . . . are not bound to do so" and also, that "there exists no distinction between workers and directors as regards membership of trade unions; the latter defend the rights of all workers". The Committee takes this to mean that the directors of undertakings can, and, in fact, do adhere to the same trade unions as do the workers employed in the undertakings which they direct. The Committee would be glad if the Government would indicate in its next report the provisions according to which these directors can "form their own organisations".

24. In its report the Government declares that no provisions in the legislation restrict the freedom of association of directors. As the Committee understands the position it would seem that, under the legislation in force, if managers of undertakings, wished as wage earners to set up their own occupational organisations, they would have to register their organisations with the Central Council of Trade Unions. With respect to the associations or "unions" which managers of undertakings might set up outside the trade union movement of salaried workers, these would require to have their rules approved by the competent public authorities and such organisations could not, unless expressly authorised by law, promote and defend the interests of their members (see the decree of 10 July 1932 analysed below).

25. The Committee has also examined the question of non-salaried workers, as the Convention covers workers "without distinction whatsoever". The number of such workers (including the members of producers' co-operatives) is considerable.

26. In 1959 and 1960 the Committee referred, with respect to these workers, to the provisions of the decree of 10 July 1932 of the R.S.F.S.R. issued to apply the federal decree of 6 January 1930. In this connection it pointed out that—

the provisions of sections 11, 14 and 16 of the decree of 1932, which provide that the constitutions and rules of "unions" shall be approved by the competent administrative authorities, are not compatible with Articles 2 and 3 of the Convention, according to which workers' organisations shall have the right to be established "without previous authorisation" and the right to draw up their constitutions and rules "in full freedom" and to formulate their programmes without "interference" by the public authorities. Again, the provisions of sections 17 to 20 of the decree, which prescribe and establish strict supervision of the activities of these "unions" by the administrative authorities, are incompatible with the provisions of Article 3, according to which organisations shall have the right "to organise their administration and activities and to formulate their programmes" without any "interference" on the part of the public authorities. Further, according to sections 22 and 28 of the same decree, these unions may be dissolved by decision of the same administrative authorities, which is clearly incompatible with Article 4 of the Convention, according to which "workers' . . . organisations shall not be liable to be dissolved or suspended by administrative authority". Finally, it would seem that "unions" should have the right, without special authorisation for this purpose (section 8 of the decree of 1932), to "further and defend the interests" of their members (Articles 2, 3, 8 and 10 of the Convention).

27. In its report the Government points out that the "unions" referred to in the decree of 10 July 1932 are not trade unions and that their purpose is not to protect and defend the economic and legal interests of the non-salaried workers belonging to them. The Government emphasises that no use has been made of the possibility provided for in article 8 of the decree of 10 July 1932 according to which these organisations may be authorised by law to defend the interests of their members; it points out that "there is no provision for such exceptions in Soviet legislation".

28. The Committee has taken note of this information. It observes, nevertheless, that, according to certain official Soviet legal textbooks, "unions" are distinguishable from ordinary "voluntary associations" because, precisely, they have the object of protecting and representing the economic and legal interests of their members.¹ In so far as these unions may be regarded as being organisations "for furthering

¹ D. M. GENKIN, S. N. BRATUS, L. A. LUNTS and N. B. NOVITSKI: *Sovietskoe Grajdanskoe Pravo*, op. cit., loc. cit.

and defending the interests ” of their members (Article 10 of the Convention) the provisions of the decree of 10 July 1932 are therefore incompatible with the Convention (see paragraph 26 above).

29. If, on the other hand, “ unions ” do not in fact have as their object the defence of the interests of their members, a question arises as to what means are available to non-salaried workers which would enable them to establish organisations for the furtherance and defence of their interests. The Government appears to refer in this respect to article 126 of the Constitution. It would seem, nevertheless, that, so long as the decree of 10 July 1932 remains in force and is effectively applied, the right enunciated in the said article of the Constitution cannot be exercised freely by non-salaried workers, as the competent authorities will necessarily be bound to control the establishment of any new organisation of non-salaried workers in order to ensure observance of the rules laid down in this decree.

30. In these circumstances, in order to remove any uncertainty as to the manner in which the decree of 10 July 1932 may be applied, and especially in order to avoid the possibility of this decree being used to control the establishment of any organisation of workers having the purpose of defending the interests of its members, it would be necessary for the Government to adopt one of the following solutions:

- repeal the decree of July 1932 and the federal decree of 6 January 1930 and also all other relevant provisions relating to associations; or
- amend the decree of 10 July 1932 so as to bring it into conformity with the Convention; or
- adopt new legal provisions in conformity with the Convention and providing specifically that all non-salaried workers “ have the right to establish organisations of their own choosing without prior authorisation ” for the purpose of “ furthering and defending the interests ” of their members (Articles 2 and 10 of the Convention).

31. It also appears that, in order to ensure the application of Article 8 of the Convention, it would be necessary to undertake the revision of various legislative provisions of more general application. For example, the order of 15 May 1935 making it necessary to obtain the authorisation of the competent authorities for any meeting, conference, etc. should be amended. In this connection the Committee has taken note of the Government’s statement that the provisions of this order “ have never applied to trade unions ” and are considered obsolete as regards other “ social organisations ”. The Committee has also noted that, according to section 7 of the regulations regarding the rights of factory and local trade union committees, such committees may hold meetings without the prior authorisation of the public authorities. It would appear, however, that the order of 15 May 1935 and the other relevant provisions concerning meetings would give the public authorities the right, if they chose to exercise it, to oppose the establishment of any new organisation or of any new federation or confederation by refusing, for example, to authorise the meeting of the constituent assembly. The Committee therefore expresses the hope that the Government will take all the necessary measures to give full effect to Article 8, paragraph 2, of the Convention, according to which “ the law of the land shall not be such as to impair, nor shall it be so applied as to impair ”, the different rights provided for in the Convention.

32. In 1960 the Committee made the following remarks:

The Government has also declared that the fact that article 126 of the Constitution refers only to citizens does not mean that aliens are prohibited from establishing and joining trade unions. The

Government representative referred in this connection to the Preamble of the Constitution of the trade unions of the U.S.S.R. and declared that no legislative provisions exclude aliens, who are, in fact, admitted as union members. The Committee nevertheless feels obliged to point out to the Government that, when the different provisions of the Labour Code referred to above are amended, it would be desirable to amend article 151 of the Code, which refers specifically only to citizens. As regards the Rules of the Trade Unions the Committee observes that article 1 thereof also refers only to citizens.

33. In its report this year the Government indicates that—

the Rules of the Trade Unions of the U.S.S.R. approved by the 12th Congress of Trade Unions of the U.S.S.R. on 27 March 1959 do not state that only citizens of the Soviet Union may be members of the trade unions. Section 1 of the Rules states that “any wage-earning or salaried worker employed in industry, transport, etc. . . . may be a member of a trade union”. The newspaper *Soviet Trade Unions*, No. 9 of 1959, specifically states that aliens have the right to be members of trade unions.

34. The Committee has taken note with interest of this amendment to the Rules of the Trade Unions. It observes, however, that article 151 of the Labour Code still refers only to citizens. It hopes that, when the Labour Code is revised as will be necessary in order to ensure the application of the Convention, article 151 of the Code will be amended accordingly.

35. In several of its reports the Government has included the Rules of the Trade Unions of the U.S.S.R. among the legal texts giving effect to the Convention. The Committee further observed that, in the compilation of labour legislation, published by the U.S.S.R. trade union press, presumably pursuant to the above-mentioned decrees of 1933 and 1934, the chapter dealing with trade unions makes no reference to legislation but reproduces the text of the Rules of the Trade Unions of the U.S.S.R. In these circumstances it would seem that this publication entails a danger of an erroneous interpretation being placed on the legal force of these texts. The Committee would be glad if the Government would indicate any measures that may be taken in order to avoid any misinterpretation.

36. In 1960 the Committee noted with interest the statement by the Government that article 18 of the Civil Code of the R.S.F.S.R. “is not applied to trade union organisations”. The terminology of this article, which provides that “the existence of a legal entity may be terminated by the proper organ of government authority...”, like that of articles 13 and 14, appears to be very broad and to apply equally to all legal entities. The Committee expressed the hope that a specific provision might be inserted in the Civil Code of the R.S.F.S.R. (and, where necessary, in the Civil Codes of the other Republics of the U.S.S.R.) in order to give sanction to this practice. As the Government’s report gives no information on this point, the Committee hopes that measures may be taken without delay to exclude specifically not only the “trade union organisations” of wage-earning and salaried workers covered by the Labour Code but also all other organisations set up by salaried workers and by non-salaried workers for the purpose of “furthering and defending the interests” of their members.

37. Article 126 of the Constitution of the U.S.S.R., which relates to the various forms of association, provides that the right of citizens to unite in the different “public organisations” is guaranteed “in conformity with the interests of the working people, and in order to develop the organisational initiative and political activity of the masses of the people”. The Committee would like to know—(a) which authorities would be competent to decide whether in any given case the right of association has been exercised “in conformity with the interests of the working people”; (b) what legal provisions, whether of general application or not, would be applicable in such a case and what kind of sanction could be applied in the event of the competent authorities being of the opinion that certain individuals or organisa-

tions did not act in conformity with the interests of the working people; (c) whether there exist any legal decisions relating to these matters.

38. Finally, the Committee would be grateful if the Government would be good enough to furnish the information which was requested, in 1959, in a direct request in the following terms:

The Committee has noted that under article 126 of the Constitution of the U.S.S.R. "the Communist Party . . . is the leading core of all organisations of the working people, both public and State". The effect of this provision appears to prohibit members of trade unions and their leaders from belonging to any other political party and also to place all organisations of workers under the direction of this party. The Committee would be glad to know whether the effects of this provision would therefore make it legally impossible for any group of workers, should they so desire, to establish a trade union independent of the Party.¹

United Arab Republic (Egypt) (ratification: 1957). The Committee has taken note with interest of the information furnished by the Government, including information given to the Conference Committee in 1960 and in the discussions in that Committee.

1. According to the information given by the Government, section 162 of the Labour Code, which forbids the formation of more than one general trade union by persons employed in any given occupation, trade or craft in the same region, responds to the need to avoid disputes and splits in the trade union movement. As the Committee has already pointed out on several occasions, while it may be to the advantage of the workers to avoid a multiplicity of trade union organisations, unification of the trade union movement must not be imposed through state intervention by legislative means, as such an intervention runs counter to the rule laid down in the Convention that workers and employers have the right to establish and join organisations "of their own choosing" (Article 2), and shall be enabled to "exercise freely the right to organise" (Article 11).

2. Section 169 (a), as amended by Act No. 132 of 1960, provides that a trade union committee in an establishment will be formed "on condition that the number of workers requesting to contribute is not less than 50". It would appear that the requirement of such a high number of "founders" is likely to hinder the establishment of trade unions, contrary to the Convention, which provides that all necessary and appropriate measures shall be taken to ensure that workers and employers "may exercise freely the right to organise" (Article 11).

3. The Government indicates that section 165 of the Code was enacted in order "to avoid the interference of public authorities" for the purpose of conciliation between the various groups seeking to form a trade union. It would seem that, while the public authority does not intervene directly to authorise the establishment of a trade union by supporting one group rather than another, it delegates its powers by law to a higher trade union organ which is designated by name: indeed, according to section 165, the deposit of the rules—a condition precedent to the carrying on of any activities by a trade union (section 166 of the Code)—can be effected only by a trade union representative furnished with a document issued by the General Federation of Labour (a single central confederation by virtue of section 183 of the Code). Thus, no occupational organisation can legally exist as a trade union if it has not obtained the "authorisation" of the General Federation of Labour. Further, the fact that such competence is, as the Government indicates, entrusted to the General Federation of Labour "as being the higher trade union organisation", places that organisation in a position in which it is both judge and party. Such a rule does not permit the founders to set up an organisation "of their own choosing" whereas, according to

¹ The Government is asked to furnish complete information at the 45th Session of the Conference and to communicate a detailed report for the period 1960-61.

the Convention, they should be able to establish, if they wish, a new organisation independent of any organisation already in existence.

4. Act No. 132 of 1960, which amended section 7 of Act No. 91, has not made any change of substance in the rules resulting from sections 6 and 7 of that Act. Thus, trade unions existing prior to the enactment of the Labour Code are required to integrate themselves in the new trade union system (unified trade unions at all levels) or dissolve. This rule is such as to limit the choice of the workers with respect to the establishment of trade unions or membership in such unions (see paragraph 9 below).

5. According to the explanations given by the Government, section 6 of Act No. 91 providing for the transfer to the Ministry of Social Affairs and Labour of the property of dissolved trade unions is intended to safeguard the property in question: the assets handed over to the Ministry will be transferred to the new trade unions which replace the dissolved trade unions. It would seem, however, that the terminology of section 6, according to which trade union assets are made over to the Ministry of Social Affairs and Labour "for the formation of new trade unions" is likely to make possible intervention on the part of the Government, which could limit "the freedom of choice" of the founders of an organisation. Moreover, in order to give effect to Article 3 of the Convention, the devolution of these assets should take place in the absence of any intervention by the Government, in accordance with the relevant rules laid down in the constitutions and rules of the dissolved trade unions whenever they contain any such rules.

6. The Committee has noted with satisfaction that section 3 of Act No. 132 of 1960 amending section 170 has repealed the last paragraph of that section, according to which a worker who was finally dismissed from an establishment could not continue to be a member of the trade union committee—a provision which was incompatible with the right freely to elect trade union representatives.

The Committee has also taken note of the information furnished by the Government according to which the prohibition laid down in section 163, which provides that no "worker may continue to be a member of a trade union more than two years after the date of his ceasing to be employed", applies solely to members of trade union committees in establishments. The Committee has observed that such a restriction of the scope of application of section 163 is not apparent from the wording of that section which contains, in addition to the prohibition referred to above, rules of general application. In any event, if this provision results in prohibiting the election as trade union officers of persons who are not engaged in the undertaking or occupation represented by the trade union concerned, it is not compatible with Article 3 of the Convention, according to which workers' organisations shall have the right to elect their representatives "in full freedom".

7. The Committee has noted that, according to the information furnished by the Government, the provisions of section 177 of the Labour Code, according to which "notice of every general meeting of a general trade union shall be sent by registered letter to the administrative authority concerned at least seven days before the date fixed for the meeting", a rule which Act No. 132 of 1960 amending section 169 of the Labour Code has extended to general meetings of regional trade unions and works trade unions, is intended to enable the administrative authorities to provide protection in the event of disorder, and that, moreover, these rules are applicable to all kinds of meetings in general. It would seem that such a provision is not justifiable in respect of private meetings held in trade union premises or in premises hired for that purpose. It may, indeed, restrict the right of organisations to organise their activities freely and permit of interventions on the part of the public authorities

contrary to the provisions of Article 3 of the Convention, according to which trade unions shall have the right freely "to organise their... activities", while the public authorities shall "refrain from any interference which would restrict this right". It is also incompatible with Article 8, paragraph 2, of the Convention.

8. The Committee has noted with interest that the Government will examine the measures "which might be taken in order to improve the wording of section 174 of the Labour Code". This section, which forbids trade unions in general terms to "concern themselves with political questions", might, as the Committee has already pointed out on other occasions, be interpreted in such a manner as to place considerable restrictions on the right of trade unions "to formulate their programmes" without any "intervention" by the "public authorities" (Article 3 of the Convention), especially—as the Conference Committee has indicated—as there exists no precise demarcation between the political field, on the one hand, and the economic and social field, on the other.

9. According to section 183, "it shall be unlawful to form more than one federation in either Region or more than one general federation in the United Arab Republic". This provision does not appear to be compatible with Articles 5 and 6 of the Convention, which apply the guarantees laid down in Articles 2 and 3 of the Convention to the establishment of federations and confederations and to affiliation with these higher organisations. Indeed, under these various provisions of the Convention, trade union organisations shall have the right to establish and join federations or confederations "of their own choosing without previous authorisation".

10. Finally, as under section 184 regional or general federations have the same obligations as general trade unions, it would appear that the various provisions referred to above in connection with primary organisations are also incompatible with the corresponding provisions of the Convention in so far as federations and confederations are concerned.

The Committee therefore expresses the hope that the Government will find it possible to take appropriate measures to repeal or amend the provisions referred to above to bring this legislation into conformity with the Convention.

The Committee also observes that the Government has not replied in its report to the request addressed to it directly, in 1960, and expresses the hope that the Government will be good enough to furnish this information in a detailed report in respect of the period 1960-61.¹

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In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Belgium, Burma, Cameroun, Central African Republic, Congo (Brazzaville), Dominican Republic, Federal Republic of Germany, Honduras, Hungary, Ireland, Israel, Italy, Malagasy Republic, Mexico, Niger, Nigeria, Norway, Poland, Rumania, Senegal, Sweden, Tunisia, United Arab Republic (Egypt)*.

Convention No. 88: Employment Service, 1948

Requests regarding certain points are being addressed directly to the following States: *Cyprus, United Arab Republic, Yugoslavia*.

¹ The Government is asked to furnish complete information at the 45th Session of the Conference and to communicate a detailed report for the period 1960-61.

Convention No. 89: Night Work (Women) (Revised), 1948

A request regarding certain points is being addressed directly to *Spain*.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

Argentina (ratification: 1956). The Committee takes note with interest of the Government's first report. It notes with regret, however, that section 6 of the Act respecting the employment of women and children fixes a period of nightly rest for young persons of only ten hours in summer and 11 hours in winter, whereas Article 2 of the Convention fixes the duration of this period of rest at a minimum of 12 consecutive hours including, in the case of children under 16 years of age, the interval between 10 o'clock in the evening and 6 o'clock in the morning, and in the case of young persons between the ages of 16 and 18, an interval of at least seven hours between 10 o'clock in the evening and 7 o'clock in the morning.

The Committee hopes that the necessary steps will be taken to eliminate this important divergence between the legislation and the Convention.

Czechoslovakia (ratification: 1950). The Committee notes with interest that, according to the statement made by a Government representative to the Conference Committee in 1960, the Convention is applied in practice but that, on the basis of the legislation alone, the Committee's observations were justified and that account would be taken of these in connection with the revision of the legislation now under consideration. In the absence of further information on this matter the Committee finds it necessary to refer again to the observations made in 1960, which read as follows:

- (a) although young persons employed in industry do in actual practice enjoy a night rest of at least 12 hours (Articles 2 and 3 of the Convention) this is still not expressly provided for in the existing legislation;
- (b) young persons under 16 years of age cannot be employed at night in bakeries, since the exception for apprentices is authorised under section 2, paragraph 5, of Act No. 177 of 1946 only during the last semester of their course which lasts three years, the school-leaving age being 14 years. The Committee notes, however, that apprentices over 16 but under 18 years of age may start work in bakeries from 3 a.m. whereas under the Convention (Article 3, paragraph 4) they may not start work before 4 a.m.

The Committee trusts that the legislation will be brought into conformity with the Convention on the above two points without further delay.

The Committee finds moreover that the Government has not indicated, in response to the Committee's direct request of 1959, what legislative provisions prohibit night work for male workers between 16 and 18 years of age.

Since the legislation available to the Committee and repeatedly referred to by the Government (Act No. 91 of 1918, section 9, paragraph 1) does not contain such a prohibition, the Committee urges the Government to supply the requested information or, if no such provisions exist, to take the necessary measures with a view to giving full effect to the Convention.¹

Ukraine (ratification: 1956). The Committee notes with interest the Government's intention, expressed in its two latest reports, to extend to 12 hours, including the interval between 10 o'clock at night and 6 o'clock in the morning, the night period during which the work of young persons under 18 years of age is forbidden (Article 2 of the Convention). The Committee trusts that the Government will soon be able to

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

amend its legislation to this effect, and would be grateful if it would in its next report indicate the progress achieved in this connection.

The Committee would further again request the Government to supply information on the results of inspections carried out in accordance with the laws and regulations in force (Article 6, paragraph 2, of the Convention).

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In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Luxembourg*.

Convention No. 92: Accommodation of Crews (Revised), 1949

Portugal (ratification: 1952). The Committee notes with interest that Legislative Decree No. 43026 of 23 June 1960 has been adopted with a view to giving effect to the provisions of the Convention.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Brazil, Portugal*.

Convention No. 94: Labour Clauses (Public Contracts), 1949

Austria (ratification: 1951). The Committee notes that certain differences of view have arisen between the Federal Ministry of Commerce and Reconstruction and the Federal Ministry of Social Affairs as to measures designed to ensure the application of the Convention. The Committee also notes that, at the Government's request, the International Labour Office has provided it with certain information, particularly as to the preparatory work preceding the adoption of the Convention. The Committee hopes that these indications will help the Government in resolving the existing difficulties.

The Committee recalls that the Convention was ratified ten years ago and that the provisions in question have been under consideration since 1955. It therefore trusts that measures to ensure the full application of the Convention will be taken without further delay.¹

Israel (ratification: 1953). The Committee regrets to note that, although it made requests in 1958, 1959 and 1960 for a full copy of the relevant Treasury Regulations and for specimen copies of the record of hours and wages to be kept by employers, and despite the Government's promise in its report for 1957-58 to supply these documents with its next report, none of these documents has yet been supplied. It trusts that the Government will not fail to supply the documents in question with its next report.

The Committee would also be glad if the Government would supply copies of the Standard Forms of Contract (Form A, Annex 13/3 and Form B, Annex 13/4) (referred to in the extract from the Treasury Regulations appended to the last report), neither of which has been made available thus far.

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

Convention No. 95: Protection of Wages, 1949

Afghanistan (ratification: 1957). The Committee notes with interest from the Government's report that the new Labour Code now being prepared with the help of an I.L.O. expert is to give effect to the Convention. The Committee hopes that this legislation will be adopted soon and that the Government's next report will contain detailed information thereon.

Poland (ratification: 1954). In 1957, 1958, 1959 and 1960 the Committee had asked the Government to supply information on the effect given to some of the provisions of the Convention. As no report, and therefore no reply, has been received since 1957, the Committee must question to what extent effect is given to the following provisions of the Convention:

Article 4. Regulation of partial payment of wages in the form of allowances in kind and prohibition of such payment in the form of liquor or noxious drugs.

Article 6. Prohibition to limit the freedom of the worker to dispose of his wages.

Article 8. Regulation of deductions from wages in respect of workers in agriculture, forestry and horticulture.

Article 9. Prohibition of deduction from wages for the purpose of obtaining or retaining employment.

Article 13. Prohibition of the payment of wages to all workers in taverns or similar establishments.

The Committee trusts that the information on the above-mentioned Articles, as repeated more fully in a direct request, will be supplied without further delay and will indicate compliance with the Convention.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Cyprus, Ecuador, Hungary, Ivory Coast, Nigeria, Poland, Spain, Tunisia*.

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Requests regarding certain points are being addressed directly to the following States: *Belgium, Ceylon, France, Netherlands*.

Convention No. 97: Migration for Employment (Revised), 1949

France (ratification: 1954). In 1959 the Committee pointed out the discrepancy arising from the fact that, contrary to Article 6, paragraph (1) (b), of the Convention, discrimination is made on the basis of nationality in the legislation concerning maternity allowances.

In this respect the Government representative stated at the Conference in 1959 that ratified Conventions took precedence over internal legislation in France and that the effective application of this provision would thus depend on the measures taken by the Government to bring the provisions of the Conventions to the notice

of those concerned. This statement implied, as the Committee considered in 1960, admission that the effective application of the Convention would require certain changes in the legal position resulting from internal legislation. In fact, in 1960 the Government, while indicating again the situation from the point of view of internal legislation, stated that certain complex problems which had arisen were being studied by the competent services. The Conference Committee expressed the hope that a satisfactory solution would be found by 1961.

In these circumstances the Committee can only express surprise at the fact that the Government now considers that there is no need to take measures to give effect to the Convention. The Government is of the opinion that "French legislation does not impose conditions on foreigners other than those which are required of French subjects" and explains that "the persons entitled to this allowance are the parents" and that "the latter may claim it, whether they be of French or foreign nationality, if they are resident in France, and if their children are born French or acquire French nationality within three months". The Committee is therefore bound to point out once more that, even if it be admitted that in law the persons entitled to the allowance are the parents, discrimination arises from the fact that the conditions regarding the child's French nationality is automatically satisfied if one of the parents is French (sections 17 to 19 of the Nationality Code) and that only foreigners could fail to satisfy it (section 44 of this Code), the acquisition of French nationality by the child being, moreover, subject to certain conditions and dependent on the absence of opposition from the Government (sections 52 et seq.).

The Committee must therefore point out that in this respect the Convention is not applied in a satisfactory manner, and insist on the necessity of taking appropriate measures to remedy this situation.¹

Guatemala (ratification: 1952). In 1959 the Committee noted that the national legislation does not ensure the application of Article 8 of the Convention, which provides that a migrant for employment admitted on a permanent basis shall not be returned to his territory of origin if he is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to entry.

As the report supplies no information on this matter, the Committee once again expresses the hope that the Government will take the necessary measures to bring the legislation into conformity with the Convention in this respect.

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In addition, requests regarding certain other points are being addressed directly to the following States: *France, Guatemala*.

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

Byelorussia (ratification: 1956). See under Convention No. 87.

Dominican Republic (ratification: 1953). The Committee notes with interest the amendment of section 307 of the Labour Code, aimed at giving a larger protection to workers against acts of discrimination and to their unions against acts of interference, as well as encouraging collective bargaining. It notes, however, that, contrary to the Convention which applies to all workers, the Labour Code excludes certain

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

agricultural workers from its scope, and thus denies to the latter trade union rights and *a fortiori* the benefits of the section mentioned above. (See under Convention No. 87.)

Guatemala (ratification: 1952). See under Convention No. 87 as regards workers other than public officials who are employed in public undertakings.

Japan (ratification: 1953). The Committee has taken note with interest of the information furnished orally by a Government representative to the Conference and also of the detailed report furnished by the Government.

1. According to the Government, section 4 (3) of the Public Corporation and National Enterprise Labour Relations Law, providing that trade union officers must be persons employed in the undertaking in which the trade union carries on its activities, is intended to protect the trade union movement in this sector of the economy against "subversive elements"; further, this section cannot afford a pretext for acts of interference because the grounds for dismissal are defined in the Law and various appeal procedures are available to the persons concerned; finally, the onus of proving the reason for dismissal falls upon the employer.

2. The Committee observes, however, that it would be extremely difficult for a worker who was dismissed by an employer invoking, for example, "neglect of duty" (section 31 (2) of the Japanese National Railways Law) to prove that the real motive for his dismissal was to be found in his trade union activities. Further, as lodging of an appeal does not suspend the decision taken, a dismissed trade union leader must, under the provisions of the Law, resign his trade union post when he is dismissed. As the Committee emphasised in 1959, section 4 (3) of the Public Corporation and National Enterprise Labour Relations Law and section 5 (3) of the Local Public Enterprise Labour Relations Law, which is in similar terms, make it possible for the managements of these undertakings to hinder the activities of a trade union and thus run counter to Article 2 of the Convention, according to which "workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration".

The Committee therefore expresses the hope that, in order to secure the full application of the Convention, the Government, which has expressed its intention to repeal the provisions referred to above, will be able to effect this repeal in the near future.

Morocco (ratification: 1957). The Committee has noted with satisfaction the repeal of the dahir of 19 July 1957, which, as it had pointed out in a direct request, might have led to acts of interference.

Pakistan (ratification: 1952). The Committee has taken note with interest of Ordinance No. XIV of 1960 amending the Trade Unions Act. Section 28 (I) of this text provides protection for workers' organisations against acts of interference (Article 2 of the Convention) and protection for workers against acts of discrimination with respect to dismissal (Article 1, paragraph (2) (b)).

Rumania (ratification: 1958). The Committee has taken note with interest of the very brief first report furnished by the Government. It addresses a direct request to the Government with a view to obtaining certain additional information. As in the absence of this information it is impossible to examine how far effect is given to the Convention in Rumania, the Committee would be grateful to the Government if it

would furnish detailed information in this connection in a report for the period 1960-61.¹

Ukraine (ratification: 1956). See under Convention No. 87.

U.S.S.R. (ratification: 1956). See under Convention No. 87.

United Arab Republic (ratification: *Egypt* 1954—*Syria* 1957). The Committee notes with interest that it appears from the information supplied by the Government to the Conference Committee as regards the application of Convention No. 87 that section 170 of the Labour Code, which the Committee had pointed out as being likely to encourage acts of interference contrary to Convention No. 98, has been repealed by Act No. 132 of 1960.

However, the Committee regrets to note that the report supplied this year on the application of the present Convention is limited to reproducing the previous reports and does not reply to the request made in 1960. It trusts that the Government will not fail, in its next report, to supply the information requested.

United Kingdom (ratification: 1950). The Committee notes that observations regarding the application of Article 2 of the Convention (acts of interference) have been presented by a workers' organisation. Further it would appear that other organisations have also made similar observations. The Committee would be glad if the Government would supply all available information on developments of these matters.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Argentina, Austria, Belgium, Brazil, Dominican Republic, Guatemala, Guinea, Haiti, Honduras, Hungary, Italy, Morocco, Nigeria, Pakistan, Poland, Rumania, Sudan, Tunisia, Turkey, United Arab Republic.*

Information supplied by *Tunisia* in answer to a direct request has been noted by the Committee.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the following States: *Brazil, Federal Republic of Germany, Mexico.*

Information supplied by the following States in answer to direct requests has been noted by the Committee: *Netherlands, Philippines.*

Convention No. 100: Equal Remuneration, 1951

Austria (ratification: 1953). The Committee notes with interest that the Government has drawn the attention of employers' and workers' organisations to a number of collective agreements fixing different wage rates for men and women, and has requested them to examine to what extent these agreements are or are not compatible with the principle of equal remuneration for men and women for work of equal value laid down in the Convention.

¹ The Government is requested to communicate a detailed report for the period 1960-61.

The Committee regrets to note, however, that, although it requested the Government in 1958 and 1959 to supply particulars of the collective agreements in which different rates of remuneration are fixed for men and women, and although the Government stated in its report for 1957-58 that it was undertaking an examination of some 2,000 agreements with a view to supplying this information, the Government's latest report contains no information on this matter. In these circumstances the Committee is deprived of the data necessary for an assessment of the extent to which the equal pay principle laid down in the Convention is implemented in the private sector in Austria. It accordingly trusts that the Government will not fail to supply full particulars in its next report of the number, nature, scope and contents of collective agreements fixing separate wage rates for men and women, together (so far as possible) with copies of the agreements in question.

Ecuador (ratification: 1957). The Committee notes with regret that the report for 1958-60 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes that the Government's first report on this Convention is limited to a statement that its provisions are incorporated in the national Constitution and Labour Code. The Committee hopes that the Government will in its next report provide detailed information on the application of the Convention, in law and practice, in accordance with the report form adopted by the Governing Body pursuant to article 22 of the Constitution of the I.L.O.

The Committee hopes that the Government will make every effort to take the necessary action without further delay.

Italy (ratification: 1956). The Committee notes with interest that the recently concluded national collective agreements in the textile industry and the interconfederal agreement of 16 July 1960 for workers in industry provide for a uniform system of wage categories covering all workers, in place of the separate classifications for men and women workers previously in force. As the Committee indicated in its observations of 1960, the implementation of the principle of equal remuneration for men and women for work of equal value is likely to be facilitated by the adoption of such a uniform system of wage categories.

The Committee notes further that, although the above-mentioned agreements have not eliminated differences in rates of remuneration between men and women workers for work of equal value, owing to the fact that the former female categories have been absorbed into the lower grades under the new system, they will nevertheless lead to a considerable reduction in previous differentials. The agreements appear, therefore, to mark a significant step forward in the application of the Convention.

The Committee hopes that the agreements still to be concluded for individual industries on the basis of the above-mentioned interconfederal agreement and subsequent negotiations at the interconfederal level will lead progressively to the full implementation of the principle laid down in the Convention.

The Committee notes that the above-mentioned interconfederal agreement of 16 July 1960 is limited to workers in industry. It also notes that, according to the observations of the Italian General Confederation of Labour appended to the Government's report, a 30 per cent. wage differential still exists between men and women under the national agreement for agricultural workers, and differences in the region of 10 to 20 per cent. are to be found as between the wage rates of male and female commercial employees. The Committee accordingly hopes that the Government will take appropriate measures to promote the application of the principle of equal remuneration for men and women workers for work of equal value in the non-industrial sectors.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Belgium, China, France, Federal Republic of Germany, Haiti, Honduras, Iceland, India, Indonesia, Italy, Philippines, United Arab Republic (Syria)*.

Information supplied by the following States in answer to direct requests has been noted by the Committee: *Rumania, Ukraine, Yugoslavia*.

Convention No. 101: Holidays with Pay (Agriculture), 1952

Poland (ratification: 1956). As neither the report for 1958-59, nor the report for 1959-60 have been received, the Committee finds it necessary to repeat the requests made in 1959 and 1960, which read as follows:

The Committee would be glad to know what measures exist, both as regards state agricultural undertakings and as regards the private sector, to ensure the application of the following provisions of the Convention:

Article 5, paragraph (d), of the Convention. The exclusion from the annual holiday with pay of public and customary holidays, weekly rest periods and temporary interruptions of attendance at work due to sickness or accident.

Article 6. Any limits regarding the division into parts of the annual holiday with pay.

Article 7. The manner in which the holiday remuneration should be calculated and the payment of the cash equivalent of any remuneration in kind.

Article 8. The invalidity of agreements to relinquish the right to an annual holiday with pay or to forgo such a holiday.

Article 9. The right to compensation of a person dismissed for a reason other than his own misconduct before he has taken a holiday due to him.

As regards agricultural workers in the service of private employers, the Committee would be glad to know what measures exist to ensure the application of Articles 1, 2, 3, 5 (a) to (c) and 10 of the Convention.

Finally, the Committee would be glad to have the information specifically requested in Article 11 of the Convention.

The Committee trusts that the Government will not fail to supply the information referred to above.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Hungary, Netherlands*.

Convention No. 102: Social Security (Minimum Standards), 1952

Denmark (ratification: 1955). The Committee notes with satisfaction that the Unemployment Insurance Act has been amended to fix a maximum waiting period of six days in all cases in respect of the allocation of unemployment benefit, and that the differences which existed between the national legislation and Article 24 of the Convention have thus been eliminated.

Greece (ratification: 1955). The Committee notes the information supplied by the Government on Part IV—Unemployment Benefit, to which it refers in its direct request.

Part IX—Invalidity Benefit. The Committee observes that the possibility of suspending benefits when the beneficiary's earnings exceed a prescribed amount, authorised by the Convention in the case of old-age benefits, provided for under Part V (Article 26, paragraph 3) and survivors' benefits provided for under Part X (Article 60, paragraph 2), is not authorised by the Convention in the case of invalidity benefits. It notes that, according to the information communicated by the Government to the Conference Committee in 1959, the provisions of section 29 (7) (c), of the Social Insurance Act were shortly to be amended to take account of the observations presented on this point. It regrets, however, that the report supplied this year by the Government contains no new information on this matter and it expresses the hope therefore that the Government will soon be able to indicate the measures taken to remove the above-mentioned possibility of suspension in the case of invalidity benefits.

Sweden (ratification: 1953). The Committee notes the information supplied by the Government in which it states that the provisions of the Unemployment Insurance Funds Ordinance will shortly be revised, and that the observations presented by the Committee on the length of the waiting period (Article 24, paragraph 3, of the Convention) and the fixing of the amount of benefits (Article 22, paragraph 1) will be taken into consideration. The Committee expresses the hope that the Government will soon be able to indicate the measures which will be taken in this matter.

Yugoslavia (ratification: 1954). Referring to the observations made in 1959, the Committee notes with interest, as regards Part VI (Employment Injury Benefit), the new provisions on occupational diseases contained in the Invalidity Insurance Act of 28 November 1958.

Part XIII—Common Provisions. The Committee also notes the amendments which have been made to the provisions of the Retirement Insurance Act, as regards certain cases of forfeiture of the right to pensions, which are not authorised by Article 69 of the Convention, and it expresses the hope that the Government will supply the information to which the Committee refers in its direct request on this subject.

Part IV—Unemployment Benefit. The Committee regrets to note that the Government has supplied no new information in reply to the observation made in 1959 on this Part, which was in the following terms:

Articles 21 and 22. In virtue of section 1 of the decree of 29 March 1952 all wage and salary earners are protected against unemployment; however, in virtue of section 9 (6) of this same decree, all persons whose annual income tax exceeds 250 dinars per person living in the household are excluded. Moreover, according to sections 89 (2) and 100 (6) of the Act of 12 December 1957 respecting employment relationships, the right to unemployment benefit is subject to the condition that the income of the beneficiary and of his near relations or dependants does not exceed a specified amount. The Committee observes that under Articles 21 and 22 of the Convention, a reduction in the benefits by reason of the beneficiary's means or those of his family during the contingency is authorised only in cases where the protection extends to all residents. On the other hand, when the protection covers only prescribed classes of employees (Article 21, paragraph (a)), the benefit must, in virtue of Article 22, paragraph 1, be granted in conformity with the provisions either of Article 65 or of Article 66, neither of which provides for the reduction of benefit by reason of the other means of the beneficiary or of his family during the contingency. The Committee would therefore be grateful if the Government would indicate what measures it intends to take with a view to ensuring the application of the above-mentioned provisions of the Convention either—

- (a) by extending the protection against unemployment to all residents (whose means during the contingency do not exceed the prescribed limits); or
- (b) by fixing the amount of the benefit so as to satisfy the standards established by Article 65 or by Article 66.

The Committee trusts that the Government will not fail to take the measures to supply the information in question.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Denmark, Federal Republic of Germany, Greece, Italy, Norway, Sweden, United Kingdom, Yugoslavia.*

Convention No. 103: Maternity Protection (Revised), 1952

Requests regarding certain points are being addressed directly to the following States: *Byelorussia, Hungary, Ukraine, U.S.S.R., Yugoslavia.*

Convention No. 104: Abolition of Penal Sanctions (Indigenous Workers), 1955

A request regarding certain other points is being addressed directly to *El Salvador.*

Convention No. 105: Abolition of Forced Labour, 1957

General Observation

This year the Committee for the first time had reports on this Convention before it. In view of the thorough examination of the legislation of the country concerned which is called for in each case and the fact that many reports were received at a relatively late date, the Committee found it necessary to defer detailed consideration of certain of these reports to its next session. As regards the countries whose reports it has been possible to examine in detail, direct requests are being addressed to the governments concerned in a number of cases.

The Committee has also taken into account that it will be called upon next year to make a comprehensive review of the matters dealt with in the Convention, on the occasion of the examination of the reports on the Conventions and Recommendations in the field of forced labour which the Governing Body has requested under article 19 of the I.L.O. Constitution. This review will enable the Committee to assess more precisely the nature and scope of certain provisions and practices to be found in various countries and, in the light thereof, to determine their relation to the provisions of the Convention. Pending such clarification, the Committee has in some instances preferred to defer comment on particular points which have arisen out of the reports already examined; it will reconsider all such cases next year.

In certain cases the Committee has had to refer in its direct requests to provisions which it had noted in the course of its examination of the legislation of the countries concerned, although they had not been specifically mentioned in the reports from the respective governments. It would therefore be glad if the governments of all countries in which the Convention is in force would make a careful examination of all of their laws and regulations to satisfy themselves that there are no provisions by virtue of which any form of forced or compulsory labour may be imposed for any of the purposes enumerated in the Convention, and would indicate the results of such examination in their reports.

* * *

Requests regarding certain points are being addressed directly to the following States: *Austria, Dominican Republic, Ghana, Israel, Federation of Malaya, Nigeria, El Salvador, United Kingdom.*

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Denmark (ratification: 1958). The Committee notes with interest that the Government has communicated a declaration accepting the obligations of the Convention in respect of establishments, institutions and administrative services providing personal services (Article 3, paragraph 1 (a), of the Convention).

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Denmark, Dominican Republic, Ghana, Tunisia*.

Convention No. 107: Indigenous and Tribal Populations, 1957*General Observation*

The Committee took note with interest of the first reports received on this Convention since its entry into force in 1959. Certain special points concerning some of these reports are dealt with in direct requests. The Committee wishes, however, to refer to two matters of a more general character which deserve attention in connection with this instrument.

It should be recalled, in the first place, that the Indigenous and Tribal Populations Convention was framed in co-operation with the United Nations, the Food and Agriculture Organisation, the United Nations Educational, Scientific and Cultural Organisation and the World Health Organisation. In its preamble the Convention states that the continuing co-operation of these Organisations is to be sought in their respective fields in promoting and securing the application of these standards and the Committee was indeed glad to have their views regarding those aspects of the governments' reports of interest to them, and to welcome to one of its sittings representatives of three of these Organisations.

The Committee would wish, however, to refer to another method whereby the various Organisations can help governments in advancing the implementation of the Convention: they can provide technical assistance to deal with the special problems encountered in giving effect to the Convention. The Committee is aware that such assistance is already being provided in certain cases. It trusts that the governments of all States bound by the Convention will keep this possibility in mind in "developing co-ordinated and systematic action for the protection of the populations concerned and their progressive integration" (Article 2 of the Convention).

The examination of the first reports prompts the Committee to mention another matter which appears to it to be of basic importance. It would seem that the scope and significance of the Convention have not always been fully understood thus far. One report points out, for instance, that as there is full equality under the law for all citizens and as there exists no problem of integration, the Convention finds no practical application. The reason put forward in another case for the inapplicability of the instrument is the reported absence in the country of the populations to which the Convention refers. As there exist however in these countries indigenous populations which are backward in their development, the Committee ventures to point out that the aim of the Convention is not merely to ensure equal rights for the populations concerned but also to afford them the benefit of equal opportunities and to raise

their standards of living. It should moreover be recalled in this connection that Article 1, paragraph 1 (*a*), of the Convention speaks of populations “ whose social and economic conditions are at a less advanced stage ” and “ whose status is regulated wholly or partially by their own customs or traditions ”. The terms of this definition would appear to be sufficiently flexible to cover a wide variety of situations where concerted measures are needed to promote social and economic development on a group basis, taking into account the cultural and related values of the populations concerned.

The Committee hopes that these indications will prove helpful to governments in preparing future reports on the application of the Convention and in deciding on appropriate steps for its implementation.

* * *

Requests regarding certain points are being addressed directly to the following States: *Ghana, India, El Salvador*.

**Appendix I. Detailed Reports Received and Detailed Reports Not Received
by 29 March 1961**

Reports received: 838. Reports not received: 263. Total: 1,101.

Country	Reports received		Reports not received		Total
	Number	Conventions Nos.	Number	Conventions Nos.	
Afghanistan *	1	95	5	4, 13, 14, 41, 45.	6
Albania	0	—	11	4, 5, 6, 21, 29, 52, 58, 59, 77, 78, 100.	11
Argentina	26	1, 3, 5, 7, 8, 9, 11, 14, 15, 20, 21, 22, 23, 26, 27, 30, 32, 33, 35, 36, 50, 58, 68, 90, 98, 100.	0	—	26
Australia	10	7, 8, 9 *, 11 *, 15, 18 *, 19 *, 21, 26 *, 27.	0	—	10
Austria	12	5, 11, 21, 27, 33, 63, 87, 94, 98, 99, 100, 105.	0	—	12
Belgium	26	1, 5, 7, 8, 9, 11, 14, 15, 21, 26, 27, 32, 33, 43, 50, 58, 62, 64, 68, 84, 87, 96, 97, 98, 100, 107.	0	—	26
Bolivia	0	—	6	5, 14, 19, 26, 42, 96.	6
Brazil	11	3, 5, 7, 11, 14, 26, 58, 92, 98, 99, 100.	0	—	11
Bulgaria	25	1, 3, 4, 5, 7, 8, 9, 14, 15, 21, 26, 27, 29, 30, 32, 35, 36, 37, 38, 39, 40, 58, 60, 81, 100.	6	11, 20, 43, 49, 62, 68.	31
Burma	10	1, 11, 14, 15, 21, 26, 27, 42, 63, 87.	0	—	10
Byelorussia	10	11, 15, 47, 58, 59, 60, 87, 98, 100, 103.	0	—	10
Cameroun	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Canada	10	1, 7, 8, 14, 15, 26, 27, 32, 58, 68.	0	—	10

* For footnotes, see end of table.

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Country	Reports received		Reports not received		Total
	Number	Conventions Nos.	Number	Conventions Nos.	
Central African Rep. ¹ . . .	6	5, 11, 14, 26, 84, 87.	1	33.	7
Ceylon	7	5, 7, 8, 11, 15, 96, 99.	0	—	7
Chad ¹	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Chile	18	1, 3, 5, 7, 8*, 9*, 11, 14, 15, 20, 26, 27, 30, 32*, 35, 36, 37, 38.	0	—	18
China	10	7, 11, 14, 15, 22, 26, 27, 32, 59, 100.	0	—	10
Colombia	18	1, 2, 3, 5, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 20, 22, 23, 26.	6	4, 13, 19, 21, 24, 25.	24
Congo (Brazzaville) ¹ . . .	6	5, 11, 14, 26, 33, 87.	0	—	6
Congo (Leopoldville) . . .	0	—	9	11, 14, 26, 27, 29, 50, 62, 64, 84.	9
Cuba	0	—	57	1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 29, 30, 32, 42, 45, 52, 58, 59, 60, 63, 67, 77, 78, 79, 81, 87, 88, 89, 90, 92, 94, 95, 96, 97, 98, 99, 100, 101, 103, 104, 105, 106, 107.	57
Cyprus	4	15, 84, 97, 105.	0	—	4
Czechoslovakia	10	1, 5, 11, 14, 26, 27, 43, 49, 90, 100.	8	21, 29, 35, 36, 37, 38, 39, 40.	18
Dahomey	0	—	15	4, 5, 6, 11, 13, 14, 18, 26, 29, 33, 41, 84, 85, 87, 95.	15
Denmark	15	5, 7, 8, 9, 11, 14, 15, 21, 58, 81, 87, 98, 102, 105, 106.	0	—	15
Dominican Republic . . .	11	1, 5, 7, 26, 87, 98, 100, 104, 105, 106, 107.	0	—	11

REPORT OF THE COMMITTEE OF EXPERTS

Country	Reports received		Reports not received		Total
	Number	Conventions Nos.	Number	Conventions Nos.	
Ecuador	0	—	5	26, 29, 45, 95, 100.	5
Finland	14	7, 8, 9, 11, 14, 15, 20, 21, 27, 30, 32, 62, 87, 98.	0	—	14
France	26	3 *, 5, 8, 9, 11, 14, 15, 26, 27 *, 32 *, 33, 35, 36, 37, 38, 43, 49, 58, 62, 68, 81, 84, 87, 97, 98, 99.	1	100.	27
Gabon	0	—	7	5, 11, 14, 26, 33, 84, 87.	7
Federal Republic of Germany	14	3, 7, 8, 9, 11, 15, 26, 27, 62, 87, 98, 99, 100, 102.	0	—	14
Ghana	9	15, 50, 58, 59, 64, 84, 105, 106, 107.	0	—	9
Greece	12	1, 3, 5, 7, 8, 9, 11, 14, 15, 27, 29, 102.	0	—	12
Guatemala	4	86, 87, 97, 98.	0	—	4
Guinea	7	5, 11, 14, 26, 33, 87, 98.	0	—	7
Haiti	12	1, 5, 12, 14, 17, 19, 24, 25, 30, 42, 98, 100.	4	29, 105, 106, 107.	16
Honduras	3	87, 98, 100.	1	105.	4
Hungary	19	3, 6, 13, 14, 24, 27, 29, 41, 45, 48, 52, 62, 77, 78, 87, 95, 98, 101, 103.	13	2, 7, 10, 12, 15, 16, 17, 18, 19, 21, 26, 42, 100.	32
Iceland	7	11, 15, 29, 58, 87, 98, 100.	0	—	7
India	11	1, 5, 11, 14, 15, 21, 26, 27, 32, 100, 107.	0	—	11
Indonesia	2	27, 100.	1	98.	3
Iraq	1	58.	0	—	1
Ireland	17	5, 7, 8, 11, 14, 15, 20, 21, 26, 27, 28, 43, 49, 68, 87, 98, 105.	0	—	17
Israel	18	1, 5, 10, 14, 19, 20, 29, 30, 52, 78 *, 79, 81, 87, 94, 97 *, 98, 101, 105.	1	102.	19

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Country	Reports received		Reports not received		Total
	Number	Conventions Nos.	Number	Conventions Nos.	
Italy	25	3, 7, 8, 9, 11, 14, 15, 26, 27, 32, 35, 36, 37, 38, 39, 40, 58, 59, 60, 68, 87, 97, 98, 100, 102.	0	—	25
Ivory Coast ¹	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Japan	10	5, 7, 8, 9, 15, 21, 27, 50, 58, 98.	0	—	10
Jordan	0	—	1	105.	1
Liberia	0	—	1	29.	1
Luxembourg	6	1, 3, 5, 11, 14, 20.	21	7, 8, 9, 15, 21, 26, 27, 28, 30, 42, 45, 59, 60, 78, 79, 81, 87, 88, 89, 96, 98.	27
Malagasy Republic ¹ . . .	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Federation of Malaya . .	3	50, 64, 105.	0	—	3
Republic of Mali	0	—	7	5, 11, 14, 26, 33, 84, 87.	7
Mexico	15	8, 9, 11, 14, 21, 26, 27, 30, 43, 49, 58, 62, 87, 99, 100.	1	32.	16
Morocco	8	11, 14, 15, 26, 27, 55, 81, 98.	0	—	8
Netherlands	16	5, 8, 9, 11, 15, 21, 26, 27, 33, 58, 62, 68, 87, 97, 99, 101.	0	—	16
New Zealand	18	1, 9, 11, 14, 15, 26, 30, 32, 47, 49, 50, 58, 59, 60, 64, 84, 97, 99.	1	21.	19
Nicaragua	9	4, 6, 7, 9, 13, 15, 16, 22, 23.	17	1, 2, 3, 5, 8, 11, 12, 14, 19, 21, 24, 25, 26, 27, 28, 29, 30.	26
Niger ¹	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Nigeria ²	9	29, 50, 64, 81, 87, 95, 97, 98, 105.	0	—	9
Norway	23	5, 7, 8, 9, 11, 14, 15, 21, 26, 27, 30, 32, 43, 49, 50, 58, 59, 68, 87, 97, 98, 102, 105.	0	—	23

REPORT OF THE COMMITTEE OF EXPERTS

Country	Reports received		Reports not received		Total
	Number	Conventions Nos.	Number	Conventions Nos.	
Pakistan	11	1, 11, 14, 15, 21, 27, 32, 59, 81, 87, 98.	0	—	11
Panama	1	81.	6	3, 12, 17, 52, 87, 100.	7
Peru *	6	1, 11, 14, 35, 37, 39.	0	—	6
Philippines	4	87, 98, 99, 100.	0	—	4
Poland	15	5 *, 7 *, 8 *, 9 *, 15 *, 27 *, 29 *, 35, 36, 37, 38, 39, 40, 68 *, 105 *.	8	11, 14, 62, 87, 95, 98, 100, 101.	23
Portugal	5	1, 14, 27, 68, 92.	0	—	5
Rumania *	14	1, 3, 5, 7, 8, 9, 11, 14, 15, 27, 29, 87, 98, 100.	0	—	14
El Salvador	3	104, 105, 107.	0	—	3
Senegal	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Somali Rep.: (former Trust Territory of Somaliland) ³	1	84.	0	—	1
(former British Somaliland)	0	—	3	50, 64, 85.	3
Spain	21	1, 3, 5, 6, 7, 8, 9, 11, 14, 15, 20, 26, 27, 30, 32, 33, 42, 45, 62, 89, 95.	0	—	21
Sudan *	2	26, 98.	0	—	2
Sweden	16	7, 8, 9, 11, 14, 15, 20, 21, 27, 32, 58, 63, 87, 98, 102, 105.	0	—	16
Switzerland	7	5, 11, 14, 26, 27, 62, 105.	0	—	7
Togo	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Tunisia	8	11, 14, 18, 26, 87, 95, 98, 106.	0	—	8
Turkey	3	14, 15, 98.	0	—	3
Ukraine *	14	15, 29, 47, 52, 59, 60, 77, 78, 79, 87, 90, 98, 100, 103.	4	10, 11, 16, 58.	18
Union of South Africa . . .	1	26	0	—	1

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Country	Reports received		Reports not received		Total
	Number	Conventions Nos.	Number	Conventions Nos.	
United Arab Republic . . .	1	98.	2	105, 106.	3
Egypt	2	11, 87.	0	—	2
Syria	1	100.	2	89, 96.	3
United Kingdom	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	0	—	24
United States	1	58.	0	—	1
Upper Volta ¹	7	5, 11, 14, 26, 33, 84, 87.	0	—	7
Uruguay	0	—	32	1, 2, 8, 9, 11, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 30, 32, 43, 58, 59, 60, 62, 63, 67, 73, 87, 89, 94, 97, 98, 99, 103.	32
U.S.S.R.	10	11, 15, 47, 58, 59, 60, 87, 98, 100, 103.	0	—	10
Venezuela	9	1, 3, 5, 7, 11, 14, 21, 26, 27.	0	—	9
Viet-Nam	4	5, 14, 26, 27.	0	—	4
Yugoslavia	18	3, 5, 7, 8, 9, 11, 14, 15, 27, 56, 58, 87 *, 88, 98 *, 100 *, 102, 103, 106.	0	—	18
<i>State not a Member of the I.L.O.</i>					
Islamic Republic of Mauritania ¹	16	4, 5, 6, 11, 13, 14, 18, 26, 29, 33, 41, 82, 84, 85, 87, 95.	0	—	16

* Reports received too late to be summarised in Report III (Part I).

¹ Have also submitted reports on Convention No. 3.

² Has also submitted reports on Conventions Nos. 5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 84, 86, 99, 102.

³ Has also submitted reports on Conventions Nos. 3, 7, 8, 9, 11, 14, 15, 26, 27, 32, 35, 36, 37, 38, 39, 40, 58, 59, 60, 68, 87, 97, 98, 100, 102.

Appendix II. Statistical Table of Annual Reports on Ratified Conventions

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee ¹		Reports received in time for the session of the Conference	
		Number	%	Number	%	Number	%
1931-1932	447	—	—	406	90.8	423	94.6
1932-1933	522	—	—	435	83.3	453	86.7
1933-1934	601	—	—	508	84.5	544	90.5
1934-1935	630	—	—	584	92.7	620	98.4
1935-1936	662	—	—	577	87.2	604	91.2
1936-1937	702	—	—	580	82.6	634	90.3
1937-1938	748	—	—	616	82.4	635	84.9
1938-1939	766	—	—	588	76.8	— ²	—
1943-1944	583	—	—	251	43.1	314	53.9
1944-1945	725	—	—	351	48.4	523	72.2
1945-1946	731	—	—	370	50.6	578	79.1
1946-1947	763	—	—	581	76.1	666	87.3
1947-1948	799	—	—	521	65.2	648	81.1
1948-1949	806	134 ³	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1,026	212	20.6	840	81.8	917	89.3
1953-1954	1,175	268	22.8	1,077	91.7	1,119	95.2
1954-1955	1,234	283	22.9	1,063	86.1	1,170	94.8
1955-1956	1,333	332	24.9	1,234	92.5	1,283	96.2
1956-1957	1,418	210	14.7	1,295	91.3	1,349	95.1
1957-1958	1,558	340	21.8	1,484	95.2	1,509	96.8
1958-1959	995 ⁴	200	20.4	864	86.8	902	90.6
1958-1960	1,100 ⁴	256	23.2	838	76.1	—	—

¹ The opening date of the session of the Committee of Experts has, in general, been the end of March or the beginning of April. In a number of cases, however, the session has opened on other dates, varying between 29 February, in 1932, and 23 July, in 1945; the date limit for the receipt of reports has accordingly varied. ² The Conference did not meet in 1940.

³ First year for which this figure is available. ⁴ As a result of a decision by the Governing Body, detailed reports were requested on only certain ratified Conventions.

II. Observations on the Application of Conventions in Non-Metropolitan Territories (Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)

A. GENERAL OBSERVATIONS

Belgium

The Committee noted with regret that only nine of the 44 reports requested have been received on the application of ratified Conventions in Ruanda-Urundi and expresses the hope that the Government will supply in future all the reports requested. It would appear from the information provided in the reports that certain Conventions might be appropriate for formal declarations of application. More detailed indications on the subject are contained in the chart appended to Part Four of the report.

France

Algeria and Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion).

The Committee took note with interest of the very full discussion held by the Conference Committee in 1960 on the position of these territories in relation to the Conventions ratified by France.

The Committee finds that no formal written statement has since been received concerning the applicability of all these Conventions in the territories in question. Moreover, the Government has only in a few cases replied to the Committee's previous comments as regards the application of Conventions in these territories. The cases where no replies have been received are the following: observations and requests concerning Algeria (Conventions Nos. 4, 6); observations and requests concerning the four Overseas Departments (Conventions Nos. 4, 6, 18, 42, 89); observations concerning the Overseas Departments (Conventions Nos. 62, 81, 99, 100, 101); an observation concerning French Guiana (Convention No. 95); requests concerning the Overseas Departments (Conventions Nos. 17, 55, 68, 73); requests concerning French Guiana (Conventions Nos. 94, 95, 98, 99); requests concerning Martinique (Conventions Nos. 94, 98); a request concerning Réunion (Convention No. 95).

In these circumstances the Committee has decided to ask the International Labour Office to send the above observations and requests to the Government once again. The Committee trusts that the Government will take the action and supply the information called for and will in future provide reports on all the Conventions and territories concerned.

Overseas Territories.

The Committee noted with satisfaction that practically all the reports requested have been supplied. It would appear from the information provided in the reports that certain Conventions might be appropriate for formal declarations of application. More detailed indications on the subject are contained in the chart appended to Part Four of this report.

Portugal

The Committee thanks the Government for supplying this year all the reports requested. While it notes some progress in the form of these reports, it would be grateful if the Government would supply more precise indications as regards the legislation and regulations in force in the various Overseas Provinces and more detailed information on the practical application of the Conventions.

Spain

Once again the Committee notes with keen disappointment that the Government has not supplied any report on the application of the 32 Conventions ratified by Spain in its non-metropolitan territories. The Committee is bound to draw attention to this reiterated disregard of the international obligations entered into by this country.

United Kingdom

The Committee took note with satisfaction of the progress made in the supply of the reports requested which arrived as a whole much earlier than during the preceding periods. It expresses the hope that the effort thus undertaken will continue and that all the reports requested will reach the International Labour Office every year as soon as possible.

The Committee took note with interest of the fact that since its last session the Government has communicated a total of 263 declarations under article 35. It would, moreover, appear from the various data available that in a fairly large number of cases communications might be transmitted for the acceptance, for the territories concerned or on their behalf, of the obligations of certain of the Conventions ratified by the United Kingdom. More precise indications on this subject appear in the chart appended to Part Four of this report. The Committee expresses the hope that the Government will in future send formal communications under article 35 in respect of all ratified Conventions regardless of the date of their ratification.

B. INDIVIDUAL OBSERVATIONS**Convention No. 3: Maternity Protection, 1919***France**New Caledonia.*

The Committee refers to the general request made in 1959 in respect to this Convention, and notes with interest that an order of 26 January 1959 provides that maternity leave during the six weeks following confinement shall be obligatory, as required by Article 3 (a) of the Convention.

Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion).

See under Convention No. 3, France.

* * *

In addition, requests regarding certain other points are being addressed directly to *France* (Comoro Islands, French Guiana, French Polynesia, French Somaliland, Guadeloupe, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon).

Convention No. 5: Minimum Age (Industry), 1919*Denmark**Faroe Islands.*

The Committee takes note of the information supplied by the Government, according to which, under the Apprenticeship Act, no children are admitted to apprenticeship before attaining the age of 14 and before completing their primary education. The Committee also takes note of the provisions forbidding the employment of children and young persons on work involving the handling of potentially dangerous machinery.

The Committee feels bound to emphasise that Article 2 of the Convention forbids all work by children under the age of 14 years in industrial undertakings, as defined in Article 1 of the Convention. The Committee trusts, in consequence, that the competent authorities of the Faroe Islands will not fail to adopt the necessary legislation to give effect to the Convention, as, according to the Government's report, such legislation has been under study since 1955.

*France**St. Pierre and Miquelon.*

The Committee notes with interest that Order No. 889 of 31 December 1958 has amended Order No. 446 of 14 August 1954, by abolishing one of the exceptions which the latter authorised in the case of children over 12 years of age, for the carrying out of certain preparatory work in the frozen fish industry.

* * *

In addition, requests regarding certain other points are being addressed directly to *France* (French Somaliland, St. Pierre and Miquelon).

Convention No. 6: Night Work of Young Persons (Industry), 1919*Denmark**Faroe Islands.*

The Committee notes with interest that a Bill to forbid night work for young persons was brought before the Faroese Representative Council during its 1960-61 Session.

The Committee expresses the hope that this Bill can soon be adopted so as to give effect to the Convention.

* * *

In addition, a request regarding certain other points is being addressed directly to *Denmark* (Greenland).

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

Requests regarding certain points are being addressed directly to the following States: *Denmark* (Faroe Islands), *Netherlands* (Netherlands Antilles), *United Kingdom* (Jersey).

Convention No. 10: Minimum Age (Agriculture), 1921*France*

Oversea Departments (French Guiana, Guadeloupe, Martinique, Réunion).

The Committee thanks the Government for the detailed information supplied on the practical application of the Convention in the four Overseas Departments. It takes note with interest of the results of the surveys carried out in order to reply to the Committee's request and of the progress achieved by reason of the considerable increase in the number of children of school age who are attending school.

The Committee would be grateful if the Government would keep it informed in its future reports of the development of the situation.

Convention No. 11: Right of Association (Agriculture), 1921*Belgium*

Ruanda-Urundi.

The Committee has taken note of the statement by a Government representative to the Conference Committee in 1960 that legislation was being prepared with a view to repealing section 3 of the decree of 25 January 1957 and the ordinance issued in application thereof which prohibit persons who have been under a contract of service for less than three years from joining an occupational association unless they have successfully completed two years of secondary studies (or, as a transitional measure, the full course of primary studies). As the report furnished this year contains no information as to the progress made with the proposed legislation, the Committee emphasises once again that, so long as these provisions—which result in fact in a prohibition of membership in occupational associations for many workers in agriculture, and in particular seasonal workers—are not repealed, the Convention will remain a dead letter in Ruanda-Urundi. The Committee trusts that the Government will be able to indicate the progress made towards bringing the legislation into conformity with the Convention.¹

* * *

In addition, requests regarding certain other points are being addressed directly to *Australia* (New Guinea, Norfolk Island, Papua).

Convention No. 15: Minimum Age (Trimmers and Stokers), 1921

A request regarding certain points is being addressed directly to *Denmark* (Greenland).

Convention No. 27: Marking of Weight (Packages Transported by Vessels), 1929*Netherlands*

Surinam.

Since the report for 1958-60 has not been received, the Committee regrets to note that for the third time in succession the Government has not replied to its

¹ The Government is requested to supply full particulars at the 45th Session of the Conference and to communicate a detailed report for the period 1960-61.

requests bearing on the practical application of the Convention. Consequently, it urges the Government to supply without fail in its next report the information requested under Point V of the report form, and to indicate in particular the number and nature of any contraventions which may have been reported.

Convention No. 29: Forced Labour, 1930

Belgium

Ruanda-Urundi.

The Committee notes that, although the Government's report does not contain detailed indications in reply to the observations made in 1960, it states that the suppression of all forms of forced labour is at present under consideration. The Committee hopes that measures to ensure the full application of the Convention will be taken at an early date, and that the Government's next report will contain detailed information thereon.

The Committee also notes with interest the statement made by a Government representative at the Conference in 1960, according to which it was proposed to cancel the modifications subject to which the Convention had been declared applicable. The Committee hopes that it will be possible to cancel these modifications in the near future.

* * *

In addition, a request regarding certain other points is being addressed directly to *Belgium* (Ruanda-Urundi).

Information supplied by the *United Kingdom* (Seychelles) in answer to a direct request has been noted by the Committee.

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932

United Kingdom

Guernsey.

The Committee notes that the Guernsey authorities are still engaged in supplementing their legislation, bearing in mind the observations made by the Committee in 1956. It trusts that it will therefore soon be possible to give full effect to the Convention. The Committee would also be grateful if the Government would in future reports supply particulars on the practical application of the Convention.

Convention No. 33: Minimum Age (Non-Industrial Employment), 1932

Requests regarding certain points are being addressed directly to the following States: *France* (Comoro Islands, St. Pierre and Miquelon), *Netherlands* (Netherlands Antilles).

Convention No. 50: Recruiting of Indigenous Workers, 1936

United Kingdom

Hong Kong.

In 1953 and 1954 the Committee of Experts expressed the hope that the existing legislation would be revised and the current administrative procedures supplemented

by statutory provisions, and in 1957 it noted that the number of workers leaving the territory for employment overseas had subsequently increased every year. Following these observations the Government stated at the Conference in 1958 that priority was being given to the drafting of legislation to give effect to the Convention, and in its report for 1957-58 it indicated that this legislation was likely to come into effect in 1959. The Committee regrets to note that no reference is made in the last report to the proposed legislation, and hopes that it will be adopted without further delay.

Tanganyika.

The Committee notes with satisfaction that, in accordance with the direct request made by it in 1959, a new Employment Ordinance (Exemption) Order has been issued to make clear that the exemptions from the provisions giving effect to the Convention are limited to certain classes of persons in their capacity of employee, so as to exclude any possible contraventions of the Convention by such persons in the capacity of employer or recruiter.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi); *United Kingdom* (Basutoland, Bechuanaland, British Guiana, Northern Rhodesia, Swaziland).

Information supplied by the *United Kingdom* (Nyasaland) in answer to a direct request has been noted by the Committee.

Convention No. 58: Minimum Age (Sea) (Revised), 1936

A request regarding certain points is being addressed directly to the *Netherlands* (Netherlands Antilles).

Information supplied by *France* (Overseas Departments) in answer to direct requests has been noted by the Committee.

Convention No. 62: Safety Provisions (Building), 1937

Netherlands

Surinam.

The Committee notes with regret that the report for 1958-60 has not been received. The Committee must repeat the following request made in 1959:

The Committee noted with interest that a draft resolution providing for safety regulations for the building industry, in accordance with the Convention, is in an advanced stage of preparation. It looks forward to receiving further information on the progress made in implementing the provisions of the Convention, and in particular Articles 6, 12, 13 and 16 which are not applied, and Articles 1, 2, 3, 7, 8, 9, 10, 14 and 15 which are only partially applied.

The Committee trusts that the Government will not fail to supply its next report and to indicate the measures taken for the application of the above-mentioned Articles of the Convention, which has been in force for Surinam since 1951.

* * *

In addition, a request regarding certain other points is being addressed directly to the *Netherlands* (Surinam).

Convention No. 64: Contracts of Employment (Indigenous Workers), 1939

*Belgium**Ruanda-Urundi.*

The Committee regrets to note that the Government has not replied to the direct request made by it in 1959, in which it drew attention to the following discrepancies:

Article 6, paragraph 4, of the Convention. Under section 65 of the Royal Order of 19 July 1954 consolidating the decrees on the contract of employment, a contract which has not been attested remains valid for the whole stipulated term (subject to certain conditions regarding its proof), whereas the Convention provides that such a contract shall not be enforceable except during the maximum period permissible for contracts not made in writing (that is, in the present case, six months).

Article 6, paragraph 5. The legislation contains no provision giving effect to this paragraph.

Article 12, paragraph 2. Under existing legislation, the parties may agree, without any official intervention, to terminate a contract of employment before the expiry of the stipulated term, whereas the Convention requires the competent authority to satisfy itself of certain matters (the worker's free consent and the settlement of monetary liabilities) before permitting such termination.

Article 14. Under section 53 of the Royal Order of 19 July 1954 as amended by a decree of 10 June 1958, an employer may be freed from liability for payment of repatriation expenses in certain circumstances without any prior examination of the matter by the competent authorities, whereas the Convention requires that any such exemption shall be granted only after the competent authority has satisfied itself of the existence of the prescribed conditions.

As the Committee has had occasion to comment on the above matters already for a number of years, it trusts that measures will be taken without delay to eliminate the discrepancies in question.

*United Kingdom**Bechuanaland.*

The Committee notes that recommendations for the amendment of the Native Labour Proclamation are to be considered by the Legislative Council in its 1961-62 Session. As the Government stated already in its report for 1956-57 that the Proclamation was to be reviewed, the Committee hopes that the amendments required to ensure the full application of the Convention (particularly Article 6, paragraph 4, and Article 8, paragraph 1) will be adopted at an early date.

British Guiana.

The Committee notes that legislation intended to give effect to the Convention is still under consideration. As reference to the proposed legislation was made already in the Government's report for 1953-54, the Committee hopes that it will be adopted at an early date.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *United Kingdom* (Basutoland, Kenya, North Borneo, Northern Rhodesia, Seychelles, Solomon Islands, Uganda).

Information supplied by the *United Kingdom* (Gambia) in answer to a direct request has been noted by the Committee.

Convention No. 81: Labour Inspection, 1947

Requests regarding certain points are being addressed directly to the *United Kingdom* (Antigua, Brunei, Grenada, Southern Rhodesia).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947*United Kingdom**Barbados.*

The Committee has taken note with interest of the Government's report for 1958-59 (received too late to be examined in 1960) which contains detailed information in reply to the direct request of 1959 concerning Article 19 of the Convention, and to the general observation also made in 1959.

The Committee notes that consideration will be given to the points raised on that occasion in the revision of the labour legislation now being undertaken.

British Virgin Islands.

With reference to the direct requests made for this territory in previous years, the Committee notes with satisfaction that, by a resolution of the Legislative Council, school attendance was made compulsory in all the islands possessing primary schools, as from 12 August 1958.

* * *

In addition, requests regarding certain other points are being addressed directly to the *United Kingdom* (Aden, Antigua, Bahamas, Barbados, Bermuda, British Guiana, Brunei, Gambia, Gibraltar, Jamaica, Kenya, Mauritius, Montserrat).

Information supplied by the *United Kingdom* (British Honduras) in answer to a direct request has been noted by the Committee.

Convention No. 84: Right of Association (Non-Metropolitan Territories), 1947*Belgium**Ruanda-Urundi.*

The Committee has noted the statement by a Government representative to the Conference Committee in 1960 that draft legislation was being prepared to repeal section 3 of the decree of 25 January 1957 and the provisions of the ordinance issued thereunder which prohibit persons who have been under a contract of service for less than three years from joining an occupational association unless they have successfully completed two years of secondary studies (or, as a transitional measure, the full course of primary studies). As the report contains no information on this matter, the Committee trusts that the Government will be in a position to indicate the measures which have been or are to be taken to repeal these provisions which, as the Committee has pointed out for a number of years, are contrary to the Convention.¹

¹ The Government is asked to supply full particulars to the Conference at its 45th Session and to report in detail for the 1960-61 period.

*United Kingdom**Fiji.*

The Committee notes that the amendment of section 8 (a) of the Industrial Associations Ordinance has been deferred until an industrial relations adviser has been able to advise on the other amendments to the ordinance which are envisaged.

The Committee trusts that the Government will be able to indicate in its next report that the amendment of section 8 (a), which concerns the trade union rights of casual and seasonal workers, has been adopted.

Hong Kong.

The Committee has taken note of the statements made by a Government representative to the Conference Committee and of the information furnished in the report.

It has noted that, since the enactment of the Trade Unions Ordinance of 1948, there has been only one case in which the registration of a trade union has been refused, this refusal having been occasioned by the fact that the founders were unable to secure the necessary number of signatures for the establishment of a trade union. In these circumstances, it would seem that the Government should be able, in order to ensure the right of free association to all persons, to amend or repeal the provisions of section 10 (1) (iv) of Ordinance No. 8 of 1958, by virtue of which the Registrar may refuse to register a trade union "if he is of the opinion that a trade union sufficiently representative of the trade concerned is already in existence". In any event, the Committee requests the Government to indicate in each of its reports, until such an amendment has been made, whether, during the period under consideration, an applicant trade union has been refused registration by virtue of the provision referred to above.

The Committee has also noted with interest that the Government is at present considering the possibility of providing for a right of appeal to the courts against refusal of registration. It trusts that the Government will not fail to inform the Committee of any progress made in this connection.¹

Jamaica.

The Committee is glad to note that an amendment of the Trade Union Act provides for appeal to the courts against the refusal to register a trade union and against the withdrawal or cancellation of the registration.

Sierra Leone.

The Committee notes the difficulties encountered by the Government in the Joint Advisory Board during the examination of the draft amendments to the Trade Unions Act. The Committee trusts that, in order to guarantee fully the right of association, the Government will make every effort to secure the adoption of the necessary amendments in order—

- (a) to provide for an appeal to the courts against the refusal to register;
- (b) to abolish the possibility of refusal to register a new trade union if a representative trade union already exists in the occupation concerned.

Singapore.

The Committee regrets to observe that, in spite of the assurances given in the report for 1955-56 following the observations made by the Committee in preceding

¹ The Government is requested to furnish full information to the 45th Session of the Conference and to forward a detailed report in respect of the period 1960-61.

years, the Trade Unions (Amendment) Ordinance, No. 53 of 1959, does not provide for an appeal to the courts against refusal or cancellation of the registration of a trade union, but only for an appeal to the Minister. The Committee feels bound, therefore, to emphasise once again that only a right of appeal to the courts offers a real guarantee of "the rights of employers and employed alike to associate for all lawful purposes" (Article 2 of the Convention). The Committee trusts, therefore, that the Government will spare no effort to give effect to the Convention in this respect.

Southern Rhodesia.

The Committee notes with satisfaction that the Industrial Conciliation Act, 1959, permits the establishment and registration of multi-racial trade unions, as well as the establishment of multi-racial industrial councils.

The Committee regrets to note, however, that, under section 4 (2) (a) of the Act, it does not apply to "persons in respect of their employment in farming operations (including forestry) or any domestic servants in private households". It would be glad if the Government would indicate the measures which it is proposed to take to guarantee the right of these workers "to associate for all lawful purposes", as required by the Convention, which applies to all employed persons.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *United Kingdom* (Aden, Barbados, Basutoland, Bechuanaland, Gambia, Mauritius, North Borneo, Nyasaland, St. Helena, St. Lucia, Sarawak, Singapore, Southern Rhodesia, Swaziland).

Information supplied by the *United Kingdom* (Fiji) in answer to a direct request has been noted by the Committee.

Convention No. 86: Contracts of Employment (Indigenous Workers), 1947

United Kingdom

British Guiana.

See under Convention No. 64.

Southern Rhodesia.

The Committee regrets to note that the Government's report contains no information in reply to the observations made in 1959, when the Committee expressed the hope that legislation to give effect to Article 3, paragraphs 2 and 3, and Article 4, paragraph 1, of the Convention would be enacted without delay. The Committee recalls that the intention to enact such legislation was mentioned already in the report for 1953-54, and that it has had occasion to make observations on the matter since 1955. It therefore trusts that measures will be taken without further delay with a view to the application of the Convention.

* * *

In addition, a request regarding certain other points is being addressed directly to the *United Kingdom* (Aden, Uganda).

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948*Netherlands**Surinam.*

The Government having omitted twice in succession to send a report on the application of the Convention, the Committee trusts that it will not fail to supply a detailed report for the period from 1 July 1958 to 30 June 1961, containing the information requested since 1958, and that this report will arrive in time for the Committee to examine it at its next session in 1962.¹

*United Kingdom**British Guiana.*

The Committee notes with interest the measures being taken to amend section 27 of the Trade Union Ordinance on account of which a modification was made in the declaration of acceptance of the Convention. The Committee would be glad if the Government would indicate the progress made so that any cancellation of the registration of a trade union may be subject to an appeal to the courts.

Jamaica.

The Committee is glad to note that an amendment in 1959 to the Trade Union Act provides for an appeal to the courts against decisions of the Registrar of Trade Unions and that in consequence the Government has cancelled the modification concerning Article 4 of the Convention which was contained in the declaration of acceptance of the Convention.

Mauritius.

The Committee notes with interest that the Government is keeping under review the possibility of making a revised declaration of acceptance of the Convention. It hopes that the Government will indicate the results of this review.

Swaziland.

The Committee notes with interest from the Government's report that it is proposed "to amend the Trade Union and Trades Disputes Proclamation (Chapter 125 of the Laws) to empower the Registrar to refuse registration to any proposed union the rules of which contain any discriminatory clause as to race, colour, sex or creed. It is considered that this provision will further the application of the Convention."

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Denmark* (Faroe Islands), *Netherlands* (Netherlands New Guinea, Surinam), *United Kingdom* (Aden, Basutoland, Bechuanaland, Dominica, British Guiana, British Honduras, Gibraltar, Grenada, Jamaica, Malta, Mauritius, North Borneo, Nyasaland, St. Lucia, St. Vincent, Sarawak, Sierra Leone, Swaziland, Trinidad and Tobago, Uganda, Zanzibar).

¹ The Government is requested to furnish a report for the period 1958-61.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948*Netherlands**Netherlands Antilles.*

The Committee notes with interest that the draft amendments to the ordinance of 22 August 1952 extend the prohibition of night work to children employed as dockers and to those who work in air or maritime transport undertakings or in any services dealing with the arrival or departure of aircraft or ships, in accordance with Article 1, paragraph 1 (d), of the Convention.

The Committee expresses the hope that these amendments, as well as those already mentioned in the Government's report for 1958-59, will be adopted in the near future.

Convention No. 94: Labour Clauses (Public Contracts), 1949*Netherlands**Netherlands Antilles.*

The Committee regrets to note that the Government has not supplied any new information in reply to the observations made in 1959 and 1960 and the direct request made in 1959. As the Convention was declared applicable to the territory without modification in 1955 and observations have been made ever since 1956, and as a Government representative informed the Conference in 1960 that directives had been issued to ensure the application of the Convention, the Committee is bound to refer again to the observations previously formulated:

Article 2 of the Convention. This Article requires that labour clauses should refer not only to wages, but also to "hours of work and other conditions of labour". The Committee trusts that the labour clauses will be suitably amended to make provision for these matters and in this connection once more emphasises, as it has done since 1956, that the fact that wages, hours of work and other conditions are regulated by legislation does not free a government from the obligation to include labour clauses relating to these matters in public contracts.

Article 5, paragraph 1. This provision requires the application of adequate sanctions for failure to observe the labour clauses, provision for which does not appear to be made at present. Such sanctions would be of particular importance to ensure payment of wages at current rates, given the limited extent to which minimum wage rates have been fixed.

Article 5, paragraph 2. This provision requires appropriate measures to be taken, by withholding payment under contract or otherwise, to enable workers to obtain wages to which they are entitled.

The Committee trusts that measures will be taken to implement the Convention.

Further, the Committee hopes that the Government will supply the information requested in 1959 and again in a separate request this year.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Netherlands* (Netherlands Antilles), *United Kingdom* (Aden, Brunei, Grenada).

Information supplied by the *United Kingdom* (Antigua) in answer to a direct request has been noted by the Committee.

Convention No. 95: Protection of Wages, 1949

Requests regarding certain points are being addressed directly to the *United Kingdom* (Bahamas, Brunei, Grenada, St. Lucia, Uganda, Zanzibar).

Convention No. 97: Migration for Employment (Revised), 1949

Requests regarding certain points are being addressed directly to the *United Kingdom* (Gambia, North Borneo, Uganda, Zanzibar).

Information supplied by the *United Kingdom* (Kenya, Mauritius, Tanganyika) in answer to direct requests has been noted by the Committee.

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

United Kingdom

St. Lucia.

The Committee is glad to note that the Labour Regulations of 1960 have made it the duty of the Labour Commissioner to ensure that workmen enjoy adequate protection against any act of anti-trade union discrimination and that workers' and employers' organisations enjoy adequate protection against any acts of interference by each other, in terms of the definition of acts of discrimination and interference which is laid down in Articles 1 and 2 of the Convention.

* * *

In addition, requests regarding certain other points are being addressed directly to the *United Kingdom* (Aden, British Guiana, British Honduras, Dominica, Gibraltar, Grenada, Jamaica, Mauritius, North Borneo, Northern Rhodesia, St. Lucia, St. Vincent, Sarawak, Sierra Leone, Trinidad and Tobago, Uganda, Zanzibar).

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the *United Kingdom* (Sierra Leone).

Information supplied by the *United Kingdom* (Isle of Man, Mauritius) in answer to direct requests has been noted by the Committee.

Convention No. 101: Holidays with Pay (Agriculture), 1952

Requests regarding certain points are being addressed directly to the *United Kingdom* (St. Lucia, St. Vincent).

Convention No. 105: Abolition of Forced Labour, 1957

See general observation in Chapter I, B, Convention No. 105.

* * *

Requests regarding certain points are being addressed directly to the *United Kingdom* (Basutoland, Brunei, Gambia, Hong Kong, Jamaica, North Borneo, Southern Rhodesia).

**Appendix. Detailed Reports Received and Detailed Reports
Not Received by 29 March 1961**

Reports expected: 2,152. Reports received: 1,578. Reports not received: 574.

The numbers of Conventions in respect of which declarations of application without modification or declarations of application with modifications had been registered by 30 June 1960 are printed in *italic type*.

Countries and territories	Reports received		Reports not received		Popula- tion ¹ (thous- ands)
	Number	Conventions Nos.	Number	Conventions Nos.	
Australia	40	—	0	—	—
Nauru *	10	7, 8, 9, 11, 15, 18, 19, 21, 26, 27.	0	—	4
New Guinea *	10	7, 8, 9, 11, 15, 18, 19, 21, 26, 27.	0	—	1,312
Norfolk Island *	10	7, 8, 9, 11, 15, 18, 19, 21, 26, 27.	0	—	1
Papua *	10	7, 8, 9, 11, 15, 18, 19, 21, 26, 27.	0	—	468
Belgium	9	—	35	—	—
Ruanda-Urundi ²	9	11, 14, 26, 27, 29, 50, 62, 64, 84.	35	1, 2, 5, 6, 7, 8, 9, 10, 13, 15, 16, 21, 22, 23, 32, 33, 43, 45, 53, 55, 56, 58, 68, 69, 73, 74, 81, 87, 88, 96, 97, 98, 100, 101, 107.	4,568
Denmark	28	—	2	—	—
Faroe Islands	14	5, 7, 8, 9, 11, 14, 15, 21, 58, 81, 87, 98, 102, 105.	1	106.	35
Greenland	14	5, 7, 8, 9, 11, 14, 15, 21, 58, 81, 87, 98, 102, 105.	1	106.	27
France ³	278	—	269	—	—
Overseas Depts.					
French Guiana	7	3 *, 10 *, 26, 32 *, 35, 37 *, 99.	53	2, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 27, 29, 33, 36, 38, 42, 43, 44, 45, 49, 52, 53, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 82, 84, 87, 88, 89, 92, 94, 95, 96, 97, 98, 100, 101.	30

For footnotes see end of table.

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
France (<i>cont.</i>)					
Overseas Depts. (<i>cont.</i>)					
Guadeloupe	7	3 *, 10 *, 26, 32 *, 35, 37 *, 99.	53	2, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 27, 29, 33, 36, 38, 42, 43, 44, 45, 49, 52, 53, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 82, 84, 87, 88, 89, 92, 94, 95, 96, 97, 98, 100, 101.	251
Martinique	7	— ditto —	53	— ditto —	258
Réunion	8	3 *, 10 *, 26, 27 *, 32 *, 35, 37 *, 99.	52	2, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 29, 33, 36, 38, 42, 43, 44, 45, 49, 52, 53, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 82, 84, 87, 88, 89, 92, 94, 95, 96, 97, 98, 100, 101.	306
Algeria *	1	32.	56	2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 26, 27, 29, 33, 35, 36, 37, 38, 43, 44, 45, 49, 52, 53, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 82, 84, 85, 87, 88, 89, 92, 94, 95, 96, 97, 98, 99, 100, 101.	10,143
Overseas Territories					
Comoro Islands	25	3, 5, 8, 9, 11, 14, 15, 26, 27, 32, 33, 35, 36, 37, 38, 43, 49, 58, 62, 84, 87, 97, 98, 99, 100.	1	81.	180
French Polynesia	56	2, 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 24, 26, 27, 32, 33, 35, 36, 37, 38, 42, 43, 44, 45, 49, 52, 53, 55, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 84, 87, 88, 89, 92, 94, 96, 97, 98, 99, 100, 101.	1	81.	77

NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
France (<i>cont.</i>)					
Overseas Territ. (<i>cont.</i>)					
French Somaliland . . .	57	2, 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 24, 26, 27, 32, 33, 35, 36, 37, 38, 42, 43, 44, 45, 49, 52, 53, 55, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 84, 87, 88, 89, 92, 94, 96, 97, 98, 99, 100, 101.	0	—	68
New Caledonia	55	2, 3, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 24, 26, 27, 32, 33, 35, 36, 37, 38, 42, 43, 44, 45, 49, 52, 53, 55, 56, 57, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 84, 87, 88, 92, 94, 96, 97, 98, 99, 100, 101.	0	—	68
St. Pierre and Miquelon	55	2, 3, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 22, 23, 24, 26, 27, 32, 33, 35, 36, 37, 38, 42, 43, 44, 45, 49, 52, 53, 55, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 84, 87, 88, 92, 94, 96, 97, 98, 99, 100, 101.	0	—	5
Netherlands	33	—	16	—	—
Netherlands Antilles . .	17	5, 8, 9, 11, 15, 21, 26, 27, 33, 58, 62, 68, 87, 94, 97, 99, 101.	0	—	189
Surinam	0	—	16	5, 8, 9, 11, 15, 21, 26, 27, 33, 58, 62, 68, 87, 97, 99, 101.	233
Netherlands New Guinea	16	5, 8, 9, 11, 15, 21, 26, 27, 33, 58, 62, 68, 87, 97, 99, 101.	0	—	700
New Zealand	57	—	0	—	—
Cook Islands and Niue .	19	1, 9, 11, 14, 15, 21, 26, 30, 32, 47, 49, 50, 58, 59, 60, 64, 84, 97, 99.	0	—	22
Tokelau Island	19	1, 9, 11, 14, 15, 21, 26, 30, 32, 47, 49, 50, 58, 59, 60, 64, 84, 97, 99.	0	—	2
Western Samoa	19	1, 9, 11, 14, 15, 21, 26, 30, 32, 47, 49, 50, 58, 59, 60, 64, 84, 97, 99.	0	—	100
Portugal	64	—	0	—	—
Angola	8	1, 14, 27, 68, 69, 73, 74, 92.	0	—	4,355
Cape Verde	8	— ditto —	0	—	182
Macao	8	— ditto —	0	—	207

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
Portugal (<i>cont.</i>)					
Mozambique	8	1, 14, 27, 68, 69, 73, 74, 92.	0	—	6,170
Portuguese Guinea	8	— ditto —	0	—	554
Portuguese Indies	8	— ditto —	0	—	647
S. Tomé and Príncipe . .	8	— ditto —	0	—	62
Timor	8	— ditto —	0	—	484
Spain	0	—	74	—	—
Spanish Guinea	0	—	37	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, 32, 33, 34, 42, 45, 48, 62, 89, 95.	216
Spanish West Africa . . .	0	—	37	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, 32, 33, 34, 42, 45, 48, 62, 89, 95.	144
Union of South Africa . . .	1	—	0	—	—
South West Africa	1	26.	0	—	554
United Kingdom	1,062	—	178	—	—
Aden	25	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 82, 84, 86, 87, 97, 98 *, 99, 102, 105.	3	69, 74, 92.	790
Antigua ⁴	21	5 *, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50 *, 64, 68, 84, 86, 99, 102, 105.	7	69, 74, 87, 88, 92, 97, 98.	55
Bahamas	23	5 *, 7, 8, 11 *, 15, 26 *, 32 *, 35, 36, 37, 38, 39, 40, 50 *, 64 *, 68, 82 *, 84 *, 86 *, 94 *, 95, 102, 105.	7	69, 74, 87, 92, 97, 98, 99.	123
Barbados ⁴	21	5, 7, 8, 11, 15 *, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 99, 102, 105.	7	69, 74, 87, 88, 92, 97, 98.	230
Basutoland ²	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	0	—	651
Bechuanaland ²	24	— ditto —	0	—	337

NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
United Kingdom (<i>cont.</i>)					
Bermuda	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	42
British Guiana	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 82, 84, 86, 87, 98, 99, 102, 105.	4	69, 74, 92, 97.	516
British Honduras	22	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 98, 99, 102.	5	69, 74, 92, 97, 105.	84
British Virgin Islands . .	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 98, 99, 102, 105.	4	69, 74, 92, 97.	8
Brunei	25	5, 7, 8, 11, 15 *, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 82 *, 84, 86, 87 *, 97, 98 *, 99, 102, 105.	3	69, 74, 92.	73
Dominica ⁴	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 98, 99, 102, 105 *.	7	69, 74, 88, 92, 95, 97, 101.	65
Falkland Islands	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	2
Fiji	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102.	4	69, 74, 92, 105.	354
Gambia	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84 *, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	290
Gibraltar	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	25
Gilbert and Ellice Islands.	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	4	69, 74, 82, 92.	40
Grenada ⁴	26	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 81 *, 84, 86, 87, 94 *, 95, 98, 99, 102, 105 *.	6	69, 74, 88, 92, 97, 101.	90

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
United Kingdom (<i>cont.</i>)					
Guernsey	27	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 92, 95, 97, 98, 99, 101, 102, 105.	0	—	43
Hong Kong	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	2,857
Jamaica ⁴	23	5, 7, 8, 11, 15, 26, 32 *, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 98, 99, 102, 105.	9	2, 63, 69, 74, 88, 92, 95, 97, 101.	1,595
Jersey	26	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 92, 97, 98, 99, 101, 102, 105.	0	—	57
Kenya	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102.	4	69, 74, 92, 105.	6,450
Malta	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 99, 102, 105.	5	69, 74, 92, 98, 101.	319
Isle of Man *	22	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 84, 86, 87, 97, 98, 99, 105.	4	68, 92, 101, 102.	54
Mauritius	25	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 82, 84, 86, 87, 97, 98, 99, 102, 105.	4	69, 74, 92, 101.	587
Montserrat ⁴	22	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 82, 84, 86, 99, 102, 105.	7	69, 74, 87, 88, 92, 97, 98.	14
North Borneo	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64 *, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	419
Northern Rhodesia ^{2 5}	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 81 *, 84, 86, 87, 94, 98, 99, 102.	3	95, 97, 105.	2,360
Nyasaland ^{2 5}	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 81 *, 84, 86, 87, 98, 99, 102.	4	94, 95, 97, 105.	2,770
St. Christopher-Nevis-Anguilla ⁴	21	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 99, 102, 105.	8	69, 74, 87, 88, 92, 97, 98, 101.	56

NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
United Kingdom (<i>cont.</i>)					
St. Helena	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	5
St. Lucia ⁴	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 98, 99, 101, 102, 105.	5	69, 74, 88, 92, 97.	90
St. Vincent ⁴	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87*, 98*, 99, 101, 102, 105*.	5	69, 74, 88, 92, 97.	80
Sarawak	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	640
Seychelles	24	5*, 7*, 8*, 11*, 15*, 26*, 32*, 35*, 36*, 37*, 38*, 39*, 40*, 50*, 64*, 68, 84*, 86*, 87*, 97*, 98*, 99*, 102, 105*.	3	69, 74, 92.	41
Sierra Leone	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 84, 86, 87, 97, 98, 99, 102, 105.	5	68, 69, 74, 92, 101.	2,120
Singapore	21	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 99, 102, 105*.	8	69, 74, 87, 92, 95, 97, 98, 101.	1,582
Solomon Islands	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	4	69, 74, 82, 92.	104
Southern Rhodesia ^{2 5}	25	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 81, 84, 86, 87, 95, 98, 99, 102, 105.	2	94, 97.	2,860
Swaziland ²	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	0	—	260
Tanganyika	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	9,076
Trinidad and Tobago ¹	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 98, 99, 102, 105.	6	69, 74, 88, 92, 97, 101.	765
Uganda ²	23	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64*, 68, 84, 86*, 87*, 97, 98, 99, 102.	1	105.	6,517

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population ¹ (thousands)
	Number	Conventions Nos.	Number	Conventions Nos.	
United Kingdom (<i>cont.</i>)					
Zanzibar	24	5, 7, 8, 11, 15, 26, 32, 35, 36, 37, 38, 39, 40, 50, 64, 68, 84, 86, 87, 97, 98, 99, 102, 105.	3	69, 74, 92.	304
United States of America .	6	—	0	—	—
American Samoa	1	58.	0	—	20
Guam	1	58.	0	—	38
Panama Canal Zone . . .	1	58.	0	—	56
Puerto Rico	1	58.	0	—	2,347
Trust Territory of Pacific Islands	1	58.	0	—	67
Virgin Islands	1	58.	0	—	24

* Reports received too late to be summarised in Report III (Part I). ¹ Source: United Nations: *Demographic Year-Book, 1959*.
² Territories having no seaboard. ³ Reports on Convention No. 89 also include Convention No. 4 (applicable).
⁴ Federation of the West Indies. ⁵ Federation of Rhodesia and Nyasaland.

III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference (Article 19 of the Constitution)

Afghanistan

The Committee notes from the information supplied by the Government that Conventions Nos. 112, 113 and 114, adopted at the 43rd Session, will soon be submitted to the competent authorities; it hopes that it will be kept informed of any measures taken in this respect, as in respect of Recommendation No. 112 adopted at the same session. The Committee further regrets that the Government has not indicated whether Recommendation No. 98 (37th Session), as well as the Conventions and Recommendations adopted at the 41st and 42nd Sessions, have been submitted to the competent authorities. It hopes that all the information requested in the *Memorandum* adopted by the Governing Body will shortly be supplied as regards the submission of the various instruments mentioned above.

Albania

The Committee notes with regret that the Government has not replied to the questions raised in the observation made in 1960 and which was as follows:

In 1959 the Committee noted that the Praesidium of the People's Assembly, to which Conventions and Recommendations are submitted, reports to the Popular Assembly on the activities which it has carried out between the sessions of the assembly, particularly as regards the international field, and that the People's Assembly is thus ultimately informed. The Committee once again expresses the hope that the Government will indicate whether, in conformity with this procedure, all the Conventions and Recommendations, as well as the decisions adopted in regard to them by the Praesidium, are ultimately submitted to the Popular Assembly which constitutes the most representative legislative body provided for under the national constitution.

The Committee trusts that the Government will soon be able to take these measures and supply this information.

Bolivia

Since the Government has supplied no new information, the Committee is bound to repeat the observation which it made in 1960 in the following terms:

Since the Government has not communicated any information in reply to the observations made in 1959, the Committee can only note once again, with much regret, that the Government continues to ignore the obligations arising out of article 19 of the Constitution which are incumbent on all States Members of the I.L.O. The Committee must, therefore, ask the Government once again to indicate the measures which it intends to take in this connection and to state the reasons for which it has been unable to fulfil its obligations with regard to all its Conventions and Recommendations adopted by the Conference since its 31st Session (with the exception of Convention No. 96, which has been ratified).

Brazil

Referring to the observation which it made in 1960, the Committee notes with satisfaction the information supplied by the Government, according to which all the Recommendations adopted by the Conference from the 31st to the 43rd Sessions have been submitted to the National Congress.

Bulgaria

The Committee notes with interest the statement made by the Government representative to the Conference Committee in 1960, according to which instruments adopted by the Conference are translated into Bulgarian and sent to the numerous organisations and bodies in the country. It expresses the hope, therefore, that the Government will soon state whether the Conventions and Recommendations are submitted in particular to the National Assembly, which constitutes the most representative legislative body provided for under the national Constitution.

Burma

The Committee notes with interest that all the instruments adopted by the Conference from the 31st to the 43rd Sessions were submitted to Parliament in 1960, and thanks the Government for the documents supplied. The Committee has also taken note of the measures contemplated to present to Parliament the Government's proposals and comments on the effect to be given to the Conventions and Recommendations, and expresses the hope that these measures will be taken in the near future.

Byelorussia

The Committee took note of the statement by a Government representative to the Conference Committee in 1960, which emphasised that Conventions and Recommendations are examined by the Praesidium of the Supreme Soviet, all of whose members are members of the Supreme Soviet, and by members of committees, taking into account public opinion. Consequently, the Committee expresses the hope that the Government will soon confirm and generalise the present practice by submitting all Conventions and Recommendations to the Supreme Soviet, which constitutes the most representative legislative body provided for in the national Constitution.

China

The Committee notes with interest that all the Recommendations adopted before the 43rd Session have been submitted to the legislative Yuan and that Conventions Nos. 112, 113 and 114 have been laid before it with a view to their ratification. The Committee notes moreover that Conventions Nos. 87, 98, 108 and 109 have been communicated to the executive Yuan for examination and that consideration being given to submitting Conventions Nos. 87, 98 and 108 to the legislative Yuan with a view to their ratification. The Committee expresses the hope that the Government will not fail to indicate whether these Conventions were ultimately submitted to the legislative Yuan; it wishes to remind the Government that Conventions must be submitted to the competent authorities *in all cases* and not only when their ratification is proposed. The Committee therefore hopes that the Government will shortly indicate the measures taken to submit also to the legislative Yuan the various other Conventions adopted since the 31st Session, which are mentioned in the last column of Appendix I to this chapter.

Colombia

It appears from the statement made by a Government representative to the Conference Committee in 1960 that no progress has yet been made with the submission of

Conventions and Recommendations to the competent authorities. The Committee regrets that the Government has not replied to the direct request addressed to it in 1960 on the subject of the constitutional difficulties which the Government had encountered in discharging its obligations in this field, and must repeat the same request. The Committee trusts that the Government will soon be able to indicate whether all the Conventions and Recommendations adopted since the 37th Session have been submitted to the competent authorities.

Costa Rica

The Committee notes with interest that, in reply to the request made in 1960, the Government indicates that in future it will present to the legislative assembly proposals or appropriate comments on the effect to be given to the Conventions and Recommendations submitted to the National Assembly. It also notes that the Government is prepared to take the necessary measures to submit to the National Assembly a certain number of Recommendations adopted at the 31st to 38th Sessions for which the procedure laid down by article 19 was not followed, and it expresses the hope that these measures will be taken shortly.

Cuba

The Committee regrets to note that the Government has supplied no new information on the submission of the instruments to which the observation made in 1960 referred, or as regards the instruments adopted at the 43rd Session. The Committee must draw the Government's attention to the obligations arising out of article 19 of the Constitution of the I.L.O.; it expresses the hope that the Government will soon be able to supply all the information requested in the *Memorandum* adopted by the Governing Body regarding the submission of the various instruments mentioned in the last column of Appendix I to this chapter.

Czechoslovakia

The Committee notes with interest that, according to the statement made by a Government representative to the Conference Committee in 1960, the question of submitting Conventions and Recommendations in all cases to the National Assembly was the object of a new examination by the Government. It expresses the hope, therefore, that the Government will soon be able to indicate whether all Conventions and Recommendations are now being submitted to the National Assembly, which constitutes the most representative legislative body, in conformity with the national Constitution.

Ecuador

The Committee notes that according to the statement made by a Government representative to the Conference Committee in 1960, the Conventions and Recommendations are still being studied with a view to discharging the obligations arising from the Constitution of the I.L.O.; it also notes that the Government has now submitted to Congress for ratification several Conventions, among them Conventions Nos. 102, 103, 105 and 111, adopted since the 31st Session. The Committee expresses the hope that the Government will soon be able to indicate whether the various other Conventions and Recommendations adopted since that session, about which no information has yet been supplied, and which are mentioned in the last column of Appendix I to this chapter, have been submitted to Congress. The Committee

again points out that Conventions and Recommendations must be submitted to the competent authorities *in all cases*, in accordance with article 19, whatever may be the measures contemplated by the Government as to the ratification of the Conventions or the implementation of the Recommendations.

Ethiopia

The Committee notes the statement made by the Government representative to the Conference Committee in 1960, according to which the Government hopes to be able to ratify a certain number of Conventions in the near future. The Committee wishes to remind the Government that article 19 of the Constitution of the I.L.O. imposes the obligation to submit the instruments adopted by the Conference to the competent authorities of each member State, not only when it is proposed to ratify Conventions, but *in all cases*, whatever be the intention of the Government as regards ratification of Conventions or the measures to give effect to Recommendations. The Committee therefore urges the Government once more to take the necessary measures and to supply full information on the submission to the competent authorities of all the Conventions and Recommendations adopted since the 31st Session.

France

The Committee notes with interest that the instruments adopted at the 43rd Session have been submitted to the National Assembly.

Ghana

The Committee notes with interest from the reply to the direct request made in 1959 that the National Assembly constitutes the competent authority for the purposes of article 19.

Greece

The Committee notes with interest that, according to a statement made by a Government representative to the Conference Committee in 1960, the Government has taken preliminary measures to submit the Conventions and Recommendations to Parliament before the next session of the Conference, together with appropriate proposals or comments. The Committee therefore expresses the hope that the Government will shortly indicate the measures taken to this effect in respect of the various instruments mentioned in the last column of Appendix I to this chapter, and will communicate all the information on this subject requested in the *Memorandum* adopted by the Governing Body.

Guatemala

The Committee takes note with interest of the statement made by a Government representative to the Conference Committee in 1960 to the effect that the Government will henceforth submit to Congress all Conventions and Recommendations, and not only Conventions which it is proposed to ratify. The Committee also notes with interest that several of the instruments about which information had not yet been supplied have recently been submitted to the competent authorities, and expresses the hope that the Government will shortly indicate whether the obligations laid down in article 19 have also been fulfilled as regards the various other instruments mentioned in the last column of Appendix I to this chapter.

Haiti

The Committee takes note of the information supplied by the Government with respect to the submission of the instruments adopted at the 43rd Session. It notes with regret, however, that no information has yet been supplied about most of the Conventions and Recommendations adopted by the Conference from the 31st to the 39th Sessions, mentioned in the last column of Appendix I to this chapter. The Committee therefore once more urges the Government to communicate at an early date full information on the measures taken to this effect.

Hungary

The Committee notes with interest that, according to the statement made by the Government representative to the Conference Committee in 1960, measures have been proposed to ensure the submission of all Conventions and Recommendations to the National Assembly after their examination by the Presidential Council. The Committee expresses the hope, therefore, that the Government will soon be able to indicate the arrangements which have been adopted to this effect.

Indonesia

The Committee thanks the Government for the documents supplied in reply to the direct request made in 1960, and also takes note of the information with regard to the submission of the instruments adopted by the Conference at its 43rd Session. The Committee however regrets that the Government has supplied no new information concerning the submission of the various instruments about which particulars have not yet been supplied, and which are mentioned in the last column of Appendix I to this chapter. The Committee hopes that the Government will soon be able to supply all the information requested in this connection by the *Memorandum* adopted by the Governing Body.

Iran

The Committee takes note with interest of the information supplied by the Government concerning the submission to Parliament of Recommendations Nos. 89 to 98 and the decisions taken with regard to these instruments.

Iraq

The Committee notes that, according to the statement of a Government representative to the Conference Committee in 1960, a large number of Conventions may shortly be submitted to the competent authorities for their ratification and that efforts would also be made to ensure the submission of Recommendations. The Committee trusts that it will soon be possible to take such measures; it also points out that Conventions and Recommendations must be submitted to the competent authorities *in all cases* in accordance with article 19 of the Constitution of the I.L.O., and not only when the Government is able to propose the ratification of Conventions or the adoption of measures designed to give effect to Recommendations. The Committee therefore hopes that the Government will soon indicate whether all the instruments concerning which information has not yet been supplied and which are mentioned in the last column of Appendix I to this chapter have been submitted to the competent authorities.

Ireland

The Committee notes with satisfaction that, further to the requests presented to the Government, a new procedure has been introduced in order to submit to Parliament, together with the texts of Conventions and Recommendations, the Government's proposals or comments on the effect to be given to these instruments.

Israel

The Committee notes with interest the new procedure of submission to the competent authorities adopted by the Government in order to take full account of the indications contained in the *Memorandum* adopted by the Governing Body.

Italy

The Committee notes with interest the information supplied by the Government to the Conference Committee in reply to the observation made in 1960, on the submission to Parliament of the instruments adopted at the 40th, 41st and 42nd Sessions, as well as documents in which this submission was made and which contained the Government's proposals and comments on the effect to be given to these instruments. The Committee expresses the hope, therefore, that the Government will soon be able to communicate information on the submission of the instruments adopted at the 43rd Session.

Jordan

With reference to the observation made in 1960, the Committee notes once more with regret that the Government has supplied no information on the measures taken to submit Conventions and Recommendations to the competent authorities. It is therefore bound to draw the Government's attention again to the obligations laid down in article 19 of the Constitution for all States Members, and urges the Government to take without delay the necessary measures to submit to the competent authorities all the instruments mentioned in the last column of Appendix I to this chapter and to supply the information requested in this connection by the *Memorandum* adopted by the Governing Body.

Lebanon

The Committee notes from the statement made by a Government representative to the Conference Committee in 1960 that detailed information will soon be supplied on the submission of the instruments adopted by the Conference since its 31st Session and the proposals for ratification which have been presented. Since, apart from information on Conventions Nos. 89 and 90, the Committee has not yet received any of the information referred to in the above-mentioned statement concerning the other instruments adopted since the 31st Session, it must once more address an urgent appeal to the Government to indicate without delay what measures have been taken in this respect.

Liberia

The Committee notes that several Conventions have recently been ratified, as a Government representative reminded the Conference Committee in 1960. The Committee, however, calls the Government's attention again to the fact that article 19 of the Constitution of the I.L.O. imposes an obligation to submit *all* Conventions

and Recommendations to the competent legislative authorities and that this obligation must therefore be discharged, whatever decisions may be contemplated as regards the ratification of Conventions or the measures designed to give effect to Recommendations. The Committee observes that no information has yet been supplied regarding the submission of the instruments adopted by the Conference from its 31st to its 41st Sessions or of Recommendation No. 112, adopted at the 43rd Session. It therefore urges the Government once more to take the necessary measures and to indicate at an early date whether all the above-mentioned instruments have been submitted to the competent authorities.

Libya

The Committee regrets to note that the Government has supplied no information in reply to the observation it made in 1960 in the following terms:

In 1959 the Committee noted that, according to a statement made by the Government, the promulgation of a new Labour Code was soon to enable the Government to fulfil the obligations prescribed by article 19 of the Constitution of the I.L.O. It notes with much regret, however, that no information has so far been communicated with regard to the measures in question. Consequently it urges the Government to indicate whether it has finally been possible to submit to the competent authorities the instruments adopted by the Conference since its 35th Session.

The Committee trusts that the Government will not fail to take these measures and to supply the information in question.

Luxembourg

The Committee regrets to note that the Government has not indicated whether the instruments adopted at the 40th, 41st, 42nd and 43rd Sessions have been submitted to the competent authorities.

Federation of Malaya

In 1960 the Committee noted that the Conventions and Recommendations adopted by the Conference in 1958 would shortly be submitted to Parliament. In the absence of any new information since then, the Committee expresses the hope that the Government will soon indicate whether all the instruments adopted at the 41st, 42nd and 43rd Sessions have been submitted to Parliament.

Mexico

The Committee notes from the information supplied by the Government that the Conventions which it is proposed to ratify have been submitted to the Senate, but that Conventions whose ratification is not proposed and Recommendations have been submitted to the Ministries concerned and examined by them. The Committee again draws the Government's attention to the fact that Conventions and Recommendations must be submitted to the competent authorities *in all cases*, and not only when it is proposed to ratify Conventions. The Committee also emphasises that, as the Conference Committee again stated in 1960, the procedure laid down in article 19 of the Constitution of the I.L.O. is intended, *inter alia*, to "help to create an informed public opinion in States Members by means of the submission of all Conventions and Recommendations, whatever action it is intended to take, to the most representative legislative bodies, as defined by the national Constitution of each State". The Committee therefore expresses the hope that the Government will soon be able to indicate that all Conventions and Recommendations are being submitted to Congress.

Netherlands

The Committee notes that as regards Conventions Nos. 106 and 107 and Recommendations Nos. 103 and 104, adopted at the 40th Session (1957), the Government had indicated that measures had been prepared for their submission to the competent authorities, but it has not since then provided information on whether these instruments have ultimately been submitted to the States General. The Government has moreover supplied no information on the submission to the competent authorities of the instruments adopted at the 41st and 42nd Sessions (1958). Finally, as regards the instruments adopted at the 43rd Session, the Government has so far only indicated that when certain amendments to bring the legislation into conformity with Conventions Nos. 112 and 113 have been made, these instruments would be submitted to the States General for approval. The Committee therefore hopes that the Government will shortly indicate whether the various instruments adopted at the 40th Session referred to above, as well as all the instruments adopted at the 41st, 42nd and 43rd Sessions, have been submitted to the competent authorities and that it will supply on this subject, as in the past, all the information and documents requested in the *Memorandum* adopted by the Governing Body.

New Zealand

The Committee notes with satisfaction that, further to the requests which it had made on this subject, a new procedure has been adopted by the Government to lay before Parliament the appropriate proposals and comments on the effect to be given to Conventions and Recommendations submitted to Parliament.

Nicaragua

In 1960 the Committee had recalled that, according to information previously supplied by the Government, Conventions and Recommendations would be submitted to the legislature after the adoption of new labour legislation which was being prepared. The Committee regrets to note that no new information has been supplied since then and it must therefore urge the Government once more to indicate at an early date what measures have been taken to submit to the legislature all the instruments adopted by the Conference since its 40th Session, and to supply in this connection all the information requested in the *Memorandum* adopted by the Governing Body.

Panama

The Committee notes from the statement made by the Government representative to the Conference Committee in 1960 that the Government intends to take, as regards the submission of Conventions and Recommendations to the national Congress, the necessary measures to fulfil all the obligations arising from the Constitution of the I.L.O.

Since the Government has, however, not indicated since then whether these measures have in fact been taken, the Committee trusts that the Government will soon be able to supply all the information requested in the *Memorandum* adopted by the Governing Body regarding the submission of the various instruments mentioned in the last column of Appendix I to this chapter.

Paraguay

In 1960 the Committee observed that since Paraguay rejoined the Organisation in 1956 no information had been supplied with regard to the taking of the measures provided for in article 19 of the Constitution, and called the Government's attention in particular to the obligation of every member State to submit Conventions and Recommendations to the competent national authority, in accordance with the above-mentioned provision. As the Government has this year again failed to indicate whether the obligations in question have been discharged, the Committee must insist once more on the necessity of fulfilling this constitutional obligation and of supplying, as regards the instruments adopted at the 40th, 41st, 42nd and 43rd Sessions, all the information requested in the *Memorandum* adopted by the Governing Body on this question.

Peru

The Committee notes that, of the Conventions adopted since the 31st Session, only Convention No. 98 has still to be submitted to the competent authorities. It expresses the hope that the necessary measures in regard to this Convention will be taken in the near future. On the other hand, as regards Recommendations, information has only been supplied by the Government concerning those adopted at the 41st Session. The Committee therefore again appeals to the Government to indicate the measures that it intends to take to submit to Congress all the Recommendations adopted by the Conference at the 31st to 40th Sessions and at the 42nd and 43rd Sessions.

Portugal

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1960 according to which the Government intends to lay all Conventions and Recommendations before the National Assembly in future. It expresses the hope, therefore, that the Government will be able to indicate shortly the measures which have been taken in this connection.

Rumania

The Committee notes the statement made by a Government representative to the Conference Committee according to which the observations made by the Committee in 1960 would again be examined by the Government. It expresses the hope therefore that the Government will soon be able to indicate whether all the instruments adopted by the Conference, and not only the Conventions whose ratification had been decided on, have now been submitted to the Grand National Assembly, which constitutes the most representative legislative body provided for under the national Constitution.

Spain

The Committee notes with interest that, further to the observation made in 1960, the Conventions adopted at the 43rd Session have been submitted to the Cortes, which constitute the most representative legislative body provided for in the national Constitution.

El Salvador

The Committee regrets to note that, according to the statement of the Government representative to the Conference Committee in 1960, the Government has not

yet been able to fulfil its obligations under article 19 of the Constitution of the I.L.O., because of difficulties arising from shortage of personnel and the economic situation. The Government hopes that these difficulties will be surmounted in the near future; it reminds the Government that Conventions and Recommendations must be submitted to the competent authorities *in all cases*, even if it is not proposed to ratify these Conventions or to take measures to give effect to these Recommendations. The Committee therefore expresses the hope that the Government will shortly submit to the competent authorities all the instruments mentioned in the last column of Appendix I to this chapter, and will supply the information requested in this connection in the *Memorandum* adopted by the Governing Body.

Sudan

With regard to the observation made in 1960, the Committee takes note with interest of the information supplied by the Government regarding the submission of the instruments adopted at the 40th Session, and hopes that the Government will also soon supply the necessary information concerning the submission to the competent authorities of the Conventions and Recommendations adopted at the 41st, 42nd and 43rd Sessions.

Thailand

The Committee notes that, according to a statement made by a Government representative to the Conference Committee in 1960, the instruments adopted from the 37th to the 42nd Sessions had been examined by the Council of Ministers with a view to their submission to the competent authorities, but that the next stage in the procedure had been postponed pending the adoption of constitutional and legislative provisions then under consideration. The Committee, however, regrets to note that the Government has not indicated since then whether the intended measures have finally been adopted; it is bound, therefore, to remind the Government once more that article 19 of the Constitution of the I.L.O. imposes an obligation to submit Conventions and Recommendations to the competent authorities *in all cases*, whatever be the Government's intentions with regard to the ratification of Conventions or the implementation of Recommendations. The Committee trusts that the Government will shortly indicate whether the above-mentioned instruments, as well as those adopted at the 43rd Session, have been submitted to the competent authorities.

Ukraine

The Committee takes note of the statement by a Government representative to the Conference Committee in 1960, from which it appears that the submission of Conventions and Recommendations to the Praesidium of the Supreme Soviet has, *inter alia*, the result of ensuring that these instruments are brought to the notice of public opinion. Consequently, the Committee expresses the hope that the Government will soon confirm and generalise the present practice by submitting all Conventions and Recommendations to the Supreme Soviet, which constitutes the most representative legislative body provided for in the national Constitution.

U.S.S.R.

The Committee takes note of the statement made by a Government representative to the Conference Committee in 1960, from which it appears that Conventions and

Recommendations submitted to the Praesidium of the Supreme Soviet are also the subject of several measures of publicity, particularly within the Supreme Soviet. Consequently the Committee expresses the hope that the Government will soon be able to confirm and generalise the present practice by submitting all Conventions and Recommendations to the Supreme Soviet, which constitutes the most representative legislative body provided for in the Constitution of the U.S.S.R.

Uruguay

The Committee again regrets to note that the Government has supplied no information on the points raised in the observations made on several occasions in previous years. It notes that the Government has not indicated whether the following instruments have been submitted to the competent authorities: Conventions Nos. 104, 106, 107; Recommendations Nos. 98, 101, 102, 103 and 104 and all the Conventions and Recommendations adopted at the 41st, 42nd and 43rd Sessions.

The Committee must again point out that article 19 of the Constitution imposes on the governments of all States Members an obligation to submit Conventions and Recommendations to the competent authorities *in all cases*, and trusts that the Government will communicate without delay full information on the measures taken to this end.

Venezuela

The Committee notes with interest the information communicated by the Government, according to which all the Conventions and Recommendations adopted by the Conference at the 32nd to 42nd Sessions were submitted to the legislature in 1960. It also notes with interest that proposals for ratifying several Conventions will shortly be made.

Viet-Nam

The Committee notes with interest the information communicated by the Government to the Conference Committee, following the observation made in 1960, that Conventions and Recommendations would henceforth be submitted to the National Assembly.

Yugoslavia

The Committee notes the statement made by a Government representative to the Conference Committee in 1960 according to which Conventions and Recommendations are submitted to the Federal People's Assembly, and it expresses the hope that the Government will soon communicate detailed information on the measures which have been taken in this connection in respect of the various instruments adopted by the Conference.

* * *

In addition requests on certain other points are being addressed to the following States: *Albania, Argentina, Australia, Austria, Brazil, Bulgaria, Byelorussia, Canada, Ceylon, Chile, China, Colombia, Czechoslovakia, Dominican Republic, Finland, France, Ghana, Guatemala, Guinea, Haiti, Honduras, Hungary, Iran, Israel, Liberia, Mexico, Pakistan, Peru, Philippines, Poland, Portugal, Rumania, Spain, Tunisia, Turkey, Ukraine, Union of South Africa, U.S.S.R., United Arab Republic, Venezuela, Viet-Nam.*

Appendix I. Position of the Individual Members with Regard to the Obligation to Submit Conference Decisions to the Competent Authorities

(31st to 43rd Sessions of the International Labour Conference, 1948-59)

Note. The number of the Convention or Recommendation is given in brackets, preceded by the letter "C" or "R" as the case may be, when only some of the decisions adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Afghanistan	31st to 36th, 38th to 40th	37th, 41st, 42nd and 43rd
Albania	31st to 43rd	—
Argentina	31st to 41st and 42nd (C 110, 111)	42nd (R 110, 111) and 43rd
Australia	31st to 40th	41st, 42nd and 43rd
Austria	31st to 39th, 40th (C 105, 107; R 104), 41st and 42nd (C 110; R 110)	40th (C 106; R 103), 42nd (C 111; R 111) and 43rd
Belgium	31st to 43rd	—
Bolivia	32nd (C 96)	31st, 32nd (C 91, 92, 93, 94, 95, 97, 98; R 84, 85, 86, 87), 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Brazil	31st to 41st, 42nd (C 111; R 110, 111) and 43rd (R 112)	42nd (C 110) and 43rd (C 112, 113, 114)
Bulgaria	31st to 42nd	43rd
Burma	31st to 43rd	—
Byelorussia ¹	37th to 43rd	—
Canada	31st to 43rd	—
Ceylon	31st to 43rd	—
Chile	31st to 42nd	43rd

¹ Byelorussia became a Member of the Organisation in 1954.

SUBMISSION TO COMPETENT AUTHORITIES

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
China	31st (R 83), 32nd (R 84, 85, 86, 87), 33rd, 34th, 35th, (R 93, 94, 95), 36th, 37th, 38th (R 99, 100), 39th, 40th, (C 105; R 103, 104), 41st (R 105, 106, 107, 108, 109), 42nd (R 110, 111) and 43rd (C 112, 113, 114)	31st (C 87, 88, 89, 90), 32nd (C 91, 92, 93, 94, 95, 96, 97, 98), 35th (C 101, 102, 103), 38th (C 104), 40th (C 106, 107), 41st (C 108, 109), 42nd (C 110, 111) and 43rd (R 112)
Colombia	31st to 36th	37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Costa Rica	31st (C 87, 88, 89, 90), 32nd (C 91, 92, 93, 94, 95, 96, 97, 98), 34th (C 99, 100), 35th (C 101, 102, 103), 38th (C 104), 39th to 43rd	31st (R 83), 32nd (R 84, 85, 86, 87), 33rd, 34th (R 89, 90, 91, 92), 35th (R 93, 94, 95), 36th, 37th and 38th (R 99, 100)
Cuba	31st, 32nd, 34th, 35th (C 101, 103; R 93, 95), 38th, 40th and 42nd (C 110)	33rd, 35th (C 102; R 94), 36th, 37th, 39th, 41st, 42nd (C 111; R 110, 111) and 43rd
Czechoslovakia	31st, 32nd (C 91, 92, 93, 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 100; R 90), 37th and 38th	32nd (R 87), 33rd, 34th (C 99; R 89, 91, 92), 35th, 36th, 39th, 40th, 41st, 42nd and 43rd
Denmark	31st to 43rd	—
Dominican Republic	31st to 43rd	—
Ecuador	32nd (C 91, 92, 93, 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 99, 100; R 89, 90), 35th (C 102, 103), 36th, 38th (C 104), 40th (C 105), 42nd (C 111)	31st, 32nd (R 87), 33rd, 34th (R 91, 92), 35th (C 101; R 93, 94, 95), 37th, 38th (R 99, 100), 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd (C 110; R 110, 111) and 43rd
Ethiopia	—	31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Finland	31st to 41st	42nd and 43rd
France	31st to 43rd	—
Germany (Federal Rep.) ¹	34th to 43rd	—
Ghana ²	40th, 41st and 42nd	43rd

¹ The Federal Republic of Germany became a Member of the Organisation at the 34th Session. ² Ghana became a Member of the Organisation at the 40th Session.

REPORT OF THE COMMITTEE OF EXPERTS

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Greece	31st, 32nd, 34th (C 99, 100) and 35th (C 101, 102, 103)	33rd, 34th (R 89, 90, 91, 92), 35th (R 93, 94, 95), 36th, 37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Guatemala	31st, 32nd (C 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 99, 100), 35th (C 101, 102), 39th, 40th (C 105, 106), 41st, 42nd and 43rd (C 112, 113, 114)	32nd (C 91, 92, 93 R 87), 33rd, 34th (R 89, 90, 91, 92), 35th (C 103; R 93, 94, 95), 36th, 37th, 38th, 40th (C 107; R 103, 104) and 43rd (R 112)
Guinea ¹	43rd (C 112, 113, 114)	43rd (R 112)
Haiti	31st (C 90), 32nd (C 98), 34th (C 99, 100), 40th to 43rd	31st (C 87, 88, 89; R 83), 32nd (C 91, 92, 93, 94, 95, 96, 97; R 84, 85, 86, 87), 33rd, 34th (R 89, 90, 91, 92), 35th, 36th, 37th, 38th and 39th
Honduras ²	39th to 43rd	—
Hungary	31st to 40th	41st, 42nd and 43rd
Iceland	31st to 43rd	—
India	31st to 43rd	—
Indonesia ³	34th (C 100), 40th, 41st and 43rd	33rd, 34th (C 99; R 89, 90, 91, 92), 35th, 36th, 37th, 38th, 39th and 42nd
Iran	31st to 40th	41st, 42nd and 43rd
Iraq	31st (C 88), 32nd (C 95), 40th (C 105, 106), 42nd (C 111) and 43rd (C 112, 113, 114)	31st (C 87, 89, 90; R 83), 32nd (C 92, 93, 94, 95, 96, 97, 98; R 83, 84, 85, 86, 87), 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th (C 107; R 103, 104), 41st, 42nd (C 110; R 110, 111) and 43rd (R 112)
Ireland	31st to 43rd	—
Israel ⁴	32nd to 43rd	—
Italy	31st to 42nd	43rd
Japan ⁵	35th to 43rd	—

¹ Guinea became a Member of the Organisation on 21 January 1959. ² Honduras re-entered the Organisation on 1 January 1955. ³ Indonesia became a Member of the Organisation at the 33rd Session. ⁴ Israel became a Member of the Organisation at the 32nd Session. ⁵ Japan re-entered the Organisation after the closure of the 34th Session.

SUBMISSION TO COMPETENT AUTHORITIES

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Jordan ¹	40th (C 105)	39th, 40th (C 106, 107; R 103, 104), 41st, 42nd and 43rd
Lebanon	31st (C 89, 90)	31st (C 87, 88; R 83), 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Liberia	42nd and 43rd (C 112, 113, 114)	31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st and 43rd (R 112)
Libya ²	—	35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Luxembourg	31st to 39th	40th, 41st, 42nd and 43rd
Federation of Malaya ³ . .	—	41st, 42nd and 43rd
Mexico	31st, 32nd (C 95), 34th (C 99, 100; R 89, 90), 40th to 43rd	32nd (C 91, 92, 93, 94, 96, 97, 98; R 84, 85, 86, 87), 33rd, 34th (R 91, 92), 35th, 36th, 37th, 38th, 39th
Morocco ⁴	39th to 43rd	—
Netherlands	31st to 39th, 40th (C 105)	40th (C 106, 107; R 103, 104), 41st, 42nd and 43rd
New Zealand	31st to 43rd	—
Nicaragua ⁵	—	40th, 41st, 42nd and 43rd
Norway	31st to 43rd	—
Pakistan	31st to 42nd	43rd
Panama	31st (C 87) and 34th (C 100)	31st (C 88, 89, 90; R 83), 32nd, 33rd, 34th (C 99; R 89, 90, 91, 92), 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd and 43rd
Paraguay ⁶	—	40th, 41st, 42nd and 43rd

¹Jordan became a Member of the Organisation on 26 January 1956. ²Libya became a Member of the Organisation at the 35th Session. ³The Federation of Malaya became a Member of the Organisation on 11 November 1957. ⁴Morocco became a Member of the Organisation at the 39th Session. ⁵Nicaragua re-entered the Organisation on 9 April 1957. ⁶Paraguay re-entered the Organisation on 5 September 1956.

REPORT OF THE COMMITTEE OF EXPERTS

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Peru	31st (C 87, 88, 89, 90), 32nd (C 91, 92, 93, 94, 95, 96, 97), 34th (C 99, 100), 35th (C 101, 102, 103), 38th (C 104), 40th (C 105, 106, 107), 41st, 42nd (C 110, 111) and 43rd (C 112, 113, 114)	31st (R 83), 32nd (C 98; R 84, 85, 86, 87), 33rd, 34th (R 89, 90, 91, 92), 35th (R 93, 94, 95), 36th, 37th, 38th (R 99, 100), 39th, 40th (R 103; 104), 42nd (R 110, 111) and 43rd (R 112)
Philippines	31st to 43rd	—
Poland	31st (C 87), 32nd (C 91, 92, 95, 96, 98), 34th (C 100; R 90), 35th (C 101), 36th and 40th (C 105)	31st (C 88, 89, 90; R 83), 32nd (C 93, 94, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 91, 92), 35th (C 102, 103; R 93, 94, 95), 37th, 38th, 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd and 43rd
Portugal	31st to 42nd	43rd
Rumania ¹	39th to 43rd	—
El Salvador	38th (C 104) and 40th (C 105, 107)	31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th (R 99, 100), 39th, 40th (C 106; R 103, 104), 41st, 42nd and 43rd
Spain ²	39th to 42nd, 43rd (C 112, 113, 114)	43rd (R 112)
Sudan ³	39th and 40th	41st, 42nd and 43rd
Sweden	31st to 43rd	—
Switzerland	31st to 43rd	—
Thailand	31st to 36th	37th, 38th, 39th, 40th, 41st, 42nd, 43rd
Tunisia ⁴	39th to 43rd	—
Turkey	31st to 43rd	—
Ukraine ⁵	37th to 43rd	—
Union of South Africa . .	31st to 43rd	—
U.S.S.R. ⁶	37th to 43rd	—

¹ Rumania re-entered the Organisation on 11 May 1956. ² Spain re-entered the Organisation on 28 May 1956. ³ Sudan became a Member of the Organisation at the 39th Session. ⁴ Tunisia became a Member of the Organisation at the 39th Session. ⁵ Ukraine became a Member of the Organisation in 1954. ⁶ The U.S.S.R. re-entered the Organisation in 1954.

SUBMISSION TO COMPETENT AUTHORITIES

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
United Arab Republic ¹ . . .	31st (C 87, 88, 89), 32nd (C 94, 95, 96, 98), 34th (C 100), 35th (C 101), 38th (C 104), 39th (R 102), 40th and 42nd	31st (C 90; R 83), 32nd (C 91, 92, 93, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th (C 102, 103; R 93, 94, 95), 36th, 37th, 38th (R 99, 100), 39th (R 101), 41st and 43rd
(Egypt)	31st (C 87, 88, 89; R 83), 32nd (C 94, 95, 96, 98), 34th (C 100), 35th (C 101), 38th 39th and 40th	31st (C 90), 32nd (C 91, 92, 93, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th (C 102, 103; R 93, 94, 95), 36th and 37th
(Syria).	31st (C 87, 88, 89), 32nd (C 94, 95, 96, 98), 34th (C 100), 35th (C 101, 103), 36th (R 97), 38th (C 104), 39th (R 102) and 40th	31st (C 90; R 83), 32nd (C 91, 92, 93, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th (C 102; R 93, 94, 95), 36th (R 96), 37th, 38th (R 99, 100) and 39th (R 101)
United Kingdom	31st to 43rd	—
United States.	31st to 43rd	—
Uruguay.	31st to 36th, 38th (R 99, 100) and 40th (C 105)	37th, 38th (C 104), 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd and 43rd
Venezuela ²	31st (C 87), 32nd to 42nd	31st (C 88, 89, 90; R 83) and 43rd
Viet-Nam ³	33rd to 42nd	43rd
Yugoslavia	31st to 43rd	—

¹ The decisions of the Conference which are shown as having been submitted to the competent authorities of the United Arab Republic are those which were submitted to the competent authorities of Egypt and of Syria before the union of these two States; the last column indicates the decisions of the Conference which had not been submitted to the competent authorities of both these States. ² Venezuela withdrew from the Organisation on 3 May 1957 and re-entered the Organisation on 16 March 1958. ³ Viet-Nam became a Member of the Organisation at the 33rd Session.

Appendix II. Tables Showing the Position of Members with Regard to the Obligation to Submit Conference Decisions to the Competent Authorities

TABLE I. NUMBER OF STATES WHICH HAVE COMMUNICATED, WITHIN THE PRESCRIBED TIME LIMITS, INFORMATION INDICATING THAT CONVENTIONS AND RECOMMENDATIONS HAVE BEEN SUBMITTED TO THE COMPETENT AUTHORITIES

Number of States in which, according to information supplied by governments—	Sessions at which decisions were adopted ¹												
	31st 1948	32nd 1949	33rd 1950	34th 1951	35th 1952	36th 1953	37th 1954	38th 1955	39th 1956	40th 1957	41st 1958	42nd 1958	43rd 1959
All the decisions have been submitted . . .	16	17	21	25	25	28	29	24	38	38	33	36	35
Some of these decisions have been submitted .	7	2	— ²	4	3	1	— ²	4	1	13	3	7	8
None of these decisions have been submitted (including cases in which no information has been supplied by the government) . .	37	42	42	35	38	37	40	41	37	26	43	36	37
Number of States which were Members of the Organisation at the time of the session . .	60	61	63	64	66	66	69	69	76	77	79	79	80

¹ Except for the 41st Session (April-May) all sessions of the Conference were held in June. ² At this session the Conference adopted one Recommendation only.

TABLE II. OVER-ALL POSITION OF MEMBERS AS AT 29 MARCH 1961

Number of States in which, according to information supplied by governments—	Sessions at which decisions were adopted ¹												
	31st 1948	32nd 1949	33rd 1950	34th 1951	35th 1952	36th 1953	37th 1954	38th 1955	39th 1956	40th 1957	41st 1958	42nd 1958	43rd 1959
All the decisions have been submitted . . .	44	43	43	45	44	47	44	47	54	53	50	46	35
Some of these decisions have been submitted .	11	13	— ²	13	10	1	— ²	6	1	10	1	8	8
None of these decisions have been submitted (including cases in which no information has been supplied by the government) . .	5	5	20	6	12	18	25	16	21	14	28	25	37
Number of States which were Members of the Organisation at the time of the session . .	60	61	63	64	66	66	69	69	76	77	79	79	80

¹ Except for the 41st Session (April-May) all sessions of the Conference were held in June. ² At this session the Conference adopted one Recommendation only.

PART THREE

MINIMUM STANDARDS OF SOCIAL SECURITY

**Conclusions regarding Reports Received under Articles 19 and 22 of the Constitution
of the International Labour Organisation concerning the Social Security
(Minimum Standards) Convention 1952, (No. 102).**

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CONCLUSIONS ON THE SOCIAL SECURITY (MINIMUM STANDARDS) CONVENTION, 1952 (No. 102)

INTRODUCTION

1. One of the basic preoccupations of man throughout the ages has been with the need for security against contingencies liable to affect his conditions of existence. However, the nature and scope of the measures taken to deal with this problem have varied considerably from one era to another and according to the existing social structures. The development of industrial societies, by breaking up traditional structures, by increasing the causes of insecurity and by creating new needs, made necessary a new approach in which the community as a whole assumes responsibility in providing the required safeguards, with clearly defined rights for those concerned. Having begun in the industrial countries round about the middle of the nineteenth century, the movement towards what has now become known as social security gradually spread to the rest of the world and ceased to concern only the most industrialised countries. This generalisation is essentially a phenomenon of the twentieth century; it is all the more striking to observe its present range. This study covers the situation in 176 countries (89 States and 87 non-metropolitan territories). A rapidly evolving concept, social security is in practice provided in varying degrees although, today, it is a universally recognised necessity. It has come to be an aspect of human rights and, as such, has been embodied in a large number of modern constitutions and in the Universal Declaration on Human Rights.¹

2. Social security understandably occupies an important place in I.L.O. programmes. Stated as a principle in the Preamble to the Constitution, it was forcefully reaffirmed in the Declaration concerning the Aims and Purposes of the International Labour Organisation, adopted by the Conference at Philadelphia in 1944 on the eve of peace.² In terms of the standard-setting activities of the Organisation since its foundation more than a quarter of the Conventions and a large number of Recommendations deal with social security. Initially the work of the Conference in this field led to the adoption, from 1919 onwards, of a number of instruments concerning particular contingencies and applying to specified categories of workers, for example, the Conventions on workmen's compensation for accidents³ and

¹ Article 22: "Everyone, as a member of society, has the right to social security . . ."

Article 25: "(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family . . . and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."
"(2) Motherhood and childhood are entitled to special care and assistance . . ."

² "The Conference recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve: . . . (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care."

³ Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), which binds 41 countries (member States and non-metropolitan territories); Workmen's Compensation (Accidents) Convention, 1925 (No. 17), binding 82 countries; furthermore, the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), binds 108 countries.

occupational diseases¹, sickness insurance², old age³, invalidity⁴, survivors' insurance⁵, unemployment⁶, maternity protection⁷, and various other Conventions, concerning seamen in particular.⁸ After the Second World War the Conference adopted a somewhat different and more comprehensive approach to social security. Following on two important Recommendations, concerning income security (No. 67) and medical care (No. 69), adopted in 1944 in Philadelphia at the same time as the Declaration, the Conference finally embodied this new approach in the Social Security (Minimum Standards) Convention, 1952 (No. 102). Unlike earlier Conventions, this instrument provides objectives rather than describes the techniques to be applied. It covers all the above-mentioned contingencies and deals, in addition, with family benefits. It defines the persons to be protected not in terms of given trades or branches of activity but according to numerical criteria, and with a choice in this respect of several alternative formulas.⁹ Finally, it fixes the minimum level of benefit payable in the various cases of suspension of earnings or loss of support in relation to the wage level in each country.

3. The Convention deals in Parts II to X with nine kinds of benefit: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits. Under Article 2 the minimum requirement for ratification is the provision of three of these types of coverage, including at least one among those relating to unemployment, employment injury, old age, invalidity or survivors, in order to ensure that the obligations resulting from the choice of Parts should be reasonably equivalent. The Convention also provides that Members which accept only certain of Parts II to X upon ratification may subsequently accept the obligations of other Parts, so that they can work gradually towards full achievement of the aims of the Convention. In addition to laying down certain general rules in Parts I, XI, XII and XIII on such matters as organisation, financing, claims, etc., the Convention, in respect of each contingency, defines the contingency, the minimum coverage (in relation to the number of employees, the economically active population, or all residents), the level of benefits, their length and the conditions of payment. It is drafted generally with the flexibility necessary to suit differing techniques and levels of development. In addition, it specifically permits a number of temporary exceptions for the benefit of Members "whose economy and medical

¹ Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), in force in 56 countries; Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), in force in 50 countries.

² Sickness Insurance (Industry) Convention, 1927 (No. 24), in force in 21 countries; Sickness Insurance (Agriculture) Convention, 1927 (No. 25), in force in 18 countries.

³ Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), in force in 12 countries; Old-Age Insurance (Agriculture) Convention, 1933 (No. 36), in force in 12 countries.

⁴ Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37), in force in 11 countries; Invalidity Insurance (Agriculture) Convention, 1933 (No. 38), in force in 11 countries.

⁵ Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39), in force in nine countries; Survivors' Insurance (Agriculture) Convention, 1933 (No. 40), in force in nine countries.

⁶ Unemployment Provision Convention, 1934 (No. 44), in force in 12 countries.

⁷ Maternity Protection Convention, 1919 (No. 3), binding in 32 countries; Maternity Protection Convention (Revised), 1952 (No. 103), binds seven countries.

⁸ Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8); Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55); Sickness Insurance (Sea) Convention, 1936 (No. 56); subsequently two more general Conventions were adopted: Social Security (Seafarers) Convention, 1946 (No. 70) and Seafarers' Pensions Convention, 1946 (No. 71).

⁹ Article 77 provides that the Convention does not apply to seamen or sea fishermen and that they may be excluded from the calculation of the number of persons protected.

facilities are insufficiently developed" (Article 3). Under these exceptions, it is possible, for example, in respect of each contingency, to provide coverage for a smaller number of persons, calculated by reference only to employees in industrial workplaces of a specified size, thus bringing the minimum standard more easily within the reach of less industrialised countries. In these various ways the Convention is aimed at laying down at one and the same time, certain minimum standards to be observed and a plan for more comprehensive protection to be realised. It thus supplies a yardstick for measuring the extent to which existing systems reach or exceed the prescribed level.

4. It is against this background that the Committee is this year examining the situation in the various countries regarding the matters dealt with in the Convention. The information available¹ to the Committee has been drawn primarily from reports supplied pursuant to article 19 of Constitution by States which have not ratified the Convention and from the reports supplied by ratifying States, under article 22 of the Constitution in respect of the Parts accepted and under Article 76, paragraph 2, of the Convention in respect of Parts not accepted. The Committee has also taken into account information supplied in respect of other social security Conventions, to which certain countries have expressly referred. It has thus been able to give a more comprehensive account of the situation and to fill in some of the gaps occurring where certain countries, particularly those having recently achieved independence, were unable to supply detailed reports on this Convention.

5. This comparatively recent Convention has so far been ratified by 11 Members.² Two Members have accepted its obligations in respect of all nine contingencies dealt with in Parts II to X³; one Member has accepted eight⁴; another seven⁵; two six⁶; another five⁷; and four, three types of coverage.⁸

6. *Reports received.* Reports on the Convention have been received from ten of the ratifying States⁹; of these countries, those which have not accepted the obligations of one or more of Parts II to X of the Convention have also supplied reports on the Parts not accepted, in accordance with Article 76, paragraph 2, of the Convention.¹⁰ In addition, reports have been received, pursuant to article 19 of the Constitution, from 46 member States which have not ratified the Convention.¹¹ Reports on

¹ As a general rule, this information covers the legislation and practice up to 1 July 1960. In certain cases it was possible to take account of information on measures taken after this date.

² In addition, the United Kingdom has accepted the obligations of Parts II, III, IV, V, VII and X, without modification, on behalf of the Isle of Man.

³ Federal Republic of Germany, Belgium.

⁴ Greece—Parts II, III, IV, V, VI, VIII, IX and X.

⁵ Yugoslavia—Parts II, III, IV, V, VI, VIII and X.

⁶ Norway—Parts II, III, IV, V, VI and VII; United Kingdom—Parts II, III, IV, V, VII and X.

⁷ Denmark—Parts II, IV, V, VI and IX.

⁸ Iceland—Parts V, VII and IX; Israel—Parts V, VI and X; Italy—Parts V, VII and VIII; Sweden—Parts IV, VI and VII.

⁹ Belgium (Convention not yet in force), Denmark, Federal Republic of Germany, Greece, Israel, Italy, Norway, Sweden, United Kingdom, Yugoslavia.

¹⁰ Denmark, Greece, Israel, Italy, Norway, Sweden, United Kingdom, Yugoslavia.

¹¹ Afghanistan, Argentina, Australia, Austria, Brazil, Bulgaria, Burma, Byelorussia, Canada, Ceylon, China, Dominican Republic, Ecuador, Finland, France, India, Indonesia, Iran, Iraq, Ireland, Japan, Liberia, Federation of Malaya, Mexico, Morocco, Netherlands, New Zealand, Pakistan, Peru, Philippines, Poland, Portugal, Rumania, Spain, Switzerland, Thailand, Togo, Tunisia, Turkey, Ukraine, Union of South Africa, U.S.S.R., United Arab Republic, United States, Venezuela, Viet-Nam. The information supplied by two of these countries (Ecuador, Netherlands)

the Convention have thus been available from altogether 56 member States. Reports were supplied for non-metropolitan territories by the following Members: *Denmark*—Faroe Islands, Greenland; *Netherlands*—Netherlands Antilles, Netherlands New Guinea; *United Kingdom*—Jersey, Guernsey; the United Kingdom also sent a brief general report on the situation in all other non-metropolitan territories. In conjunction with the information already mentioned concerning other social security Conventions, the information available has, generally speaking, been sufficient to enable the Committee to assess the situation, either on the basis of the particulars contained in the reports themselves or on the basis of the relevant legislation and statistical data. The Committee wishes to make special mention of the following countries whose reports under article 19 of the Constitution or Article 76 of the Convention were particularly detailed and contained specific figures for the calculation of the number of persons protected or the level of benefits in relation to existing wage levels: Australia, Austria, Belgium, Canada, Denmark, New Zealand, Norway, Sweden, Switzerland, United Kingdom, United States. Mention deserves also to be made of the detailed reports supplied by Argentina, Bulgaria, France, India, Iran, Ireland, Italy, Japan, Mexico, Morocco, Peru, Philippines, Spain, Togo, Tunisia, Union of South Africa, U.S.S.R. and the United Arab Republic.

7. *Arrangement of the study.* The first part describes the over-all situation with regard to the general rules of the Convention applying to all the various types of coverage. The following chapters deal with the situation regarding each of the respective contingencies considered in the light of the provisions of the Convention. Finally, on the basis of this analysis, a general evaluation is made.

CHAPTER I

General Rules

8. The provisions applicable to all or most of the various contingencies are to be found in Parts I—General Provisions, XI—Standards to be Complied with by Periodical Payments, XII—Equality of Treatment of Non-national Residents and XIII—Common Provisions.¹

1. METHODS OF PROTECTION: GENERAL CHARACTERISTICS

9. With deliberate flexibility, the Convention authorises the use of very widely varying methods for the provision of the coverage prescribed in order to allow for the varying situations to be found, from country to country, as the result of one or other of the two main lines of approach—social insurance or public service in all their diverse forms. Avoiding technical terminology, which also varies from country to country, the Convention lays down certain specific criteria of general application: the system may be administered by a government department or by an institution regulated by public authorities or by any other body provided that representatives of the persons protected participate in the management or are associated therewith

is limited to indicating the existence of a Bill for the ratification of the Convention. The report of Burma, which referred to certain measures in the fields covered by Parts II, III, VI and VIII of the Convention, was received too late to be analysed in detail.

¹ Miscellaneous and final provisions concerning entry into force, general effects of ratification, etc., are contained in Parts XIV and XV.

(Article 72)¹; it must in any case be financed by contributions or taxation or both (Article 71). It may also already be noted here that, under Article 6, Members may take account of insurance which is not compulsory for the persons to be protected, subject to certain conditions which will be described below.

10. From the reports it seems that all these provisions meet the situation in most of the countries concerned. However, certain non-compulsory insurance schemes not fulfilling the conditions laid down in Article 6 may not be taken into account for purposes of compliance with the Convention, as will appear below. The same is true when the employer pays certain benefits directly—a method which is to be found with regard to a number of contingencies. The latter approach often leads to more developed schemes, and thus represents a preliminary stage, sometimes of some consequence, in countries whose economy and administration have not yet reached a degree of development adequate for the institution of social security schemes with a more equitable distribution of the cost.

11. On this question of financing, Article 71 of the Convention imposes certain conditions concerning the distribution of costs. It first of all states in general that costs should be borne in such a manner as to avoid hardship to persons of small means and to take into account the economic situation of the Member and of the classes of persons protected. In the case of contributory schemes, the Article provides that the total of the insurance contributions borne by the employees protected shall not exceed 50 per cent. of the total of the financial resources allocated to that protection.² In so far as adequate information is available on this point, it appears from the reports that contributions are generally payable in such a manner that employees have to pay not more than half, and usually less. In certain cases they pay no direct contributions at all. As stated elsewhere³, owing to the differences between the various methods of financing, it is difficult to ascertain, in terms of economic incidence, the actual cost of each of these systems to the persons covered. It should moreover be remembered that in most cases the State takes an important share in the financing of benefits, either in the form of contributions or of subsidies. Whatever the original concept on which the schemes are based, social security is becoming more and more a mechanism for general redistribution of national income, not only where schemes are “non-contributory” but also where they are “contributory”. From this point of view, the difference between the two types very often appears largely technical today. Whatever the method of financing adopted, Article 71, paragraph 3, states that the Member shall accept general responsibility for the due provision of the benefits and shall take all measures required for this purpose. The competent authorities must therefore see in all cases that the benefits are duly provided.⁴

12. Article 6 lays down some special rules with regard to non-compulsory insurance. Such insurance may not be taken into account as regards employment injury benefit, family benefit and benefit in respect of suspension of earnings on account of maternity. For the purpose of compliance with the Convention, voluntary insurance schemes must fulfil the following conditions: they must be supervised

¹ Whatever the system adopted, the Member must take general responsibility for the proper administration of the institutions and services concerned in the application of the Convention.

² For the purpose of ascertaining whether this condition is fulfilled, Article 71 allows all benefits to be taken together except family benefits and, if provided by a special branch, employment injury benefits.

³ I.L.O.: *The Financing of Social Security*, Report III, European Regional Conference, 1955 (Geneva, 1954), pp. 96-105.

⁴ This paragraph also states, *inter alia*, that the necessary actuarial studies and calculations concerning financial equilibrium must be made periodically and in appropriate circumstances.

by the public authorities or administered by joint operation of employers and workers, cover a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee, and comply, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention.¹ Thus, where invoked, this provision makes it possible to cumulate persons protected under non-compulsory insurance and by other methods provided for in the Convention or, if persons are covered at the same time by voluntary and other schemes, to cumulate the various benefits they receive. As will be seen in relation to the various contingencies, non-compulsory insurance fulfilling the general conditions laid down in Article 6 is to be found in a number of countries. Among countries which have ratified the Convention, this is true, for example, of Denmark (which has accepted the obligations of Part II—Medical Care—and Part IV—Unemployment Benefit—on this basis) and of Sweden (which has, on this basis, accepted Part IV). In other countries non-compulsory insurance provides more or less extensive protection for various contingencies but appears not to fulfil the conditions laid down in the Convention. That is the case, for instance, in the United States where, according to the report, this form of insurance covers on a large scale particularly contingencies resulting from sickness. Non-compulsory insurance schemes in the form of mutual benefit funds, or based on collective agreements are also to be found in a number of countries where they provide protection of varying extent which generally prepares the way for more advanced measures.

2. STANDARDS TO BE COMPLIED WITH BY PERIODICAL PAYMENTS

13. The Convention relates the minimum level of benefits payable in respect of the various contingencies entailing suspension of earnings, loss or reduction of support, to the wage level of the country concerned (Part XI). It offers a choice of three methods of calculation to suit the practice in various schemes: benefits may be proportionate, wholly or in part, to the previous earnings of beneficiaries or their breadwinners (Article 65); they may be fixed at uniform rates with a fixed minimum in each case which the Convention relates to the wage of an ordinary adult male labourer (Article 66); or they may depend upon the means of the persons concerned during the contingency, the amount being fixed as in the previous case, when the person concerned has no means of justifying a reduction (Article 67). These three methods were considered to provide reasonable equivalence in the obligations arising under the Convention. On the one hand, it is to be noted that the various Parts of the Convention establish a link between the method of calculating benefits and the scope of the coverage provided: benefits may be reduced or withheld during the contingency on account of the means of the persons concerned, in accordance with the conditions laid down in Article 67, only when all residents are covered²; in all other cases, entitlement to benefit must be independent of any such assessment of means, but may be confined to certain classes of persons (employees or members of the economically active population)³ under conditions laid down in the Conven-

¹ That is, the provisions of the Part dealing with the benefits for which such insurance is to be taken into account and the general provisions mentioned, particularly in the present chapter of this study.

² This method may not be applied in respect of Part VI (Employment Injury Benefit) and Part VIII (Maternity Benefit).

³ In such cases, compulsory coverage under the scheme may, for instance, be confined to persons whose earnings are below a certain level, as is the practice in various countries. This is very different from a means test applied to a potential beneficiary during the contingency as provided in Article 67.

tion. At the same time, in any comparison of a system of benefits proportionate to previous earnings (Article 65) with a system of benefits at fixed rates (Article 66), it should be remembered that the latter must ensure payment of a benefit which may not fall below a certain level however low the beneficiary's previous earnings or those of his breadwinner, whereas, when the benefit is fixed as a percentage of the previous earnings, it may be less than the benefit which would have accrued under Article 66, where previous earnings were very low.

14. Part XI prescribes, for each of the contingencies causing suspension of earnings, loss or reduction of support, the percentages that the payments must reach in relation to the previous earnings of the beneficiary or his breadwinner (Article 65) or to the earnings of an ordinary adult male labourer (Articles 66 and 67)¹ for persons defined according to their family responsibilities as "standard beneficiaries".² It also provides that, in the case of other beneficiaries, the benefit shall bear a reasonable relation to that of the standard beneficiary.³ Any family allowances must also be taken into account in the calculations required under the Convention.

15. As already indicated, in the case of periodical payments under Article 65, the rate of benefit must represent the percentage of the previous earnings of the beneficiary or his breadwinner laid down for the contingency in question. In most countries, a maximum is prescribed for the amount of benefit or for the earnings taken into account in the calculation of benefit; Article 65 authorises the application of this rule provided that the required percentage is attained when the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee; this is most frequently the case. In other instances, no maximum limit is prescribed but the benefit is calculated as a progressively diminishing percentage of the previous wage.⁴ This is obviously not incompatible with Article 65 in so far as the percentage required under the Convention is reached whenever the previous earnings are equal to or lower than the wage of a skilled manual male employee. It should be borne in mind, moreover, that in cases when benefit is wholly or partially proportionate to previous earnings in accordance with rules which do not fulfil the conditions of Article 65, reference to Article 66 might be possible, as indicated below.

16. For compliance with Article 66, periodical payments must be not less than a given amount representing at least the percentage of the earnings of an ordinary adult male labourer required by the Convention. This method of calculation is mainly intended for schemes where benefit is fixed at uniform rates which, as will be seen, are less frequent than the systems referred to in the previous paragraph. The provisions of Article 66 may, however, also be applied in respect of systems where benefit is wholly or partially proportionate to the previous earnings of the beneficiary or his breadwinner, if these at the same time provide that benefits may in no case be less than a minimum amount meeting the requirements of this Article. This possibility may be found useful, for instance, when the benefit would not otherwise reach the required percentage in relation to the previous earnings⁵ or when

¹ The benefits and earnings in question must of course be calculated on the same time basis as specified in Articles 65 and 66.

² These beneficiaries and the required percentages are shown in a schedule to Part XI and will be mentioned in connection with the respective contingencies.

³ Article 65, paragraph 5, and Article 66, paragraph 3, also applicable to Article 67.

⁴ This is the case, for instance, in Poland, U.S.S.R., Yugoslavia, etc.

⁵ This is indicated, for instance, in the report of Italy with regard to invalidity benefit (Part IX) and survivors' benefit (Part X). However, as there is a prescribed minimum it seems, as will be seen, that the conditions laid down in Article 66 might possibly be met.

the maximum is fixed at such a sum that this percentage is not equalled or exceeded in the case of the skilled manual male employee mentioned in Article 65.¹

17. In cases to which Article 67 applies, the standard benefit must be similar to that provided for in Article 66, but it may be reduced or not paid at all, according to the means of the person concerned during the contingency. Systems of this kind, which imply coverage of all residents, are far less frequent than systems to which the provisions discussed above might be applied; they mostly relate to old-age, invalidity and survivors' benefits. In Australia and New Zealand, however, this is the method applied as regards most contingencies. Under Article 67, certain amounts must be excluded from the means considered for the purposes of calculating the permissible reductions; it is for the national legislation to fix these amounts, which must however be "substantial". Only when the person concerned has means in excess of these amounts² may the benefit payable under Article 66 be reduced; it may be withheld altogether only when these means are at least equal to the amount of such benefit. Thus for purposes of applying the provisions of the Convention providing for the protection of "all residents whose means during the contingency do not exceed the prescribed limits, in such a manner to comply with the requirements of Article 67", the limits in question are the amount of the benefit under Article 66 plus certain "substantial amounts" not to be taken into consideration. Further, Article 67 (*d*) provides the possibility of referring to the total amount of benefits paid to determine compliance with any of Parts III, V, IX and X. Under this provision the minimum standard will be deemed to be reached if the total amount of benefits paid exceeds by at least 30 per cent. the total amount of benefits which would be obtained by applying Article 66 in a scheme covering only 20 per cent. of all residents. This introduces a considerable element of flexibility regarding the ways in which schemes covering all residents may comply with the Convention; for instance, it leaves great latitude in the determination of the amount of benefit payable in each case, provided that total benefits paid comply with the above-mentioned condition.

18. Finally it should be noted that, for the purpose of calculating the minimum level of family benefit in relation to the level of wages in the country concerned, the Convention refers to the total value of all benefits paid (as will be seen in Part VII), and not to the benefit paid to beneficiaries in each case. As benefits may furthermore be paid in cash or in kind (food, etc.), this arrangement allows a great deal of flexibility both in the amount and in the form of social action in this field.

3. ADAPTATION OF BENEFITS TO CHANGES IN THE GENERAL LEVEL OF EARNINGS

19. Part XI also provides for the adaptation of benefits calculated in accordance with Article 65, 66 or 67, to the fluctuations of the economic situation. They concern

¹ This is indicated, for instance, in the report of the United States with regard to the benefits provided for in Parts III, IV and VI in certain states. It is, however, not possible to say from the information available how far the benefits in question may have minimum levels conforming to the requirements of Article 66.

² In certain countries, such as New Zealand, the legislation provides for both the income and capital value of certain property to be taken into account in the evaluation of the means of the person concerned. It seems that the term "means" as used in the Convention is so general as not to preclude this possibility (see Report V (*a*) (2), International Labour Conference, 35th Session, 1952, pp. 225-226). An estimate of the average income the beneficiary could derive from the corresponding capital would seem to be an appropriate factor to take into account in assessing the extent to which the conditions of Article 67 (*c*) are fulfilled when capital assets are included in the calculation of "means".

old-age (Part V), invalidity and survivors' benefits (Parts VI, IX and X). This question does not arise with regard to other periodical payments because they are of relatively brief duration and must at all times comply with Article 65, 66 or 67, as the case may be. In contrast, long-term benefits for old age, invalidity or death of the breadwinner must be safeguarded against decrease as a result of a rise in the cost of living. There is a provision in Articles 65 and 66 (also applicable to Article 67) that the rates of current periodical payments in respect of these contingencies shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living. In a number of countries, including Argentina, Belgium, Brazil, Denmark, Finland, France, Federal Republic of Germany, Israel and Sweden provision is made for more or less automatic adjustment in accordance with changes in the general level of earnings or in the cost-of-living index. In others, where there is no such mechanism, specific provision is nevertheless made for a review of benefits either at stated intervals or when necessary. This is the case generally, for example, in Greece, Peru and the United Kingdom, and, as regards invalidity and survivors' benefits arising from employment injury, in Morocco and Tunisia. In other countries there is no specific provision for revision, any adjustments being made, as and when necessary, by the amendment of the legislation fixing the rates of benefit. This is the situation, for instance in Italy, Norway and Yugoslavia, among the countries which have accepted the obligations of the Convention in respect of certain Parts providing for the benefits in question. A number of other countries (Austria, Poland, Turkey) point out that situations of this kind might create a problem in the application of the Convention. It should be pointed out, however, that nothing in the Convention requires a pre-established procedure for the review of current benefits; it is only necessary that in practice the requisite steps should be taken, by whatever means may be appropriate.

4. SUSPENSION OF BENEFIT

20. Article 69 enumerates the circumstances in which benefit to which a person protected would otherwise be entitled, may be suspended. They include ¹ absence from the territory of the Member, and, subject to certain conditions, maintenance of the person concerned at the public expense or at that of a social security institution ² or receipt of other social security benefits or compensation as well as a number of cases relating to the personal conduct of the individual concerned.³ From information available it seems that the list and definitions in Article 69 of the circumstances in which benefit may be suspended cover those generally so regarded in the practice of the various countries. It should also be noted that the list is restrictive.

¹ Article 69 also contains special provisions in this respect regarding unemployment and survivors' benefits. See Parts IV and X below.

² In this case Article 69 provides that if the benefit exceeds the cost of maintenance, the difference must be granted to the dependants of the beneficiary. One country (New Zealand) states that national legislation makes no provision to this effect but that in such circumstances the beneficiary's dependants would qualify for benefit in their own right. If so, it would seem that the protection required by the Convention is in fact provided.

³ Cases of fraudulent claims, contingencies caused by a criminal offence or wilful misconduct, neglect to make use of the appropriate services or failure to comply with the prescribed rules of conduct. One country (Austria) raises the question of whether wilful misconduct covers drunkenness or abuse of drugs. It seems that this may be so if the definition of such conduct in national law or practice requires a sufficient degree of gravity and that the persons concerned should have been conscious of the nature of their acts.

5. RIGHT OF APPEAL

21. Under Article 70, every claimant should have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity. The Convention qualifies this right in the case of medical care when it is administered by a government department responsible to a legislature. In this case the right of appeal may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority. The third paragraph of this article provides that, where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required. From the information available these provisions seem unlikely in themselves to give rise to difficulty in the application of the Convention. In many countries, the practice is to give the person concerned the right to appeal to an administrative authority superior to that which decided in the first instance, as well as to special social security or labour tribunals or the ordinary courts. One country (New Zealand) points out that the Social Security Commission, which is an administrative authority responsible to the Government, sometimes rules in the first and last resort. In this connection it should be recalled that, in the absence of special procedure for appeal against the decisions of an authority of this kind, the safeguards provided for in the Convention may be ensured, for example, by the application of the general rules governing the right of appeal to the ordinary courts in so far as these rules permit the review or annulment of any administrative ruling in the cases covered by Article 70.

6. DEFINITIONS

22. Article 1 of the Convention defines a number of terms as used in the Convention: "prescribe", "residence", "resident", "wife", "widow", "child", "qualifying period", and "benefit" (in relation to medical care). Any necessary explanations in this connection and the comments on any special problems arising in relation thereto are included in the discussion of the various contingencies dealt with in Parts II to X. There is one general comment: one country (New Zealand) reports that, for the purposes of applying national social security legislation, "residence" is defined as physical residence whereas, in the Convention, this term is defined as "ordinary residence in the territory of the Member". It seems, however, that the reference in the Convention to ordinary residence was intended to exclude persons only occasionally or temporarily present in the territory of the Member and not to give it a wider scope than physical residence. Another question which has arisen is whether the term "resident" in scope provisions referring to "all residents whose means during the contingency do not exceed prescribed limits" covers both nationals and non-nationals. It seems that the definition of "resident" in Article 1 as "a person ordinarily resident in the territory of the Member" makes it clear that both national and non-national residents are covered in this respect. Article 68 on equality of treatment of non-national residents, whose provisions are more fully considered below, throws further light on the scope of these provisions.

7. EQUALITY OF TREATMENT OF NON-NATIONAL RESIDENTS

23. Article 68 states the principle that non-national residents shall have the same rights as national residents. The application of this principle is however subject to two provisos. The first of these is contained in Article 68, paragraph 1, and provides that "special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional

schemes". This proviso was included to prevent possible abuses and safeguard the financial balance of non-contributory schemes, particularly as regards old-age, invalidity and survivors' benefits.¹ It seemed necessary to permit, for example, the imposition of a qualifying period of residence on non-national residents (or nationals born abroad), although it might not be required from other residents, or of a longer qualifying period than for the latter. This is the general practice, for example, in countries where there are schemes imposing conditions as to means, in which case all residents must be covered, as already noted.² In these cases the special provisions for non-nationals sometimes impose stricter conditions for payment of benefits than in the case of nationals, for example, in Canada, Finland, New Zealand, Norway and the Union of South Africa (see below, particularly as regards old-age, invalidity and survivors' benefits). On the other hand, there are similar schemes which are in principle applicable to national residents only, legislation occasionally providing for the protection of non-nationals if they are citizens of countries with which special treaties have been concluded to that end.³ However, it seems that such a clause cannot be considered as one of the "special rules" authorised by the Convention; it can hardly ensure the protection of "all residents" in accordance with the Convention, even in practice, as treaties will not have been concluded with all the countries having citizens residing in the country concerned and—in an extreme case—no such treaty may have been concluded with any country.

24. Another qualification of the principle of equality is permitted under Article 68, paragraph 2, but only for contributory social security schemes which protect employees. This paragraph authorises the limitation of equality of treatment in the application of any particular Part of the Convention to nationals of other Members which have also accepted the obligations of that Part; this equality of treatment may be made subject to the existence of a special agreement providing for reciprocity. Agreements of this kind are in force between a large number of countries.

CHAPTER II

Part II of the Convention : Medical Care

25. Seven ratifying countries have accepted the obligations of this Part: Belgium, Denmark, Federal Republic of Germany, Greece, Norway, United Kingdom⁴ and Yugoslavia. Information supplied by other reporting countries indicates that varying provision is made for medical care in almost all cases.⁵

26. The Sickness Insurance (Industry) Convention, 1927 (No. 24), which requires the provision of medical treatment, medicines and appliances to workers in industry, commerce and domestic service during at least 26 weeks of sickness, is in force in

¹ International Labour Conference, 35th Session, 1952, *Record of Proceedings*, Appendix VIII, Report of the Committee on Social Security, para. 91.

² This problem does not arise in the same form when the benefits provided for in the Convention are paid regardless of means during the contingency. In that case, as benefits are calculated in accordance with Article 65 or 66, even if non-national residents are excluded, the coverage provided can still be assessed in relation to the provisions of the Convention which require the protection of a minimum number of employees or members of the economically active population. This is the case, for instance, in Sweden, as regards old-age benefit (Part V) and survivors' benefit (Part X).

³ See Parts V, IX and X.

⁴ The United Kingdom has also accepted the obligations of this Part, without modification, on behalf of the Isle of Man.

⁵ The reports from Afghanistan, Iraq, the Philippines and the United Arab Republic give no information on this subject.

21 countries.¹ The Sickness Insurance (Agriculture) Convention, 1927 (No. 25), which provides the same protection for agricultural workers, is in force in 18 countries.²

DEFINITION OF THE CONTINGENCY

27. Article 7 of the Convention provides for medical care of a preventive and curative nature, and Article 8 specifies that the contingency covered must include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences. These provisions do not seem to give rise to major difficulties of application as a rule. One country³ states that the national legislation makes no provision for preventive medical care. However, having regard to the terms of Article 8, it should be noted that the Convention requires preventive medical care only for a morbid condition or pregnancy, confinement, and their consequences. This country also states that the contingencies covered by the legislation on sickness insurance do not include certain types of sickness, such as mental illness, which are within the competence of the provincial authorities. This situation would appear to give rise to difficulties only if these special forms of protection did not fulfil the requirements of the Convention—a point on which the report from the country concerned gives no information.

SCOPE

28. Under Article 9 of the Convention, the persons protected must comprise: prescribed classes of employees, constituting not less than 50 per cent. of all employees and also their wives and children (paragraph (a)); or prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents, and also their wives and children (paragraph (b)); or prescribed classes or residents, constituting not less than 50 per cent. of all residents (paragraph (c)); or where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent. of all employees in industrial workplaces, employing 20 persons or more, and also their wives and children (paragraph (d)). The cases in which coverage has to be assessed in terms of the total number of residents (Article 9 (c)) can usefully be dealt with separately from those in which it has to be assessed in terms of classes of employees or of the economically active population, and their wives and children (paragraphs (a), (b) and (d)).

1. Coverage in Terms of Residents

29. A number of countries seem to provide protection of the kind provided for in the Convention for at least as many residents as required under Article 9.⁴ In Bulgaria, Byelorussia, Japan, New Zealand, Norway, Rumania, Sweden, Ukraine,

¹ Austria, Bulgaria, Chile, Colombia, Czechoslovakia, France, Federal Republic of Germany, Haiti, Hungary, Luxembourg, Nicaragua, Peru, Poland, Rumania, Spain, United Kingdom, Uruguay, Yugoslavia. Ratification by the United Kingdom resulted in the application of the Convention *ipso jure* to Guernsey, Jersey and the Isle of Man.

² The above, except France, Hungary and Rumania.

³ Italy.

⁴ Australia (National Health Service Acts, 1953-59), Bulgaria, Denmark (National Insurance Act of 20 May 1933, Notification of 1957, sections 1-35), Japan (National Health Insurance Law 1958 and Workers Health Insurance 1922 and 1953), New Zealand (Social Security Act, 1938, sections 77 to 101), Norway (Sickness Insurance Act of 2 March 1956), Rumania (decree of 29 May 1958 on Medical Assistance), Sweden (Act of 3 January 1947 respecting Public Sickness Insurance), Switzerland (Federal Law of 13 July 1911 on Sickness and Accident Insurance), Ukraine, U.S.S.R., United Kingdom (National Health Service Act of 6 November 1946 and corresponding provisions for Scotland and Northern Ireland).

U.S.S.R. and the United Kingdom this protection normally covers all residents. In Australia, Denmark and Switzerland, the statutory insurance schemes are essentially of a voluntary nature and, according to the reports, cover over 70 per cent. of all residents.

30. A similar proportion of residents is covered by voluntary insurance schemes in Israel but it seems from the report that these schemes do not fulfil the conditions laid down in Article 6 of the Convention.¹ The report from the United States reveals a similar situation; of the 75 per cent. of the residents insured only a small proportion (just under 10 per cent. of all residents) are covered by federal schemes² or by state welfare schemes; the remainder are covered by voluntary schemes which do not fulfil the conditions of Article 6. In this connection, certain other countries, such as Morocco and the Union of South Africa, also state that there are voluntary schemes, apart from the protection afforded by the more or less widespread provision of care in public hospitals and dispensaries, but the nature and scope of these schemes cannot be assessed from the information supplied.

31. In certain countries the number of persons protected would seem to reach the standard required in Article 9 (c) but as the protection is limited in most cases essentially to hospital care, it as yet only partially meets the requirements of the Convention. Thus in Canada, side by side with the more or less extensive benefits provided to persons covered by the assistance schemes of each province, i.e. a limited number of residents, all residents, irrespective of their means, are covered by the hospital insurance scheme provided for by federal legislation and applied under arrangements with the provincial authorities.³

32. The reports from Argentina, Ceylon, Ireland, Federation of Malaya and Togo state that medical care is provided, particularly in hospitals and other public establishments, for the whole or a large part of the population, free or at a small charge, which is sometimes adjusted to the means of the persons concerned. Similar arrangements exist in a large number of other countries. Of course, the scope of protection ultimately depends on each country's medical and hospital facilities, and the situation in this respect may vary considerably.

2. *Coverage in Terms of Employees or Members of the Economically Active Population*

33. In a fairly large number of countries, protection of the kind provided for in the Convention seems to be available for at least as many employees or members of the economically active population as is required by Article 9 (a) or (b) and also for their wives and children.⁴ The standards laid down by the Convention in this

¹ The report states that the enactment of legislation on the subject is under consideration.

² Members of the armed forces, ex-servicemen, seamen, Indians. The Federal Employees Health Benefits Act, 1959, provides a voluntary insurance scheme for federal employees and members of their families which seems to meet the conditions laid down in Article 6 of the Convention.

³ The Federal Hospitalisation Insurance Act of 1957 sets a number of minimum standards and provides for a part of the cost to the provinces to be met from the federal budget.

⁴ Austria (General Social Insurance Act, 9 September 1955, sections 116-137, 144-168), Belgium (legislative decree of 28 December 1944 concerning social security for employees and order of 22 September 1955 respecting sickness and invalidity insurance), France (Social Security Code, Book III and Rural Code, Book VII), Federal Republic of Germany (Federal Insurance Code 1924 as amended sections 165-536), Greece (Social Insurance Act of 14 June 1951 sections 31-33), Italy (Act of 11 January 1943 creating the National Sickness Insurance Institution and, for tuberculosis, legislative decree of 4 October 1935 to amend and consolidate the laws relating to social insurance, as amended), Poland (Social Insurance Act of 28 March 1933 as amended, sections 95 et seq.), Spain (Act of 14 December 1942 to establish compulsory sickness insurance), Yugoslavia (Act of 24 November 1954 respecting health insurance for wage and salary earners).

respect are often exceeded considerably. All or nearly all employees are covered in Austria, Belgium, France, Federal Republic of Germany, Italy, Poland and Yugoslavia. Over 70 per cent. are covered in Greece, and in Spain sickness insurance is compulsory for employees earning less than 40,000 pesetas per annum which, although specific figures are lacking, would seem to cover over 50 per cent. of all employees. In most of these countries, where employees are the main class of persons protected, others are also covered, particularly self-employed persons, often in considerable numbers.

34. In certain other countries similar protection is provided for an apparently more limited number of persons.¹ The Convention's requirements regarding the number of persons to be protected could perhaps be met in a large number of these cases, at least if the standard applied were that of Article 9 (*d*) and assuming that the level of development of the economy and of the country's medical facilities were such as to justify recourse to the temporary exceptions allowed under Article 3. About 15 per cent. of all employees in Finland and apparently somewhat less than 35 per cent.² in Portugal, and also their wives and children, seem to be covered by schemes for specific undertakings or occupations. In Brazil compulsory insurance seems to cover about 25 per cent. of the economically active population, mostly employees. Insurance of this type is also provided for classes of employees defined according to various criteria (sector of activity, level of earnings, number of persons employed in undertakings, regions) in China, the Dominican Republic, India, Iran, Mexico, Peru, Tunisia, Turkey and Venezuela, and, according to the reports would seem to cover 25 to 35 per cent. and in certain cases perhaps up to 50 per cent. of all employees (exact figures are not available in all cases). The standard of Article 9 (*d*) would appear at least to be reached in most of these countries; however, in China, the Dominican Republic (except for maternity), India (in certain regions), Peru and Turkey, compulsory insurance does not extend to employees' wives and children. The reports from India and Turkey state that the necessary extension is in progress or under consideration. In Indonesia state organised insurance is of a voluntary nature and depends on agreement between employer and employees; as a first step it applies to certain undertakings in the capital employing not less than ten persons; about 1,500 employees, and their wives and children, are now covered. Of course, in most of these countries, side by side with the various schemes mentioned above, there are protective measures confined to certain specified classes of workers, such as civil servants, railway workers, etc., and members of their families. This is also the case elsewhere as indicated, for example, in the reports of the Federation of Malaya and Pakistan.

35. Finally in several cases, although certain benefits are granted to a more or less considerable number of employees, they have to be provided by the employer, a form of protection which cannot be taken into account for the purposes of the Convention. This kind of arrangement sometimes exists side by side with other forms of protec-

¹ Brazil (Social Security Act of 26 August 1960, sections 45-50), China (Workers' Social Insurance Act of 21 July 1958, sections 51 to 62), Dominican Republic (Social Insurance Act of 6 January 1949, sections 43-48), Finland (Assistance Funds Act of 19 June 1942), India (Employees' State Insurance Act, 1948, sections 56 to 59), Indonesia (Minister of Labour Order No. 15, 1957), Iran (Workers Social Insurance Act of 11 May 1960, sections 44 to 53), Mexico (Social Insurance Act of 18 January 1943, sections 51-67), Peru (Act of 12 August 1936 respecting compulsory social insurance, sections 46 et seq.), Portugal (Decree No. 37762 of 24 February 1950), Tunisia (Act of 14 December 1960 relating to the organisation of social security, sections 91-95), Turkey (Sickness and Maternity Insurance Act, 1950-1957, sections 8-14), Venezuela (Act of 24 July 1940 respecting compulsory social insurance, as amended, sections 6 to 12).

² The report states that about 800,000 employees are covered. Official figures give 2,295,254 as the total number of employees in 1950. (I.L.O.: *Year Book of Labour Statistics*, 1960 (Geneva, 1960).)

tion, for example, in India and the Federation of Malaya as regards plantation workers¹; in addition, in the latter country, about 10 per cent. of the persons employed in commerce are entitled, under collective agreements, to benefits for medical care payable by their employers. In other cases, employers' liability seems to be the principal form of protection; provision of this kind is made in Viet-Nam for employees of large undertakings and their wives and children.² The reports from Liberia, Pakistan, Thailand and Togo state that similar provision is made for all or a large proportion of employees, at least in large and medium-sized undertakings.

LEVEL OF BENEFIT

1. *Nature of Benefit*

36. Article 10, paragraph 1, defines the various forms of benefit³ which must be provided as a minimum for the persons protected. They are, in case of a morbid condition, general practitioner care, including domiciliary visiting, specialist care, pharmaceutical supplies and hospitalisation where necessary; and in case of pregnancy and confinement and their consequences, prenatal, confinement and post-natal care and hospitalisation where necessary. Persons protected seem, on the whole, to be provided with such benefit, for instance, according to the reports, in the following countries: Australia, Austria, Belgium, Brazil, Bulgaria, Byelorussia, Denmark, Dominican Republic, Finland, France, Federal Republic of Germany, Greece, Iran, Israel, Italy, Japan, Mexico, New Zealand, Norway, Peru, Poland, Rumania, Spain, Sweden, Switzerland, Turkey, Ukraine, U.S.S.R., United Kingdom, Venezuela and Yugoslavia. Benefits fulfilling the requirements of the Convention also seem to be provided in other countries for defined classes of protected persons. This is the case, for instance, in the United States (Federal Schemes), in India, the Federation of Malaya, Pakistan (for civil servants and members of their families), etc.

37. In certain cases benefit does not normally comprise all the forms required by the Convention. For instance, in India and Indonesia and, it would seem, in Portugal, members of an employee's family are not covered as regards hospitalisation; more generally, in Portugal, hospitalisation benefit is in principle provided only for cases requiring general surgery (the Government states that the generalisation of the right to hospitalisation is now being considered). The report of Switzerland states that, in general, the cost of maintenance in hospital is not covered but that revision is contemplated on this point, among others. In certain other instances, benefit is provided only in respect of hospital care. This is the case under the general hospital insurance scheme in Canada and under the schemes for employees in China and Tunisia. Similarly, benefit payable to persons receiving public assistance (in Canada, the United States and the Union of South Africa, for example) does not as a rule provide all the services prescribed by the Convention and is mostly limited to care in hospitals and dispensaries. From the information available, it is not possible to assess the precise extent of benefits provided under the voluntary insurance schemes in the United States and the Union of South Africa; however, the United States report indicates that about two-thirds of the persons protected under such schemes are covered for all medical, surgical and hospital expenses. When benefits are to be

¹ India (Plantations Labour Act, 1951, section 10), Federation of Malaya (Labour Code (sections 176 et seq.) and Employment Ordinance, 1955).

² Labour Code, 1952, and Labour Code for Agricultural Undertakings, 1953.

³ Under Article 1 of the Convention, the term "benefit" means either direct benefit in the form of care or indirect benefit consisting of reimbursement of the expenses borne by the person concerned; this definition is also valid for benefit in the form of care under Part VI and Part VIII.

provided by employers, they are generally limited to care in services established by undertakings; however, in Thailand, employers seem to be liable for a limited reimbursement of the expenses incurred by their employees.

2. *Cost Sharing*

38. Under Article 10, paragraph 2, the beneficiary or his breadwinner may be required to share in the cost of the medical care the beneficiary receives in respect of a morbid condition. However, the Convention makes no provision for cost sharing in respect of care received in case of pregnancy, confinement and their consequences. The rules in force regarding cost sharing in the countries covered by this study differ widely. In some, costs are shared only for certain types of benefit. This is the case, for instance, in Austria (hospitalisation), the Federal Republic of Germany (pharmaceutical supplies), Norway (care outside hospitals), New Zealand (specialist care) and Poland and the United Kingdom (pharmaceutical supplies). Some schemes provide for cost sharing in respect of all benefits, for instance in Belgium, Finland, France, Greece and Portugal. In Denmark cost sharing may be required if the funds paying the benefits encounter financial difficulties. In most of these countries, as required by the Convention, there is no cost sharing in respect of pregnancy and confinement and their consequences. The situation is different in Greece, but the Government has stated its intention of bringing national legislation and practice into conformity with the Convention on this point. It seems that cost sharing may also be required in respect of pregnancy in Belgium, Finland and Portugal.

39. Article 10, paragraph 2, of the Convention also provides that the rules concerning cost sharing must be so designed as to avoid hardship. In countries where cost sharing is provided for, this requirement is generally observed. However, under systems of cost sharing providing for the reimbursement of expenses incurred by the persons concerned in accordance with rates established by the social security administration, the degree of protection required by the Convention can be ensured only if such rates reflect the actual costs incurred by the persons concerned. A problem of this kind seems to arise, for instance, in Belgium and France. In France steps have been taken recently to bring the reimbursement rates into line with the actual cost of medical care.

40. Article 10, paragraphs 3 and 4, contain provisions relating respectively to the purpose of the protection and its effectiveness. In so far as can be judged from the information available these provisions appear not to have given rise to any difficulties in the countries covered in this study.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

1. *Duration of Benefit*

41. Under Article 12 of the Convention, benefit for medical care must be granted throughout the contingency covered; however, in the case of a morbid condition, that benefit may be limited to 26 weeks in each case with the proviso that benefit shall not be suspended while sickness benefit continues to be paid. These requirements are on the whole met in all the countries concerned, benefit being of unlimited duration in a large number of cases. Limits of duration, similar to those authorised in Article 12, paragraph 1, are provided for in the following countries: Austria, (for hospitalisation only), Denmark, Dominican Republic, Federal Republic of Germany, Greece, Iran, Italy, Peru, Portugal (apparently only for pharmaceutical supplies), Spain, Turkey and Venezuela. The provisions in force in some of these countries do not always correspond exactly to the formula used in the Convention (26 weeks

in each case), but they would seem nevertheless to produce roughly equivalent results in practice. Sometimes the maximum duration of benefit is related to a specified period of time and not to each case of sickness. This is the situation for instance in Denmark (where benefit is generally payable for 60 weeks in three years), in Italy (180 days per year); in Japan (three years), in Sweden (two years for hospitalisation), in Spain (39 weeks per year for insured persons and 26 weeks per year for their wives and children, shorter periods being however specified for hospitalisation: see below) and in Switzerland (generally 360 days for each 540-day period). Subject to detailed consideration of all the rules applicable in each specific case, it seems that the degree of protection required by the Convention can be provided by this method in practice, since it ensures payment of benefit to the persons concerned for more than 26 weeks in case of prolonged sickness. The report from Austria expresses doubt as to the conformity with the Convention of the rules governing the duration of hospitalisation benefit (the only type of benefit for which there is a time limit in Austria); as a general rule, this benefit is limited to 26 weeks and thereafter the right to hospitalisation in respect of the same sickness is acquired again only after a further period of insurance, generally 13 weeks. It seems, however, that provisions of this kind are not likely to affect the general conformity of the scheme in question with the Convention, since they apply only in respect of the same illness and the period during which entitlement to benefit is interrupted is relatively short. The Austrian Government further points out that certain funds also limit the duration of hospital benefit for members of the insured person's family to 13 weeks; in Spain, more generally benefit in respect of hospitalisation is also normally granted for less than 26 weeks, although it may be extended. The removal of these restrictions would seem to present no major difficulties. The report from New Zealand states that the right to hospitalisation in case of maternity is limited to 14 days after confinement, and expresses doubt whether this is in accordance with the Convention. A similar situation exists in a number of countries. It may be noted that the requirements of the Convention would seem to be met in so far as after the period of hospitalisation specifically provided for in case of maternity the person concerned was entitled to sickness benefit (including hospitalisation when necessary) in respect of a pathological condition following pregnancy or confinement.

42. Article 12, paragraph 1, states that provision must be made to enable the limit to be extended for prescribed diseases recognised as entailing prolonged care. Provision of this kind exists in a large number of countries. The report from Austria states that the social insurance legislation contains no such provision and that this might give rise to difficulty in the application of this Part of the Convention. However, it should be remembered that the Convention leaves the designation of these diseases to national legislation.

43. Benefit is limited to less than the minimum duration laid down in Article 12, paragraph 1, in Finland, where it varies according to the fund, from 13 to 26 weeks, and in India, where it lasts as a rule for 13 weeks for employees covered by the national insurance scheme, with longer duration for certain diseases. However, where a declaration can be made in virtue of Article 3, the Convention authorises the limitation of benefit to 13 weeks in each case (Article 12, paragraph 2). It may be noted in this connection, that in Peru, Turkey and Venezuela, which are considering recourse to the exceptions allowed under Article 3 as regards scope, benefit is normally payable for 26 weeks.

2. *Qualifying Period*

44. Under Article 11 of the Convention, the right to benefit may be made subject to the completion of such a qualifying period "as may be considered necessary to

preclude abuse". Most of the schemes covered in this study do not require such a qualifying period. It is generally required, *inter alia*, in Australia, Belgium, China, Denmark, Dominican Republic, France, Greece, Iran, Peru, Portugal and Tunisia. In other cases, it is required only for certain contingencies (pregnancy) or in respect of defined classes of protected persons. As a general rule these qualifying periods are no longer than may be considered necessary to preclude abuse.

CONCLUSION

45. From the reports supplied it seems that the provisions of Part II are on the whole applied in a considerable number of countries including Australia, Austria, Belgium, Bulgaria, Byelorussia, Denmark, France, Federal Republic of Germany, Greece, Italy, Japan, New Zealand, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Ukraine, U.S.S.R., United Kingdom and Yugoslavia and, if regard be had to the exceptions regarding scope authorised by Article 3, in Brazil, Iran, Mexico and Venezuela. Subject to the same qualification this might possibly also be the case as regards the Dominican Republic, India, Peru and Turkey if protection were extended to wives and children of employees, as is now being considered in certain of these countries. Benefits in accordance with the Convention seem to be provided under voluntary insurance schemes for a very large proportion of the population in Israel and for certain classes of employees in Finland; in both of these countries legislation is under consideration to give fuller effect to this Part of the Convention. In some countries, although the population as a whole is covered (as in Canada) or extensive categories of employees and members of their families (as in Tunisia), the protection is for the most part still limited to hospital services and so does not fully meet the requirements of the Convention regarding the various types of benefit to be provided. In other cases, very large numbers of persons are covered but in a manner which cannot be taken into account for the purposes of the Convention, either because the insurance is of a voluntary nature not fulfilling the conditions of Article 6 (as in the United States) or because the benefit is payable directly by employers, as in a fairly large number of countries in the early stages of development.

46. As regards countries for which reports have not been supplied on this Part, it should be noted that the application of the 1927 Conventions on sickness insurance (previously mentioned) has not given rise to observations for the following States: Chile, Colombia, Czechoslovakia, Hungary, Luxembourg, Nicaragua. Finally, information supplied by different States Members in respect of the countries or territories for whose international relations they are or were until recently responsible, shows that provisions exist in most cases in this field. Substantial protection based on compulsory insurance schemes or public services seem to exist in a certain number of cases.¹ Schemes also seem to have developed in several countries on the basis of collective agreements.² In most other cases the principal sources of protection still appear to be the assistance provided by public authorities in hospitals or dispensaries and the liability as regards medical care imposed on employers by the legislation of a large number of territories.³

¹ For example: Algeria, Cyprus, Gibraltar, Guadeloupe, French Guiana, Malta, Isle of Man, Martinique, Netherlands Antilles, Réunion, St. Pierre and Miquelon.

² This seems to appear, for example, from the information supplied by France for the former territory of French Equatorial Africa (now Central African Republic, Chad, Gabon Republic, Congo (Brazzaville)) as well as from the information supplied for Southern Rhodesia.

³ For example in the countries or territories for whose international relations France is, or was formerly responsible (and where the provisions of the Labour Code adopted in 1952 by the French Parliament for these countries is in force), in Netherlands New Guinea and in a large number of United Kingdom territories.

CHAPTER III

Part III of the Convention : Sickness Benefit

47. Six ratifying countries have accepted the obligations of this Part: Belgium, Federal Republic of Germany, Greece, Norway, United Kingdom ¹ and Yugoslavia. Almost all other States which have supplied reports state that protection is provided in respect of this contingency.²

48. The two 1927 Conventions providing sickness insurance for workers in industry, commerce, etc., and for agricultural workers, already mentioned in Part II, also provide for the payment of cash benefit for incapacity for work due to sickness on conditions similar to those laid down in this Part of the Convention. These Conventions are in force in 21 and 18 countries respectively, as listed in Part II above.

DEFINITION OF THE CONTINGENCY

49. Article 14 of the Convention provides that the contingency shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations. These provisions seem to be applied in the countries concerned. However, in one country (China) the contingency seems to be confined to morbid conditions resulting from injuries.

SCOPE

50. Under Article 15, the persons protected must comprise: prescribed classes of employees, constituting not less than 50 per cent. of all employees (paragraph (a)); or prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents (paragraph (b)); or all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67 (paragraph (c)); or, where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more (paragraph (d)). A distinction should be made between cases where the protection is accorded to classes of employees or of the economically active population on the one hand (paragraphs (a), (b) and (d) of Article 15), and those where it extends to all residents, on the other (paragraph (c) of Article 15), because the rules governing the calculation of benefit differ in these two cases.

1. *Protection of Classes of Employees or of the Economically Active Population*

51. Employees or members of the economically active population are covered in numbers equal to or exceeding the requirements of Article 15, paragraph (a) or (b), in many countries.³ Almost all employees are protected in Austria, Belgium, Bulgaria,

¹ The United Kingdom has also accepted the obligations of this Part, without modification, on behalf of the Isle of Man.

² The following countries have supplied no information on this subject: Afghanistan, Canada, Ceylon, Liberia, the United Arab Republic, and Viet-Nam. The report of Argentina states that certain benefits are payable by the employer, without giving further details.

³ Austria (Federal Act of 9 September 1955 respecting general social insurance, sections 138-143), Belgium (legislative order of 28 December 1944 respecting social security for employees, and order of 22 September 1955 respecting sickness and invalidity insurance), Bulgaria (Labour Code, 1951), Byelorussia (see Ukraine and U.S.S.R.), Denmark (National Insurance Act of 20 May 1933, Notification 1957, sections 1 to 35), France (Social Security Code, Book III and Rural Code, Book VII),

Byelorussia, France, Federal Republic of Germany, Ireland, Italy, Norway, Poland, Rumania, Ukraine, U.S.S.R. and Yugoslavia, and a large proportion in Greece¹, Japan (60 per cent.) and Spain.¹ In most of these countries various classes of workers who are not "employees" are also covered. The persons protected comprise all economically active persons in the United Kingdom and almost all, it seems, in Sweden. In Denmark and Switzerland, a larger number of members of the economically active population than is stipulated in Article 15, paragraph (b), is covered by voluntary insurance (Article 6 of the Convention).² The same would appear to be true of Israel.³ In other countries, employees or economically active persons are protected, sometimes in very large numbers, but for the most part by insurance organised in a manner different from that laid down in the Convention; in the United States, according to the report, about two-thirds of all employees are protected, about 25 per cent. of them by compulsory insurance schemes in force in four states (California, New Jersey, New York and Rhode Island) and by federal schemes (railway workers, civil servants) and the rest by voluntary schemes which, according to the report, seem not to comply with the conditions in Article 6 of the Convention. The Government of the Union of South Africa also reports that there are many voluntary insurance schemes⁴ but supplies no details.

52. In a number of countries, protection seems to cover fewer employees.⁵ However, in many of these cases the standards of the Convention (Article 15 (d)) could probably be at least reached in many cases whenever a declaration under Article 3 may be made. That would seem to be the case, for instance, in the following countries, as already indicated in Part II: Brazil, China, Dominican Republic, India, Iran, Mexico, Peru, Tunisia, Turkey and Venezuela, as also in Morocco where the protection covers mainly employees in industry, commerce and the liberal professions estimated in the report at about 400,000, and in the Philippines, where over 25 per cent. of employees are protected, according to the report. The report from Iraq indicates that 80,000 employees of large undertakings are protected. In the Union of South Africa, the compulsory social insurance scheme appears to cover about 18 per cent. of all employees.⁶ In certain countries, protection is provided for em-

Federal Republic of Germany (Insurance Code, 1924, as amended, sections 165-536), Greece (Law of 14 June 1951 respecting social insurance, sections 35 to 38), Ireland (Social Welfare Act, 1952, sections 15 to 17), Israel (see Part II above), Italy (Act of 11 January 1943 creating the National Sickness Insurance Institution and, for tuberculosis, legislative decree of 4 October 1935 to amend and consolidate the laws relating to social insurance, amended), Japan (Health Insurance Acts of 1922 and 1953), Norway (Sickness Insurance Act, 2 March 1956), Poland (Social Insurance Act, 28 March 1933, amended), Rumania (Labour Code, 1950), Spain (Act of 14 December 1942 to establish compulsory sickness insurance), Sweden (see Part II above), Switzerland (see Part II above), Ukraine and U.S.S.R. (Labour Code, section 176, and Regulations of the Central Council of Trade Unions on payment of state social insurance benefits, 2 February 1955, as amended), United Kingdom (National Insurance Act of 1 August 1946, sections 11 to 13, and corresponding legislation for Northern Ireland), Yugoslavia (Act of 1954 respecting health insurance).

¹ See Part II above.

² In Denmark, a number of employees are covered by schemes established by collective agreements.

³ See Part II above for more information about the nature of these schemes.

⁴ In addition to a compulsory insurance scheme covering a small number of employees as indicated below.

⁵ See Part II above as regards the following countries: Brazil, China, Dominican Republic, Finland, India, Indonesia, Iran, Mexico, Peru, Portugal, Tunisia, Turkey and Venezuela, and also Iraq (Social Security Law No. 27 of 1956, sections 9 et seq.), Morocco (Dahir of 31 December 1959 to set up a social security scheme, sections 31 to 35), Philippines (Social Security Act of 20 May 1954, amended, section 14), Union of South Africa (Unemployment Insurance Act, 1946).

⁶ The report states that 850,000 employees are thus protected; the total number of employees indicated in the report under Part VI is 4,700,000.

ployees in sometimes considerable numbers, but, with the exception of certain classes, such as civil servants and railway workers, this protection is not of a kind acceptable for the purposes of the Convention because it is provided directly by the employer. This is the case, for instance, in Malaya, Pakistan, Thailand and Togo.¹

2. *Protection of Residents*

53. The minimum scope required by the Convention can also be achieved when the persons protected comprise all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67 (Article 15 (*c*)). A system of this kind exists in Australia² and in New Zealand³, and the statistics supplied by the latter country show that the upper limits of means above which no benefit is payable are considerably higher than required by the Convention. However, New Zealand also states that in addition to general rules relating to the assessment of means, the legislation provides that a married woman is not entitled to benefit when, in the opinion of the social security authorities, her husband is able to meet the costs incurred on her behalf. This can give rise to no difficulty if the husband's means are evaluated in accordance with the provisions of the Convention, that is, if benefit is withheld only when their joint resources reach the limits beyond which benefit may be withheld in accordance with Article 67; the report gives no information on this point.

LEVEL OF BENEFIT

54. For this contingency, the standard set in Part XI of the Convention for periodical payments to a standard beneficiary (man with wife and two children) is 45 per cent. of the standard earnings.

55. Where classes of employees or of the economically active population are protected, benefit must be a periodical payment calculated in such a manner as to comply with the requirements of Article 65 or of Article 66 of the Convention (Article 16, paragraph 1). The provisions in question are, or appear to be, fulfilled in most cases as shown in the reports of the following countries: Austria, Belgium, Bulgaria, Byelorussia, Dominican Republic, Finland, France, the Federal Republic of Germany, Greece, India, Indonesia, Iran, Italy (except for agricultural employees), Japan, Mexico, Morocco, Norway, Peru, Pakistan, Poland, Portugal, Rumania, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, U.S.S.R., United Kingdom, United States (California, New York and federal schemes), Venezuela and Yugoslavia. In almost all these countries benefits are wholly or partially proportionate to the beneficiary's previous earnings; they are fixed at a uniform amount in Italy (for the special tuberculosis benefit) and in the United Kingdom, in accordance with Article 66 of the Convention. The amount of benefit is, on the whole, larger than that specified in the Convention, reaching as a rule 50 to 60 per cent. of the standard earnings in cases covered by Articles 65 or 66. Still higher benefits are provided, for instance, in Peru, Poland, Ukraine, U.S.S.R. and in Yugoslavia, as well as in Italy, it would seem, for tuberculosis. At the same time the reports of a few countries indicate that the standards of the Convention may not be reached in certain cases: that is true of benefit wholly or partially proportionate to

¹ In Togo, the Labour Code, 1952 (sections 47-48), extends this type of insurance to all employees.

² Social Services Act of 1947-59 (sections 106-133).

³ Social Security Act, 1938 (sections 45 et seq.).

the beneficiary's previous earnings in the United States (New Jersey, Rhode Island) ¹ and in the Philippines ², and of benefit as a uniform amount in Denmark ³, Iraq ⁴ and Italy (for agricultural employees).⁵ From the information supplied by certain countries, such as Ireland and the Union of South Africa, it is not possible to ascertain whether the standards regarding the level of benefit are reached or not.

56. When all residents whose means during the contingency do not exceed prescribed limits are protected, the provisions of Article 67 are applicable. This is so in Australia and New Zealand: according to their reports, when there is no reduction, the amount paid to the standard beneficiary represents 45.5 per cent. of the standard earnings in Australia, and 80 per cent. in New Zealand, which is a very much more favourable proportion than that specified in the Convention.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

1. *Duration of Benefit*

57. Under Article 18, paragraph 1, of the Convention, the benefit must be granted throughout the contingency; however, the Convention authorises the limitation of benefit to 26 weeks in each case of sickness and the payment of no benefit for the first three days of suspension of earnings. These provisions are generally fulfilled. In several cases there is no limit to the duration of benefit, as in Australia, Bulgaria, Byelorussia, New Zealand, Rumania, Ukraine, U.S.S.R. and Yugoslavia. In most of these countries (except Australia and New Zealand), benefit is also payable from the first day of suspension of earnings. In Ireland and the United Kingdom the duration of benefit is also unlimited and a waiting period of three days is required only when the incapacity for work is not prolonged beyond a short period. Most other countries apply provisions on the lines of those authorised in Article 18, paragraph 1; in some, the maximum duration of benefit is specified in relation to a period of time (a year or longer) and not to each case of sickness; as for example in Denmark, Greece, Italy, Morocco, Spain, Sweden and Switzerland. In conditions similar to those described in connection with the duration of medical care, these provisions appear capable of ensuring, in practice, the degree of protection required by the Convention.⁶ In one country (Spain) sickness benefit is payable only when the incapacity for work lasts seven days or more, the benefit being payable in this case retroactively from the fifth day of incapacity; the Government states that

¹ The percentage itself is higher than the one specified in the Convention but there is a maximum fixed in such a manner that, calculated as prescribed in Article 65, the benefit paid to a skilled manual male employee represents 34 per cent. of previous earnings in New Jersey and 41 per cent. in Rhode Island (see also the chapter entitled "General Rules—Standards to Be Complied With by Periodical Payments").

² 35 per cent. of previous earnings for a standard beneficiary.

³ The amount of benefit is chosen by the insured person himself between a maximum and a minimum (lower than the standard required in Article 66).

⁴ The maximum amount of benefit is low, and if the contributions standing to the beneficiary's credit do not reach this amount, he is entitled only to the amount standing to his credit. As the Government points out, this is more in the nature of a compulsory savings scheme.

⁵ The daily benefit, for ordinary cases, is 150 lire. From the Government's report on the application of the Convention for the 1957 to 1958 period, the monthly wage of the ordinary adult male labourer calculated in accordance with Article 66 was 30,826 lire (cf. *Summary of Reports on Ratified Conventions*, 1960, p. 117). The above-mentioned benefit would therefore represent some 15 per cent. of this wage.

⁶ Moreover, in Austria, the payment of sickness benefit is subject to the same rules as apply to hospitalisation, as regards medical care, and the same comments apply (see Part II above).

the benefit for the first four days of sickness is payable by the employer; thus the period of "suspension of earnings" for which no benefit is due would not be more than three days when the sickness lasts less than seven days.

58. There are only a small number of cases where the duration of benefit is shorter or the waiting period longer than authorised in Article 18, paragraph 1. This is the case with the waiting period in Australia (seven days), United States (seven days), Morocco (where the Government is considering 15 days), New Zealand (seven days), Philippines (seven days), Portugal (six days), Tunisia (21 days) and the Union of South Africa (three weeks) and with the maximum duration of benefit in Finland (13 to 26 weeks according to the fund), India (six weeks), Iraq (four weeks) and the Philippines (13 weeks). However, where a declaration made in virtue of Article 3 is in force, Article 18, paragraph 2, of the Convention lays down less stringent rules for the duration of benefit; benefit may then be limited either to such a period that the total number of days for which the sickness benefit is granted in any year is not less than ten times the average number of persons protected in that year, or to 13 weeks in each case of sickness in which event it need not be paid for the first three days of suspension of earnings. From the indications given above it would seem that the second of these alternative provisions is not fulfilled in the countries concerned either because the benefit is of less than 13 weeks' duration or because the waiting period is longer than three days. The first might perhaps be fulfilled, but the necessary statistical information is not available.

2. *Qualifying Period*

59. Under Article 17, the right to benefit may be made subject to the completion of such a qualifying period as may be considered necessary to preclude abuse. Such a qualifying period appears to be required in almost all cases. However, in a number of countries, no qualifying period is normally required. That seems to be so in Austria, Bulgaria, Byelorussia, Finland, Federal Republic of Germany, Japan, Rumania, Ukraine, U.S.S.R., Venezuela and Yugoslavia.

CONCLUSION

60. From the reports, this Part of the Convention would seem on the whole to be applied in quite a large number of countries, including Austria, Belgium, Bulgaria, Byelorussia, France, Federal Republic of Germany, Greece, Italy, Japan, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Ukraine, U.S.S.R., United Kingdom and Yugoslavia. The same would appear to be true in Brazil, Dominican Republic, India, Iran, Mexico, Morocco, Tunisia, Turkey and Venezuela if allowance be made, as appropriate, for temporary exceptions authorised in Article 3 regarding the scope of schemes or possibly duration of benefit. Other countries also seem to provide a high level of protection by comparison with the standards of the Convention. In Australia and New Zealand the only provision at variance with the Convention is the seven-day waiting period for benefit (which, however, is of unlimited duration thereafter). From the reports of Denmark and the Philippines, it seems that the level of benefit is not quite high enough in those countries. The information supplied by Ireland and Israel does not permit an assessment of the level of benefit. In Finland, and, it seems, in Portugal, the scope of the schemes in terms of persons protected is as yet insufficient. It may be noted that Finland and Israel have stated that legislation is being prepared to give fuller effect to this Part of the Convention and Portugal appears likewise to be considering a reorganisation. In still, other cases, protection provided by methods in accordance with the Convention

fails to cover a large enough proportion of employees or members of the economically active population; yet quite extensive protection is often achieved by other methods, such as voluntary insurance schemes which do not fulfil the conditions of Article 6, or employers' liability schemes.

61. It may further be noted that, as already stated in Part II, the application of the 1927 Conventions on sickness insurance previously mentioned has not given rise to observations for the following States (for which reports were not available on this Part): Chile, Colombia, Czechoslovakia, Hungary, Luxembourg, Nicaragua. Finally, the information supplied by different States as regards the countries or territories for whose international relations they are or were until recently responsible shows that provisions exist in most cases in this field. A form of protection which seems to correspond, on the whole, to that provided for in the Convention, and based on compulsory insurance schemes, appears to exist in a certain number of cases.¹ Schemes also seem to have developed on the basis of collective agreements in certain countries, as in the case of medical expenses mentioned in Part II. In most cases, employers are made liable for payments in case of sickness under the labour legislation in force.²

CHAPTER IV

Part IV of the Convention : Unemployment Benefit

62. Eight countries have accepted the obligations of this Part, namely Belgium, Denmark, the Federal Republic of Germany, Greece, Norway, Sweden, the United Kingdom³ and Yugoslavia. It seems that there are no measures of the kind mentioned in Part IV in quite a large number of the other States that have submitted reports on this Convention—Afghanistan, Argentina, Brazil, Byelorussia⁴, Ceylon, China, Dominican Republic, India, Indonesia, Iran, Israel⁵, Liberia, Federation of Malaya, Mexico⁶, Morocco⁵, Pakistan, Peru⁴, Philippines, Poland⁴, Portugal, Rumania⁴, Thailand, Togo, Tunisia, Turkey, Ukraine⁴, United Arab Republic, U.S.S.R.⁴, Venezuela and Viet-Nam. However, provisions for unemployment benefit exist in the other countries under consideration.

63. The Unemployment Provision Convention, 1934 (No. 44), which provides for the grant of benefits or allowances in the event of involuntary unemployment to all persons habitually employed for wages or a salary subject to various conditions, has been ratified by the following nine States: Bulgaria, Czechoslovakia, France, Ireland, Italy, New Zealand, Norway, Switzerland and the United Kingdom.⁷

¹ For example: Algeria, Cyprus, Guadeloupe, French Guiana, Jersey, Malta, Isle of Man, Martinique, Netherlands Antilles, Réunion.

² For example in the countries or territories for whose international relations France is or was responsible (and where the provisions of the Labour Code adopted in 1952 by the French Parliament for these countries is in force), in Netherlands New Guinea and in a number of United Kingdom territories.

³ The obligations of this Part have also been accepted by the United Kingdom, without modification, on behalf of the Isle of Man.

⁴ The reports from these countries state that there is no unemployment problem.

⁵ The reports from these countries state that work is provided for any unemployed workers.

⁶ Workers over the age of 60 who become unemployed before reaching the qualifying age for old-age benefit (65) are entitled to a benefit which is a percentage of the normal old-age benefit (72 to 92 per cent. according to the age of the applicant). See Part V.

⁷ Ratification by the United Kingdom has made this Convention applicable *ipso jure* to Guernsey Jersey and the Isle of Man.

DEFINITION OF THE CONTINGENCY

64. Under Article 20 the contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work. These provisions seem to be applied in the various countries where protection of this kind is organised. In one country, however—Spain—the contingency is defined in relation to the reasons for which a worker is unemployed, and there are two schemes, covering respectively unemployment due to technological reasons and unemployment resulting from dismissal due to the undertaking's economic difficulties.¹ It should be noted that the provisions of Article 69 of the Convention authorise suspension of benefit, *inter alia*, when the contingency has been caused by the wilful misconduct of the person concerned, where the person concerned has failed to make use of the employment services placed at his disposal, or where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute or has left it voluntarily without just cause. It therefore seems that the question whether schemes such as those mentioned above (Spain) in fact provide full coverage in the contingency to which the Convention refers must be answered mainly on the basis of the practical application of the schemes.

SCOPE

65. Under Article 21 the persons protected shall comprise either certain prescribed classes of employees (subparagraphs (a) and (c)), or all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; when the persons protected are employees they must constitute not less than 50 per cent. of all employees or, where a declaration has been made in virtue of Article 3, not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

66. In almost all countries where such protection exists, it extends to employees or classes of employees comprising in most cases a sufficient proportion to meet the requirements of Article 21 (a).² Certain schemes provide coverage in principle for all employees, subject to certain limited exceptions. This is the case in Belgium, Bulgaria, Canada, France³, the Federal Republic of Germany, Ireland, and the

¹ Decree of 16 June 1954 on technological unemployment insurance and decree of 26 June 1959 on unemployment benefits.

² Austria (Unemployment Insurance Act of 1 July 1958), Belgium (legislative order of 28 December 1944 on social security for workers, and order of 26 May 1945 to establish the National Employment and Unemployment Office), Bulgaria (see under Part III), Canada (Unemployment Insurance Act, 1955), Denmark (Placement and Unemployment Insurance Act of 23 June 1932, notification of 1952), France (see below), Federal Republic of Germany (Act of 3 April 1957 on placement and unemployment insurance), Greece (legislative decree of 10 August 1954 to set up a manpower and unemployment assistance bureau, as amended by an Act of 30 December 1955), Ireland (see under Part III), Italy (decree of 4 October 1935, as amended, to codify social insurance legislation, and Act of 29 April 1949 on the placement of involuntarily unemployed workers and the provision of assistance for such workers), Japan (Unemployment Insurance Act, 1947), Norway (Unemployment Insurance Act of 28 May 1959), Spain (see above), Sweden (Royal Order of 15 June 1934 on approved unemployment insurance funds), United Kingdom (National Insurance Act of 1 August 1946, sections 11 to 13, and corresponding legislation for Northern Ireland), United States (Social Security Act of 1935, Title III, and state laws; Railroad Unemployment Insurance Act of 1938), and Yugoslavia (decree of 29 March 1952 on unemployment allowances and Act of 12 December 1957 on industrial relations).

³ Decree of 12 March 1951 on unemployment allowances.

United States. In France, besides the protection available to all employees, as just mentioned, there is a scheme of special allowances for unemployed workers in industry and commerce, which seems to cover over half the total number of employees.¹ In Austria, Denmark, Greece, Japan and Sweden, at least 50 per cent. of employees are said to be covered.² In Spain the scope of insurance is in principle the same as mentioned with regard to Part III ; however, for one of the two schemes (technological unemployment insurance) agricultural employees are not protected, and it cannot be ascertained from the information available whether in these circumstances the provisions of Article 21 (a) are complied with. In Finland³, Switzerland⁴, and the Union of South Africa⁵, the proportion of employees protected is smaller than provided for in Article 21 (a). The same is true of Iraq⁵, and from the information available it cannot be ascertained whether the provisions of Article 21 (c) are complied with.

67. In Australia and New Zealand⁶ coverage extends to all residents whose means during the contingency do not exceed limits prescribed in accordance with Article 21 (b) read in conjunction with Article 67. The report from New Zealand shows that the means test rules are more liberal than the minimum requirement laid down in these provisions. In Finland there exists an assistance scheme, which is stated in the report to apply to any person who is without means of support and registered as unemployed⁷ ; however, the exact extent of this protection cannot be ascertained from the information available, particularly with regard to the conditions governing the assessment of applicants' needs. In other countries, such as Ireland and the United Kingdom, assistance schemes also exist besides the main forms of protection which have already been mentioned.

LEVEL OF BENEFITS

68. For the calculation of benefits under the provisions of Part XI of the Convention the rate of benefit must in the case of a standard beneficiary (man with a wife and two children) be such as to attain 45 per cent. of the standard earnings.

69. When the persons protected are employees Article 65 or 66 governs the calculation of benefits. The minimum amount required by the Convention is reached in a large number of cases ; this is so for benefits proportionate to the employee's previous earnings in Canada, Finland (allowances paid by unemployment insurance

¹ This scheme, which was established by a collective agreement of 31 December 1958, was made compulsory under an order of 7 January 1959 for all workers in the sectors concerned (order of 12 May 1959).

² In Greece coverage is determined by rules similar to those mentioned with regard to Part III; the same is true for Austria, where agricultural employees are however not protected against unemployment. In Denmark and in Sweden voluntary insurance schemes cover a little over 50 per cent. of employees. According to the report from Japan, 60 per cent. of employees in that country are protected.

³ Act of 23 March 1934 on unemployment insurance funds; about 20 per cent. of employees are members of such funds, and for persons not covered by this scheme there are assistance provisions which seem to apply to any unemployed person without means of support (see below, para. 67).

⁴ Federal Act of 22 June 1951 on unemployment insurance. Insurance is compulsory in most cantons but voluntary in others, and the report states that 35 per cent. of employees are covered.

⁵ See under Part III.

⁶ See under Part III; the problem mentioned in connection with sickness benefit also arises in connection with this Part (deprivation of entitlement to benefit of married women whose husbands are deemed capable of maintaining them).

⁷ Unemployment Assistance Act of 20 June 1960.

funds), the Federal Republic of Germany, Greece, Japan, Norway, Spain, Switzerland, the United States (in eight states—Alaska, California, Connecticut, Massachusetts, Michigan, Nevada, Ohio and Wyoming), and Yugoslavia, and for flat-rate benefits in Belgium, Denmark ¹, Sweden ¹ and the United Kingdom. In many of these countries the amount of benefit is higher than required by the Convention ; the amount paid to a standard beneficiary seems to attain or exceed 60 per cent. of the standard earnings in various countries, including Belgium, the Federal Republic of Germany, Japan, Norway, Spain, Switzerland and the United Kingdom. In France, under the scheme of special allowances for unemployed workers in industry and commerce, the amount of benefit ² is fixed in principle at 35 per cent. of the previous wage, but provision is made for a minimum which (subject to the receipt of more detailed information) would seem to comply with the requirements of Article 66.³ In a few cases, on the other hand, the reports show that the amounts would not come up to the standards set by the Convention : this is so for benefits proportionate to previous earnings in the United States (in respect of states other than those previously mentioned) ⁴ and for flat rate benefits in Iraq ⁵ and in Italy, where the amount paid to a standard beneficiary seems to be about 40 per cent. of the standard earnings. From the information supplied by Bulgaria, Ireland and the Union of South Africa it cannot be determined whether the provisions of the Convention are being implemented or not.

70. In three cases in which the persons protected are employees, the benefits may be reduced or suspended on the basis of the means of the person concerned ; such a system is authorised by the Convention when all residents are protected (Article 67) but not when only employees are covered. The cases in question arise in Austria, France (for the unemployment allowances payable under the decree of 12 March 1951) and Yugoslavia. In these countries the amount of the normal benefits (which are proportionate to previous earnings in Austria and in Yugoslavia and a fixed amount in France) would meet the requirements of Article 65 or 66 of the Convention but the means test subject to which they are paid is not compatible with those requirements.⁶

71. On the other hand, when the persons protected comprise all residents whose means during the contingency do not exceed prescribed limits, the benefits may be reduced or suspended when the means in question exceed certain amounts during the contingency (Article 67). These provisions are implemented in Australia and New Zealand. In the latter country, according to the report, benefits are calculated in accordance with rules that are considerably more favourable than those provided for

¹ In these countries, however, provision is not made for a minimum rate of benefit and in a limited number of cases the rate happens to be lower than the amount required by Article 66.

² These benefits are payable in addition to the unemployment allowances provided for in the decree of 12 March 1951 (subject to a maximum limit, fixed in principle at 80 per cent. of previous earnings), but the allowances are not payable to all protected workers because they are subject to a means test. Therefore they cannot be taken into account for the purposes of the Convention (see below, para. 70).

³ This minimum equals the amount of the allowance payable under the decree of 12 March 1951, which according to the report is 60 per cent. of the guaranteed national minimum wage. Family allowances would also have to be taken into account.

⁴ The percentage of the previous wage is normally higher than that laid down in the Convention but there is a maximum limit, so that for a skilled worker (Article 65) the benefit amounts to between 40 and 45 per cent. of previous earnings in nine states and to less than 40 per cent. in other states (see, however, " General Rules—Standards to Be Complied With by Periodical Payments", paras. 15 and 16).

⁵ See under Part III.

⁶ The Committee has made an observation to Yugoslavia on this point.

in the Convention, as stated in connection with sickness benefit. The report from Australia states that in that country the percentage specified in the Convention is slightly exceeded. It also seems that in Finland, subject to the reservations previously mentioned, unemployment assistance benefits may be in accord with the provisions of the Convention.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

1. *Duration of Benefit*

72. Benefits are in principle to be granted throughout the contingency, except that under Article 24 the duration of benefit may be limited in accordance with different rules for schemes covering employees or all residents respectively. Where classes of employees are protected the duration of benefit may be limited to 13 weeks within a period of 12 months (Article 24, paragraph 1 (a)); in addition Article 24, paragraph 2, states that where national laws or regulations provide that the duration of benefit shall vary with the length of the contribution period and/or the benefit previously received within a prescribed period the foregoing provisions shall be deemed to be fulfilled if the average duration of benefit is at least 13 weeks within a period of 12 months. These provisions are complied with in almost all the countries under review. There is no limit of duration in Belgium, France (unemployment allowances payable under the decree of 12 March 1951¹), or Yugoslavia. A longer duration than is prescribed by the Convention is provided for in Finland (unemployment funds—150 days), France (special allowance for unemployed workers in industry and commerce—270 days), Ireland (six months), Italy (180 days), Norway (20 weeks), Spain (6 to 12 months), Sweden (generally 138 to 156 days), the United Kingdom (180 days), and the United States (at least 16 weeks and in general 20 to 30 weeks, according to the particular state). A 13-week limit is provided for in Denmark. In another four countries the duration of benefit varies according to the duration of the contribution period in accordance with Article 24, paragraph 2; they are Austria (12 to 30 weeks), Canada (12 to 52 weeks), the Federal Republic of Germany (13 to 52 weeks) and Greece (8 to 21 weeks). However, in one country (Iraq) the duration of benefit is limited to a period shorter than is authorised by the Convention (28 days).

73. Where all residents whose means during the contingency do not exceed prescribed limits are protected the duration of benefit may be limited under Article 24, paragraph 1 (b), to 26 weeks within a period of 12 months. The provisions existing in this respect in Australia and New Zealand are more favourable, since the benefits are paid without limit of time. On the other hand in Finland (unemployment assistance scheme) where, subject to the reservations previously made, these provisions might possibly be applicable, the duration of benefit is limited to a shorter period (120 days a year).

74. Under Article 24, paragraph 3, the benefit need not be paid for a waiting period of the first seven days in each case of suspension of earnings. The provisions in force generally meet this requirement. No waiting period is imposed as a rule in Belgium (if unemployment has lasted at least two days), Italy, Spain and Yugoslavia. A waiting period of less than seven days is provided for in Switzerland (one day), in France, the Federal Republic of Germany, Ireland and the United Kingdom (three days), and in Denmark and Greece (six days). The waiting period is fixed at seven days in Australia, Austria, Canada, Japan, New Zealand, Norway, the Union of

¹ But the rate of the allowance is reduced after one year.

South Africa and the United States (save in five states—Maryland, Montana, Nevada, North Carolina and Texas—where there is no waiting period). The situation in Finland (unemployment insurance funds) and in Sweden is a special one since in these countries there is a statutory waiting period of at least six days, which the funds are authorised to extend beyond the limit laid down in the Convention. The Government of Sweden has stated that waiting periods of more than seven days were laid down only in certain limited cases (especially with regard to commercial travellers) and that measures would be taken to eliminate this discrepancy between Swedish law and the Convention. The situation used to be similar in Denmark, where the legislation was recently amended to fix a maximum waiting period of six days in all cases.¹

75. In addition Article 24, paragraph 3, states that for the calculation of the waiting period days of unemployment before and after temporary employment lasting not more than a prescribed period must be counted as part of the same case of suspension of earnings. These provisions are generally complied with in countries where a waiting period is provided for, and measures of this kind exist, for example, in Austria, Canada, Denmark, Finland, France, Norway, Sweden and the United Kingdom. The Government of New Zealand states that the national legislation contains no such provisions but that the rules followed in practice provide guarantees equivalent to those provided for in the Convention. In addition it should be noted that no problem would seem to arise in this connection when the waiting period is imposed only once in any one year, as is the case, for example, in Greece and the United States.

2. *Qualifying Period*

76. Article 23 allows the grant of benefit to be made subject to the completion of such qualifying period as may be considered necessary to preclude abuse. It seems that such a qualifying period is imposed in all the countries covered by this survey.

CONCLUSION

77. Subject, in certain cases, to the reservations already mentioned, the provisions of Part IV seem to be generally applied in Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, Greece, Japan, New Zealand, Norway, Sweden and the United Kingdom. It seems that these provisions may also be applied in other countries, but further information would be required on certain aspects of the protection provided: this applies to Bulgaria, Ireland, France² (with regard in particular to the level of benefits) and Spain (with regard particularly to the definition of the contingency).

78. In three cases (Austria, France—unemployment allowances under the decree of 12 March 1951—and Yugoslavia), the coverage of the scheme is in general in accordance with the provisions of Part IV, but whereas the persons protected are employees, the benefits may be reduced or suspended after a means test, which is not authorised by Articles 65 and 66 of the Convention.

79. In two other countries where the coverage in terms of persons protected is very extensive and would on the whole be in accordance with the provisions of this

¹ Only in the case of seasonal workers does the Convention allow the duration of the benefit and the waiting period to be adapted to their conditions of employment (Article 24, para. 4). Provisions of this kind exist, for example, in Denmark, France, Greece, Italy, New Zealand, Sweden, the United Kingdom and the United States.

² With reference to the scheme of special allowances for unemployed workers in industry and commerce.

Part, the amount of the benefits is, according to the reports, not sufficiently high to meet the requirements of the Convention; this is so in Italy (although the rate of benefit is only just below the level required by Article 66 of the Convention) and in the United States¹ (where, however, the level of benefit required is stated to be reached in a certain number of states). In a few other countries (Finland, Switzerland and the Union of South Africa) it seems that it is the proportion of persons protected which does not meet the standards of the Convention.

CHAPTER V

Part V of the Convention : Old-Age Benefit

80. Ten countries have accepted the obligations of this Part: Belgium, Denmark Federal Republic of Germany, Greece, Iceland, Israel, Italy, Norway, the United Kingdom² and Yugoslavia. The reports submitted by other countries generally show that some form of protection exists in this field, apart from a very small number of cases where information has not been supplied on the subject.³

81. Furthermore, the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), which provides for the granting of old-age pensions to employees in industrial and commercial undertakings and the liberal professions, outworkers and domestic servants not later generally than at 65 years of age, and the Old-Age Insurance (Agriculture) Convention, 1933 (No. 36), which provides for the same benefits to be granted to employees in agriculture, have both been ratified by nine member States: Argentina, Bulgaria, Chile, Czechoslovakia, France, Italy, Peru, Poland and the United Kingdom.⁴

DEFINITION OF THE CONTINGENCY

82. Article 26 defines the contingency covered as the survival beyond a prescribed age, which should not in principle be more than 65 years; nevertheless the Article states that a higher age may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned. These provisions are generally complied with. The age of entitlement is often less than 65 years; it has been fixed as a general rule at 60 years (the age in most cases being even lower for women) in Argentina, Bulgaria, Byelorussia, the Dominican Republic, Iran, Italy, Japan, Morocco, New Zealand, Peru, the Philippines, Rumania, Ukraine and the U.S.S.R. An age below 65 is likewise the general rule, for women, in a large number of countries, such as Australia, Austria, Belgium, Greece, Israel, Poland, Switzerland, the Union of South Africa and the United Kingdom. Furthermore, in a great many cases a lower age is also prescribed in respect of persons who have been engaged in

¹ See above, para. 69.

² The obligations of this Part have also been accepted, without modification, by the United Kingdom on behalf of the Isle of Man.

³ Afghanistan, Indonesia, Liberia, Thailand, Tunisia, Venezuela, Viet-Nam; the report of Liberia mentions nevertheless the existence of a pensions scheme for certain state officials and the report of Pakistan likewise states that there exists a retirement pensions scheme for public officials and various provident funds for journalists and employees of some large firms; these reports do not, however, provide detailed information on the measures in question.

⁴ In addition the ratification by the United Kingdom made these Conventions applicable *ipso jure* to Guernsey, Jersey and the Isle of Man.

certain kinds of heavy work. Only in a very small number of countries is the age higher than 65: it is 66 in Denmark, 67 in Sweden and 70 in Canada¹, Ireland, Norway and Portugal (in certain industries only). Information supplied by Canada, Denmark, Norway and Switzerland indicates that this age takes account of the working ability of persons of more than 65 years of age in these countries.

83. Paragraph 3 of Article 26 lays down that national legislation may provide for the suspension of benefit if a person otherwise entitled thereto is engaged in any prescribed gainful activity, or for the reduction of the benefit, if contributory, where the earnings of the beneficiary exceed a prescribed amount, and if non-contributory, where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount. Provisions of this kind exist in a number of countries.² Thus, the benefit may be suspended under the legislation of some countries where the person concerned engages in certain gainful activities, for example, all forms of employment where insurance coverage is provided (the Federal Republic of Germany, Mexico, Spain, Turkey), all gainful employment (Morocco), any gainful activity apart from casual work (Belgium in respect of the general scheme, Iran) or any gainful employment other than limited work (Israel, so long as the person concerned is under 70 years of age). Provision is also made for the reduction of benefit in a certain number of cases, either in proportion to the earnings of the beneficiary (Austria, Belgium in the case of miners, the Ukraine, the U.S.S.R., the United Kingdom during the five years following the age of retirement, the United States so long as the person concerned is under 72 years of age, Yugoslavia) or in proportion to his earnings and other means (Poland).³

SCOPE

84. Under Article 27 persons protected should comprise: prescribed classes of employees, constituting not less than 50 per cent. of all employees (subparagraph (a)); prescribed classes of the active population, constituting not less than 20 per cent. of all residents (subparagraph (b)); all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67 (subparagraph (c)); or, where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more (subparagraph (d)).

85. Protection covering classes of employees or active persons at least as broad as those specified in subparagraphs (a) and (b) of Article 27 exists in a large number of countries.⁴ Practically all active persons are covered in Israel, the United Kingdom

¹ Old-age assistance benefit is nevertheless provided as from 65 years of age.

² It is not proposed to mention here the cases where benefits generally are calculated according to the means of the person concerned during the contingency in the conditions laid down in Article 67 of the Convention (see para. 89 below).

³ Since the latter alternative is only permitted by the Convention in the case of non-contributory benefits, the Government, in its report, expresses doubts as to the compatibility of Polish legislation in this field with the Convention; it would appear, however, that benefits in this country could be considered as non-contributory: the right to benefit is not in fact subject to the payment of contributions by the persons protected and the Government has stated in a report on the application of the Old-Age Insurance (Industry, etc.) Convention 1933, (No. 35), that old-age benefit is not granted as a return for contributions paid but represents a form of assignment of a part of the national revenue (see *Summary of Reports on Ratified Conventions*, 1957, p. 104).

⁴ Argentina (legislative decree of 27 October 1944 respecting the National Social Welfare Institute and Act of 13 October 1954 respecting the provisions on pensions), Austria (General Social Insurance

and the United States, and all or nearly all employees (and often other classes of active persons as well) in Argentina, Austria, Belgium, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Ireland, Italy, Poland, Rumania, Ukraine, the U.S.S.R. and Yugoslavia. In Greece, Japan and Spain the number of employees protected constitutes well over 50 per cent. of all employees¹; the same is true of Togo², according to its report, and it would seem that the same may also be said of Ceylon³ and the Federation of Malaya⁴, where the general protection does not, however, provide for the making of periodical payments as prescribed by the Convention but for the payment of a lump sum at a specified age. In some countries a smaller proportion of employees is covered.⁵ It seems, however, that the coverage is sufficient at least to meet the requirements of subparagraph (d) of Article 27, if a declaration could be made under Article 3; this would seem to apply particularly to Brazil, the Dominican Republic, Iran, Mexico, Morocco, Peru, the Philippines and

Act of 9 September 1955, sections 221-229), Belgium (Act of 21 May 1955 respecting retirement and survivors' pensions for wage earners, Act of 12 July 1957 for salaried employees and order of 28 May 1958 for miners), Bulgaria (Act of 1957 respecting pensions, etc.), Byelorussia (see Ukraine and U.S.S.R.), France (Social Security Code, Book III, and Rural Code, Book VII), the Federal Republic of Germany (Insurance Code, sections 1226 et seq. and Act of 1924 respecting insurance for salaried employees, Act of 1926 respecting insurance for miners), Greece (Act of 14 June 1951 respecting social insurance, sections 28-30), Ireland (1960 amendment to the Social Welfare Act), Israel (National Insurance Act of 18 November 1953, Title I), Italy (legislative decree of 4 October 1935 respecting social insurance and Act of 4 April 1952 to reorganise the pensions under compulsory invalidity, old-age and survivors' insurance), Japan (Act of 1954 respecting welfare pensions), Poland (decree of 25 June 1954 respecting universal pensions security), Rumania (decree of 30 July 1959 respecting pensions), Spain (decree of 18 April 1947 respecting old-age and invalidity insurance and decree of 10 August 1954 respecting workers' mutual benefit societies), the Ukraine and the U.S.S.R. (Act of 14 July 1956 (amended) on state pensions), the United Kingdom (National Insurance Act of 1 August 1946, sections 17 to 21, and corresponding provisions for Northern Ireland), the United States (Social Security Act of 1935, Title II, Civil Service Retirement Act of 1930 and Railroad Retirement Act of 1935) and Yugoslavia (Act of 6 December 1957 on pension insurance).

¹ See under Part II; in Spain, in addition to the old-age insurance scheme, the coverage of which is the same as that stated in respect of Part II, workers' mutual benefit societies cover practically all employees in the various branches of activity with the exception of agriculture (where benefit societies are being set up).

² Counting on the one hand, public officials and, on the other, employees of industrial, commercial and construction undertakings insured with the West African Welfare and Retirement Pensions Institution by virtue of collective agreements.

³ Employees' Provident Fund Act, 1958, which in principle covers all employees.

⁴ Employees' Provident Fund Ordinance, 1951; this scheme applies in principle to all employees whose earnings do not exceed a certain amount working in undertakings of every description employing more than five persons, and according to the report covers nearly a million workers; there is in addition a pensions scheme for public officials.

⁵ Brazil (Social Security, Act of 26 August 1960, sections 30 et seq.), Dominican Republic (Social Security, Act of 6 January 1949, sections 56 et seq.), India (Employees' Provident Funds, Act, 1952, and the corresponding legislation with regard to workers in coal mines and on certain plantations; Acts on retirement pensions for public officials), Iran (Act of 11 May 1960 respecting workers' social insurance, sections 54-60), Iraq (Act No. 27 of 1956 respecting social security, sections 9 et seq.), Mexico (see Act cited under Part II, sections 68 to 95), Morocco (Dahir of 31 December 1959 establishing a social security scheme, sections 46-61), Peru (Act of 12 August 1936 respecting compulsory social insurance, sections 104 et seq.), the Philippines (Social Security Act of 20 May 1954), Portugal (Act of 16 March 1935 on provident institutions), Turkey (Act of 1957 on invalidity, old-age and survivors' insurance), and the United Arab Republic (Social Insurance Code of 6 April 1959, sections 55 et seq. and Acts Nos. 36 and 37 of 1960 respecting pensions of public officials). As regards coverage, see under Part II with respect to Brazil, Dominican Republic, Iran, Mexico, Peru, Portugal and Turkey and under Part III for Iraq, Morocco and the Philippines. In India the legislation on provident funds affects some 3 million workers, according to its report. In the United Arab Republic the Social Insurance Code is applicable to employees in industry, commerce and services, and is gradually being extended to the different regions of the country; this extension should be complete by mid-1961.

Turkey¹; the same may be said of India and the United Arab Republic, where, however, protection generally takes the form of lump-sum payments and not of periodical payments as called for under the Convention.

86. The coverage of schemes applicable to residents is defined in a variety of ways in the various countries where such schemes are in force.² Protection is provided for all residents, no matter what their means during the contingency, in Canada, Japan, Norway and Switzerland, and similar protection exists in Sweden, though it is restricted in principle to resident nationals.³ In Finland and New Zealand benefits are payable to all residents whose means do not exceed prescribed limits in the conditions laid down in Article 67 of the Convention (though certain benefits are guaranteed to all residents, whatever their means during the contingency). In Australia and Denmark benefits are payable subject to similar conditions but protection is not extended in principle to non-nationals (except in Denmark, where provided for under special treaties, and in Australia, as regards British subjects). Finally, in the Union of South Africa, the old-age pensions prescribed for all residents are always subject to conditions with respect to means, but to a different degree for the various classes of residents⁴, and from the information given in its report it would seem that the requirements of Article 67 are not being complied with in respect of several of these classes. General old-age assistance schemes also exist in certain countries alongside other measures already mentioned, as for example in Canada, Ireland, Japan, and the United Kingdom.⁵

LEVEL OF BENEFIT

87. The amount normally required by the Convention to be reached in the calculation provided for under Part XI is fixed in the case of a standard beneficiary (a man with a wife of pensionable age) at 40 per cent. of the standard earnings, at least on completion of the maximum qualifying period prescribed in paragraph 1 of Article 29 (in principle either 30 years of contribution or employment or 20 years of residence).⁶ Paragraph 3 of Article 29 lays down, however, that the minimum requirements are likewise satisfied where a benefit equal to 30 per cent. of the standard earnings, in the case of a standard beneficiary, is secured at least to a

¹ Furthermore, in Turkey, it would seem that if the number of employees protected under the Act of 1957 on invalidity, old-age and survivors' insurance is added to that of public officials who benefit under their own pensions scheme, the total number of persons protected is more than 50 per cent. of all employees; the report does not, however, supply information as to the benefits accorded to public officials.

² Australia (Social Service Acts 1947-59, sections 18 et seq.), Canada (Old-Age Security Act of 1951 and Old-Age Assistance Act of 1951), Denmark (National Insurance Act of 20 May 1933, notification of 1957, sections 36 to 57), Finland (National Pensions Act of 8 June 1956), Japan (National Pensions Law, 1959), New Zealand (Social Security Act of 1938, sections 11 et seq.), Norway (Old-Age Insurance Act of 6 July 1957), Sweden (National Pensions Act of 29 June 1946), Switzerland (Federal Act of 30 December 1946 (amended) respecting old-age and survivors' insurance), and the Union of South Africa (Old-Age Pensions Act, 1928, as amended).

³ As protection is not subject to conditions with regard to means during the contingency, the requirements of subparagraph (a) or (b) of Article 27 are in themselves amply complied with.

⁴ The law makes distinctions in this respect between Whites, Coloureds, Indians and three classes of Natives, according to their place of residence.

⁵ The information supplied regarding these schemes is not sufficient for it to be possible to determine whether the requirements of Article 67 are being complied with, or else it shows that they are not (Canada).

⁶ See below, paras. 90-92.

person protected who has completed a qualifying period not exceeding ten years of contribution or employment or five years of residence. Furthermore, paragraph 4 of Article 29 allows a proportional reduction of the normal percentage where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment but is less than 30 years of contribution or employment.

88. In most countries benefits are calculated in accordance with the provisions of Article 65 or 66; the reports ¹ show that in most cases their amount reaches at least the level prescribed by the Convention on completion of a qualifying period not exceeding that laid down in paragraph 1 of Article 29: this is so, *inter alia*, in Argentina, Austria, Belgium, Bulgaria, Byelorussia, Canada (old-age security), the Dominican Republic, France, the Federal Republic of Germany, Greece, Iran, Israel, Italy, Mexico, Norway, Peru, Poland, Portugal, Rumania, Spain (mutual benefit societies) ², Togo, Turkey, Ukraine, the U.S.S.R., the United Kingdom, the United States and Yugoslavia. Benefits are wholly or partly in proportion to previous earnings in nearly all these countries but are fixed at uniform rates in Canada, Israel, Norway and the United Kingdom. The percentage calculated according to the terms of the Convention is most often around 50 per cent. of the standard earnings; the reports indicate that it equals or exceeds 60 per cent., for example, in Austria, Byelorussia, Greece, Iran, Italy, Portugal, Rumania, Ukraine, the U.S.S.R. and Yugoslavia. It should be noted, moreover, that in a large number of countries benefit at least equal to the normal rate prescribed by the Convention is guaranteed to protected persons on completion of a qualifying period shorter than that prescribed in paragraph 1 of Article 29, even though the Convention in such cases allows the payment of benefit at a lower rate under the terms of paragraphs 3 and 4 of Article 29 (see paragraphs 91 and 92 below). In Sweden benefits at a uniform rate (Article 66) and representing for a standard beneficiary 35 per cent. of the standard earnings, are secured to protected persons without any qualifying period, so that the requirements of paragraph 3 of Article 29 are very amply satisfied. In a few countries the rate of benefit appears inadequate to meet the standard laid down by the Convention. This would seem to be so from the reports of Morocco (where the benefit is fixed at 35 per cent. of previous earnings after 30 years of contribution and at 20 per cent. after 15 years), the Philippines (where according to the report the benefit represents about 20 per cent. of previous earnings after 30 years of contribution) and Switzerland (31 per cent.); the latter country states that an increase in the rate of benefit is presently under consideration. Finally, in some countries the benefits prescribed for certain classes of employees are not provided as periodical payments ³ but take the form of lump-sum payments equivalent to the sum of the contributions paid into the account of the person concerned, plus interest; this is the case in Ceylon, China, India, Iraq, the Federation of Malaya and the United Arab Republic.⁴

89. In a small number of countries, where the main form of protection consists of the granting of benefits based on the means of the person concerned (or his family)

¹ From the information supplied by Ireland and Japan it is not possible to estimate the rate of benefit according to the method laid down in the Convention.

² In addition benefits granted under the social insurance scheme in this country are fixed at standard amounts (300 or 400 pesetas a month for persons not entitled to a pension through a mutual benefit society).

³ With the exception of public officials who are entitled to a pension.

⁴ In the United Arab Republic, however, the sum in question may be paid in monthly instalments at the request of the beneficiary (from the information available it is not possible to estimate how the rate of such payments would compare with the requirements of the Convention).

during the contingency¹, it appears from the reports that in most cases benefits at least reach the level laid down in the Convention; the amount prescribed for a standard beneficiary represents 75 per cent. of the standard earnings in New Zealand and 66 per cent. in Australia; in Denmark and Finland the amount granted to a standard beneficiary amounts to at least 40 per cent. of standard earnings (although in these two countries a qualifying period is not normally required or does not exceed five years' residence, so that an amount equivalent to 30 per cent. would meet the minimum requirements under paragraph 3 of Article 29). In the Union of South Africa, on the other hand, there are different rates of benefit and conditions as to means depending on the category of resident, and from the data supplied in the report it would seem that the requirements of Article 67 are not complied with in the case of several of these categories.²

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

90. As indicated above, Article 29 lays down a number of requirements respecting the qualifying period which may have to be completed in accordance with prescribed rules for the benefits provided for under the Convention to be secured. The reference made in this Article to "prescribed rules" leaves it to a certain extent to national legislation to determine the conditions in which the qualifying period should be completed, subject to the reservation that it should not exceed the length prescribed by the Convention.³

91. Where the qualifying period is one of contribution or employment⁴, it should not in principle exceed 30 years (paragraph 1 (a) of Article 29).⁵ As has been said with regard to the rate of benefit, this is the case in all countries where a qualifying period of this kind is required (with the exception of Morocco and the Philippines⁶). The qualifying period necessary for entitlement to the standard amount prescribed by the Convention is very often less than 30 years (even though paragraphs 3 and 4 of Article 29 allow for the payment of smaller amounts in such cases). This is so, for

¹ Australia, Denmark, Finland, New Zealand, the Union of South Africa. In Denmark, Finland and New Zealand certain benefits are guaranteed whatever the means of the person concerned during the contingency.

² See para. 86 above.

³ The reports of two countries express certain doubts as to the conformity of national legislation with the provisions of the Convention in this respect: they are Austria, where the 36 months immediately prior to the commencement of pension entitlement must comprise 12 months of insurance ("one-third coverage") and Poland, where the right to a pension is acquired after a period of 25 years' employment, on condition that the retirement age is reached during employment or within five years of the cessation of employment (otherwise the qualifying period is 35 years; at least for men). It appears, however, taking into account the aforementioned requirements of Article 29, that these "prescribed rules" may not be incompatible with the Convention.

⁴ This is nearly always the case; a qualifying period of residence is required only in a few cases where protection covers residents (Australia, Canada, Finland, New Zealand, Norway and the Union of South Africa—see below); no qualifying period is required in Denmark and Sweden (where protection is restricted in principle to national residents).

⁵ However, paragraph 1 (b) of Article 29 provides a more flexible rule in cases where all active persons are protected: the benefit should be secured on completion of a prescribed qualifying period of contribution and where the prescribed yearly average number of contributions has been paid while the person concerned was of working age. Provisions of this type are in force, for instance, in the United Kingdom and the United States.

⁶ In these two countries, as with the legislation of most countries, the benefit is higher if the qualifying period is longer: in Morocco it amounts to 40 per cent. of previous earnings after a qualifying period of 35 years; in the Philippines it would seem practically impossible for the standard required by the Convention ever to be attained, the benefit being fixed at 0.5 per cent. of previous earnings multiplied by the number of years of contribution.

instance, with a qualifying period representing not more than ten years in Iran, Israel, Spain (mutual benefit societies) and the United States; 15 years in Austria and Greece, 20 years in Peru, 25 years in Bulgaria, Byelorussia, Poland, Rumania, Turkey, Ukraine, the U.S.S.R. and Yugoslavia. Furthermore, paragraphs 2 and 4 of Article 29 provide that a reduced benefit should be secured at least on completion of a qualifying period equivalent in principle to 15 years of contribution or employment.¹ These requirements are, of course, amply satisfied in the cases mentioned above, where the normal benefit as laid down by the Convention is itself secured after a qualifying period of not more than 15 years; in the other cases it appears that reduced benefits are awarded in the conditions laid down in these provisions; it is only otherwise, it seems, in Poland where, as emphasised in that country's report, no provision is made under national legislation for the award of reduced benefits.²

92. Where the qualifying period is one of residence it should not exceed 20 years. This requirement is satisfied in all countries where a qualifying period of this type is required: the period is 20 years in Australia and New Zealand; it is not more than 15 years in the Union of South Africa, ten years in Canada; in Finland and Norway benefit at the standard rate laid down by the Convention is secured after a qualifying period of not more than five years (even though according to paragraph 3 of Article 29 the amount on which the calculation of the benefit should be based may in these conditions be no more than 30 per cent. of the standard earnings³).

93. Finally, Article 30 of the Convention provides that benefits should be granted throughout the contingency. Once the right to benefit has been acquired, it should then be paid until the death of the beneficiary, with the sole reservation that, where appropriate, it may be suspended in virtue of paragraph 3 of Article 26 and Article 69 of the Convention, as previously mentioned.

CONCLUSION

94. It appears from the reports supplied that the provisions of this Part are complied with in a very large number of countries. This is so, subject in certain cases to the reservations mentioned above, in the following countries: Argentina, Australia, Austria, Belgium, Bulgaria, Byelorussia, Canada, Denmark, Finland, France, the Federal Republic of Germany, Greece, Israel, Italy, New Zealand, Norway, Rumania, Spain (mutual benefit societies), Sweden, Togo, Turkey, Ukraine, the U.S.S.R., the United Kingdom, the United States and Yugoslavia; and, at least if account is taken of the temporary exceptions provided for under Article 3, as previously mentioned, in Brazil, the Dominican Republic, Iran, Mexico and Peru. This Part likewise seems to be applied to a considerable extent with an extensive coverage particularly in Ireland and Japan, in respect of which the information supplied is insufficient, however, to permit it to be determined whether the rate of benefit is in conformity with the Convention. Rates would seem to be still too low in Switzerland, but an increase is

¹ Paragraph 2 (b) of Article 29 contains more flexible provisions to cover cases where all active persons are protected, corresponding to those of paragraph 1 (b) of Article 29, mentioned above.

² Finally, paragraph 5 of Article 29 provides that in cases where the qualifying period is one of contribution or employment a reduced benefit shall be payable to a person who by reason of his advanced age when the old-age benefit scheme came into force cannot complete the normal qualifying period (unless a benefit in conformity with the provisions of the Convention is secured to such person at an age higher than the normal age). The available information indicates that measures to this effect exist in all countries affected by these provisions.

³ The provisions of paragraphs 2, 4 and 5 of Article 29, mentioned in connection with qualifying periods of contribution or employment, are not applicable in cases where the qualifying period is one of residence.

being considered. In other countries also the provisions of Part V seem to be implemented to a considerable degree, but there exist nevertheless certain more or less serious divergencies: this is the case in Poland (where reduced benefits are not granted on completion of a qualifying period of 15 years of contribution or employment), Portugal (as regards coverage) and the Union of South Africa (as regards the rate of benefit for certain categories of residents). The same may be said, even taking account of the temporary exceptions authorised under Article 3 with regard to coverage, of Morocco and the Philippines, where the rate of benefit is lower than that prescribed by the Convention. Finally, in a number of countries, provisions in this field, while giving not inconsiderable protection to sometimes extensive classes of employees, are still in an early stage of development and are essentially characterised by the payment, when the contingency arises, of lump sums rather than periodical payments, as prescribed by the Convention: this is the case, *inter alia*, in Ceylon, China, India, Iraq, the Federation of Malaya and the United Arab Republic.

95. It should also be noted that in Chile and Czechoslovakia, from which reports on the Convention were not available, the application of the 1933 Conventions on old-age insurance, which have been ratified by these countries, has not given rise to observations. Finally, the information supplied by different States as regards the countries or territories for whose international relations they are or were until recently responsible shows that relatively advanced provisions exist in a certain number of cases, based on contributory schemes established by the public authorities¹ or by collective agreements.² In addition, non-contributory schemes for persons of limited means exist in some countries.³ In most other cases, leaving aside the special position of civil servants, it seems that old-age pension schemes have not yet been introduced; lump sums are often payable, by employers, to employees ceasing to work because of age.

CHAPTER VI

Part VI of the Convention : Employment Injury Benefit

96. The obligations of this Part of the Convention have been accepted by eight States: Belgium, Denmark, Federal Republic of Germany, Greece, Israel, Norway, Sweden and Yugoslavia. Measures concerning compensation for employment injury exist in all the other countries considered. With regard to the other Conventions on the subject, 82 countries are bound by the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), which applies to all employed persons and lays down the various benefits payable in respect of medical care, incapacity for work, invalidity and survivors.⁴ The Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), providing for extension of compensation benefits to agricultural employees,

¹ For example: Algeria, Cyprus, Congo (Leopoldville), Falkland Islands, French Guiana, Gibraltar, Guadeloupe, Guernsey, Jersey, Malta, Isle of Man, Martinique, Réunion, Ruanda-Urundi, Singapore.

² Particularly in various countries of Africa where the scheme administered by the West African Welfare and Retirement Pensions Institution set up in 1958 in the former territory of French West Africa is in operation.

³ For example in Netherlands Antilles, Guernsey, Netherlands New Guinea.

⁴ *Member States*: Argentina, Austria, Belgium, Bulgaria, Burma, Chile, Colombia, Congo (Leopoldville), Cuba, Czechoslovakia, Finland, France, Federal Republic of Germany, Greece, Haiti, Hungary, Iraq, Luxembourg, Federation of Malaya, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Panama, Philippines, Poland, Portugal, Somalia, Spain, Sweden, Tunisia, United Arab Republic, United Kingdom, Uruguay, Yugoslavia. *Non-metropolitan territories*:

is binding on 41 countries.¹ One hundred and eight countries are bound by the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19).² Seventy-one countries are bound by the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) or its revising Convention (No. 42), the first of which contains a minimum schedule and the second a more complete schedule. These two Conventions provide for the same kind of compensation as for industrial accidents.³

97. It should be noted that Article 6 of Convention No. 102 does not authorise protection under insurance schemes other than those of a compulsory character to be taken into account in respect of the application of Part VI. Clearly such benefits would not represent the guarantees required under this Convention if they were provided by a voluntary scheme or based on the principle of employers' liability. These schemes are not, however, excluded for the application of the other Conventions mentioned in the preceding paragraph. In certain cases, the payment of compensation seems to be an employers' liability without any compulsory insurance.⁴ In such cases the State frequently guarantees the payment of benefit in case of an

applicable without modification: *Belgium*: Ruanda-Urundi; *France*: French Guiana, Guadeloupe, Martinique, Réunion; *Netherlands*: Netherlands Antilles, Surinam; *United Kingdom*: Gibraltar, Guernsey, Jersey, Kenya, Isle of Man, Mauritius, Northern Rhodesia, Sierra Leone, Tanganyika; applicable with modifications: *United Kingdom*: Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Honduras, British Virgin Islands, Dominica, Falkland Islands, Fiji, Gambia, Grenada, Jamaica, Malta, Montserrat, North Borneo, Nyasaland, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Singapore, Solomon Islands, Swaziland, Trinidad and Tobago, Uganda.

¹ *Member States*: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Chile, Colombia, Congo (Leopoldville), Cuba, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Haiti, Hungary, Ireland, Italy, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Panama, Poland, Portugal, El Salvador, Spain, Sweden, Tunisia, United Kingdom, Uruguay, Yugoslavia; *Non-metropolitan territories*: applicable without modification: *Belgium*: Ruanda-Urundi; *Denmark*: Faroe Islands; *Netherlands*: Netherlands Antilles; *United Kingdom*: Guernsey, Jersey, Isle of Man.

² *Member States*: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Chile, China, Colombia, Congo (Leopoldville), Cuba, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Finland, France, Federal Republic of Germany, Ghana, Greece, Haiti, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Luxembourg, Federation of Malaya, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Peru, Poland, Portugal, Somalia (former Trust Territory), Spain, Sudan, Sweden, Switzerland, Tunisia, Union of South Africa, United Arab Republic, United Kingdom, Uruguay, Venezuela, Yugoslavia. *Non-metropolitan territories*: applicable without modification: *Australia*: Nauru, New Guinea, Papua; *Belgium*: Ruanda-Urundi; *France*: French Guiana, Guadeloupe, Martinique, Réunion, Algeria; *Union of South Africa*: South West Africa; *United Kingdom*: Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Honduras, British Virgin Islands, Brunei, Dominica, Falkland Islands, Fiji, Gambia, Gibraltar, Grenada, Guernsey, Hong Kong, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Montserrat, Northern Rhodesia, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Sierra Leone, Singapore, Solomon Islands, Southern Rhodesia, Swaziland, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar; applicable with modifications: *United Kingdom*: North Borneo, Nyasaland.

³ *Member States*: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Ceylon, Chile, Colombia, Congo (Leopoldville), Cuba, Czechoslovakia, Dahomey, Denmark, Finland, France, Federal Republic of Germany, Greece, Guinea, Haiti, Hungary, India, Iraq, Ireland, Italy, Ivory Coast, Japan, Luxembourg, Mali, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Poland, Portugal, Senegal, Spain, Sweden, Switzerland, Tunisia, Turkey, Union of South Africa, United Arab Republic, United Kingdom, Upper Volta, Uruguay, Yugoslavia. Further Convention No. 18 is in force in the Islamic Republic of Mauritania. *Non-metropolitan territories*: applicable without modification: *Australia*: Nauru, New Guinea, Papua; *Belgium*: Ruanda-Urundi; *Denmark*: Faroe Islands; *France*: Algeria, French Guiana, Guadeloupe, Martinique, Réunion; *Netherlands*: Netherlands Antilles, Surinam; *Union of South Africa*: South West Africa; *United Kingdom*: Guernsey, Jersey, Isle of Man.

⁴ This is so, for example, in the following countries: Afghanistan (Labour Regulations of 1946/1950), Argentina (Employment Injury Act of 11 October 1915), Belgium (Employment Injury Compensation Act co-ordinated by the Royal Order of 28 September 1931; however, under the Occupa-

employer's insolvency (or that of the employer's insurer as the case may be).¹ Although a guarantee of this nature would admittedly provide reasonably effective protection, it would not make up for the absence of compulsory insurance for the purposes of this Convention.²

DEFINITION OF CONTINGENCY

98. According to Article 32, the contingencies covered shall include a morbid condition, incapacity for work, invalidity or loss of faculty, and loss of support suffered by the widow or child as the result of the death of the breadwinner,³ where the contingency is due to accident or a prescribed disease resulting from employment. These provisions are generally met, but protection sometimes covers only employment accidents and does not extend to contingencies resulting from occupational diseases: this would seem to be the case in Viet-Nam.

99. With reference to prescribed occupational diseases, the Convention leaves national legislation some degree of latitude in determining the particular diseases in respect of which the provisions of this Part are to be applied. In some countries such protection may be claimed for any disease that can be shown to have arisen out of employment.⁴ In other countries, however, diseases considered as having arisen out of employment and covered by the special compensation scheme are listed in an exclusive schedule in laws or regulations.⁵ Naturally, prescribed occupational diseases must be

tional Diseases Compensation Act of 24 July 1927 and the Seafarers' Employment Injury Compensation Act of 30 December 1929, insurance is compulsory), Ceylon (Workmen's Compensation Ordinance of 1934), Dominican Republic (Industrial Accidents Act of 11 November 1932), France (for agricultural employees: Rural Code, Book VII; but other categories of employees are protected under the social security scheme), India (for workers not covered by the 1948 Employed Persons' National Insurance Act, to whom the Workmen's Compensation Act, 1923, remains applicable), Indonesia (Employment Injury Acts of 1947 and 1951), Iraq (Labour Act of 25 April 1936), Ireland (Workmen's Compensation Act, 1934), Liberia (1956 Code of Laws, Vol. II, Chap. 19, section 73), Federation of Malaya (Ordinance No. 85 of 1952), Morocco (Dahir of 25 June 1927 concerning employment injury compensation, as modified and extended), Pakistan (Workmen's Compensation Act, 1923), Peru (Employment Injury Act 1916 and Occupational Diseases Compensation Act, 1935), Philippines (Workmen's Compensation Act of 10 December 1927), Portugal (Act of 27 July 1936 regulating compensation rights in respect of employment injury), Thailand (Notification of the Minister of the Interior dated 20 December 1958), Viet-Nam (order of 31 January 1944, Labour Code of 1952 and Agricultural Labour Code of 1953).

¹ This is the case, for example, in Argentina, Belgium, France, Italy, Morocco, Portugal, etc.

² When benefits are guaranteed by compulsory insurance with a commercial agency (as happens, for instance, in Australia, in some cases in Brazil, in most states in the United States and in New Zealand), such agencies must, for the purposes of the Convention, be governed as laid down in Article 72.

³ In the case of a widow, this Article states that the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support (concerning the scope of this provision, see below, Part X: Survivors' Benefit). Information supplied by most countries does not mention any such condition, but reports from the following countries indicate that there do exist certain provisions to this effect: Poland, Ukraine, U.S.S.R., Yugoslavia (see under Part X), Israel (where a widow aged under 40 who does not suffer from invalidity and has no dependent children is entitled to lump-sum compensation in lieu of a pension), United Kingdom (where a widow under 50 who does not suffer from invalidity and has no dependent children is entitled to benefit less than the normal rate).

⁴ This is the case, for example, in the following countries: Australia, Canada, Mexico, New Zealand, Norway, Spain, Sweden, Turkey and the United States (in 30 states, the District of Columbia and, at the national level, for federal employees and dockworkers). In several of the above countries, there also exists a schedule of diseases in respect of which occupational origin is presumed: this is so in Canada (Alberta, British Columbia, Manitoba, Ontario), Spain and Turkey.

⁵ This is the case, for example, in the following countries: Austria, Belgium, Denmark, France, Greece, India, Iran, Italy, Mexico, Tunisia, Union of South Africa, United Arab Republic, United Kingdom, United States (18 states).

capable of affecting a sufficient number of workers for the requirements regarding minimum scope of protection to be met, unless it is laid down that protection shall also apply in the case of any other disease which can be proved to have arisen out of employment.¹

SCOPE

100. Persons protected must, in accordance with Article 33, comprise either prescribed classes of employees, constituting not less than 50 per cent. of all employees and, for benefit in respect of death of the breadwinner, also their wives and children (paragraph (a)), or, where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and, for benefit in respect of death of the breadwinner, also their wives and children (paragraph (b)).

101. It would appear that the provisions of Article 33, paragraph (a), are met in a very large number of countries.² With regard to employment accidents, all employees are in principle protected in most cases; in a small number of countries the scope of protection is defined by reference to particular activities or undertakings, but most often in a very broad manner.³ With regard to occupational diseases, as already mentioned, the provisions extend to all employees covered by the legislation, in cases where it is applicable to any disease which can be proved to have arisen out of employment; in cases where only prescribed diseases are covered by compensation provisions, the relevant schedules often cover a sufficient number of employees to

¹ See the observation made on this point in 1959 in the case of Yugoslavia (International Labour Conference, 43rd Session, Report III (Part IV), pp. 58-59). The legislation which gave rise to this observation has since been amended.

² Australia (Commonwealth Act of 1930-1959 and state legislation), Austria (Federal Social Insurance Act of 9 September 1955, sections 172-220), Bulgaria (see under Parts II and V), Canada (provincial and federal legislation relating to government employees and seafarers), China (see Act cited under Part II, sections 44-67), Denmark (Employment Injury Insurance Act of 30 May 1933, Notification of 1959), Finland (Employment Injury Act of 20 August 1948 and Occupational Diseases Act of 12 May 1939), Federal Republic of Germany (Insurance Code of 1924, amended, sections 537-1225), Greece (Social Insurance Act of 14 June 1951, sections 34 et seq.), Israel (National Insurance Act of 18 November 1953, Title II), Italy (decree of 17 August 1935 concerning compulsory insurance against industrial employment injury, legislative decree of 23 August 1917 concerning agricultural employment injury and Act of 21 March 1958 extending the occupational disease insurance scheme to agriculture), Japan (Employment Injury Act of 5 April 1947), New Zealand (Workmen's Compensation Act of 1956), Norway (Employment Injury Insurance Act of 12 December 1958), Poland (decree of 25 June 1954), Rumania (see under Parts II and V), Spain (decree of 22 June 1956 codifying legislation on employment injury, decree of 10 January 1947 establishing occupational disease insurance), Sweden (Employment Injury Insurance Act of 14 May 1954), Switzerland (see under Part II), Tunisia (Act of 11 December 1957), Ukraine and U.S.S.R. (regulations issued by the Central Trade Union Council on 5 February 1956 concerning payment of social insurance benefit and National Pensions Act of 14 July 1956), Union of South Africa (Workmen's Compensation Act of 1941), United Kingdom (National Insurance (Industrial Injuries) Act, 1946, and corresponding provisions for Northern Ireland), United States (state legislation and federal legislation concerning federal employees and dockworkers), Yugoslavia (Sickness Insurance Act of 24 November 1954, Invalidity Insurance Act of 28 November 1958 and Retirement Insurance Act of 6 December 1957). The same would appear to be true of some of the countries named in paragraph 97 (footnote 2), where compensation is the responsibility of the employer in the case of certain contingencies (Belgium), for certain categories of protected persons (France, where the number of employees protected by the social security scheme nevertheless exceeds the minimum percentage laid down by the Convention, and India) or generally (Argentina, Indonesia, Liberia, Federation of Malaya, Morocco, Pakistan, Peru, Philippines, Portugal, Viet-Nam).

³ This is the case, for example, in Canada, Japan, Switzerland, the Union of South Africa and the United States.

satisfy the requirements of the Convention; but as a general rule the statistical information necessary in this connection is not available.

102. In some other countries protection covers a smaller number of employees; the standards of the Convention could nevertheless be at least met on the basis of the provisions of Article 33, paragraph (b), subject to a declaration made in virtue of Article 3. It seems that these provisions are at least met in Brazil, China, India, Iran, Mexico, Turkey, the United Arab Republic and Venezuela.¹ In other cases, where protection seems to cover only certain specified categories of workers (particularly in industry and commerce or in undertakings using machinery) available information does not indicate clearly whether the standards of the Convention would be met.²

LEVEL OF BENEFITS

1. Medical Care

103. Article 34 defines the various categories of benefit to be granted in the case of employment injury. In accordance with paragraph 2, medical care must normally comprise general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting; dental care; nursing care at home or in hospital or other medical institutions; maintenance in hospitals, convalescent homes, sanatoria or other medical institutions; dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances, kept in repair, and eyeglasses; and the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner. Article 34, paragraph 3, states, however, that where a declaration made in virtue of Article 3 is in force more limited benefits may be provided, but including at least general practitioner care, including domiciliary visiting; specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals; the essential pharmaceutical supplies as prescribed by medical or other qualified practitioner; and hospitalisation where necessary. It seems that the various categories of benefit laid down in Article 34, paragraph 2, are generally granted in all the countries covered by this survey³ except in certain cases where a declaration might be made in virtue of Article 3 and the level required by Article 34, paragraph 3, is at least met.⁴ In China, however, only hospital care seems to be provided. Article 34, paragraph 4, states that medical care shall be afforded with a view to maintaining, restoring or improving the health of the person protected

¹ Brazil: Decree of 8 September 1960 regulating the application of Social Security Act of 26 August 1960, sections 179-192; China: Workmen's Social Insurance Law of 21 July 1958, sections 44-67; India: Employees State Insurance Act, 1948, sections 46-59; Iran: Workmen's Social Insurance Act of 11 March 1960, sections 44-64; Mexico: Social Insurance Act of January 1943, sections 35-50; Turkey: Workmen's Accident Sickness and Maternity Insurance Act of 27 June 1945; United Arab Republic: Social Insurance Code of April 1959, sections 19-54; Venezuela: Organic Decree of 24 July 1940 on Compulsory Social Insurance, as amended, sections 16-26.

² Afghanistan, Ceylon, Iraq, Thailand.

³ The report by Austria points out that national legislation does not provide expressly for maintenance in a convalescent home (Article 34, para. 2 (d)) and the report by Canada states that in five provinces legislation does not provide expressly for care by a member of another profession recognised as allied to the medical profession (Article 34, para. 2 (f)).

⁴ This would appear to be the case in India, Iran, Tunisia, Turkey, the United Arab Republic and Venezuela; benefit in most of these countries seems to go farther in certain respects than the standards laid down in Article 34, para. 3, providing in particular for the supply of prosthetic appliances.

and his ability to work and to attend to his personal needs ¹; existing arrangements in most countries seem suitable to meet these provisions.²

104. No sharing by invalids in the cost of medical care is authorised in the case of employment injury. This applies in almost all countries considered; in the United Kingdom, however, care provided to the whole population under the National Health Service is subject to charges in respect of certain categories of benefit.³ In Sweden, beneficiaries are also required to make a small contribution to costs during an initial period during which care is provided under the sickness insurance scheme. Generally speaking provisions placing a ceiling on the cost of medical care that may be provided to a protected person would also seem to have the effect of requiring such persons to bear part of the cost (see below).

2. Incapacity Benefit, Invalidity Benefit and Survivors' Benefit

105. Article 36, paragraph 1, states that, with regard to incapacity for work or total loss of earning capacity likely to be permanent, or corresponding loss of faculty, or death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.⁴

106. With regard to incapacity for work and invalidity, the rate of periodical payments for the purposes of calculation provided for in Part XI of the Convention must be equivalent to 50 per cent. of the standard earnings, in the case of a standard beneficiary (a man with a wife and two children).⁵ It appears from available information ⁶ that benefits satisfy the provisions of the Convention in almost all cases.⁷ Periodical payments are nearly always proportionate or partly proportionate to beneficiaries' previous earnings; it is only in a few cases that uniform sums are

¹ With the same objective, Article 35 lays down methods for co-ordination of medical care and occupational rehabilitation facilities. As a general rule, such facilities are granted under national legislation or as a matter of practice.

² The report from Austria expresses certain doubts in this connection; it seems however that the provisions of national legislation (in particular section 189 of the Federal Social Insurance Act of 9 September 1955) correspond to those laid down in the Convention.

³ Pharmaceutical products and prosthetic appliances; the possibility of sharing by the beneficiary in the cost was considered during the preparatory work of the Convention, to cover cases where medical care provided for under this contingency is also granted in the case of a morbid state that does not result from an employment injury (cf. *Minimum Standards of Social Security*, Report V a (2), International Labour Conference, 35th Session, Geneva, 1952 (Geneva, I.L.O., 1952), pp. 113-114, 207-208 and 285); provisions to this effect were, however, omitted from the Convention as finally adopted (cf. I.L.O.: *Record of Proceedings*, International Labour Conference, 35th Session, Geneva, 1952 (Geneva, 1952), Annex VIII, Report of the Committee on Social Security, para. 58).

⁴ Article 36, para. 3, allows periodical payments to be commuted for a lump sum where the degree of incapacity is slight or where the competent authority is satisfied that the lump sum will be properly utilised.

⁵ Article 36, para. 2, states that, in case of partial loss of earning capacity likely to be permanent or corresponding loss of faculty, the benefit, where payable, shall be a periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty.

⁶ The following countries have not provided sufficient information for evaluation of benefit levels: Argentina, Brazil, Indonesia, Iraq, Liberia, Pakistan, Peru, Portugal.

⁷ This would appear to be the case in the following countries: Austria, Belgium, Bulgaria, Canada, Denmark, Finland, France, Federal Republic of Germany, Greece, India, Iran, Israel, Italy (for employees other than in agriculture), Japan, Federation of Malaya, Mexico, Morocco, New Zealand, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Tunisia, Turkey, Union of South Africa (for temporary incapacity benefits), U.S.S.R., United Arab Republic, United Kingdom, United States (in nine states, the District of Columbia, and under the two federal Acts), Venezuela, Yugoslavia.

fixed (Italy, for agricultural employees, and the United Kingdom). In most cases the level of benefit exceeds considerably the minimum standard laid down by the Convention and, for application of the provisions of Article 65 or 66, is reported to be equivalent to 70 per cent. of the standard earnings in Belgium, Bulgaria, the Federal Republic of Germany, Israel, Italy (for employees other than those engaged in agriculture), Mexico, New Zealand, Spain, Switzerland, the U.S.S.R., the United Arab Republic, the United Kingdom and Yugoslavia, and for invalidity benefits at least in Austria, Denmark, France, Iran, Morocco, Norway, Sweden and Tunisia. In the United States (41 states)¹ and in Italy (with regard only to temporary incapacity compensation for agricultural employees)² according to the reports, periodical payments do not reach the level laid down in the Convention. In a few cases, invalidity benefit is not granted in the form of periodical payments but as lump-sum compensation. This is the general practice in Afghanistan, Ceylon, China, the Federation of Malaya, Togo and Viet-Nam and for certain categories of employees in the Union of South Africa ("Natives").

107. With regard to survivors' benefit in the case of death of the breadwinner, the level of periodical payments must be such as to represent not less than 40 per cent. of the standard earnings, in the case of a widow with two children. It appears from available information that survivors' benefit also meets the provisions of the Convention in practically all cases.³ Rates are often considerably in excess of the minimum laid down in the Convention and, for application of the rules of Part XI, rates seem to reach or exceed, for example, 60 per cent. of the standard earnings, according to reports submitted by the following countries: Austria, Belgium, Bulgaria, Canada, Finland, the Federal Republic of Germany, Iran, Israel, Italy, Spain, Sweden, Switzerland, U.S.S.R., Yugoslavia. The report by the United States points out that in 27 states the rates provided for in the Convention are not reached.⁴ In some cases, which have already been mentioned above in connection with invalidity benefit, as well as in the Dominican Republic and Japan, survivors' benefit is not granted in periodical payments but as a lump-sum payment.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

108. In accordance with Article 38, medical care benefit and incapacity, invalidity or survivors' benefit must be granted throughout the contingency.⁵ Thus, there can be no limitation in the duration of benefit so long as the conditions for the contingency continue to apply. This requirement is met in all the countries considered,

¹ As regards skilled workers, in accordance with Article 65, see above: "General Rules—Standards to Be Complied With by Periodical Payments."

² The daily allowance for an adult wage earner is fixed at a uniform sum (400 lire), which is stated to represent somewhat less than 40 per cent. of the labourer's wage fixed in accordance with Article 66 (see above, Part III, para. 55, footnote 5).

³ Including the following countries: Austria, Belgium, Bulgaria, Canada, Denmark, Finland, France, Federal Republic of Germany, Greece, India, Iran, Israel, Italy, Japan, Mexico, Morocco, New Zealand, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Tunisia, Turkey, U.S.S.R., United Arab Republic, United Kingdom, United States (in 23 states and the District of Columbia and under the two federal Acts), Venezuela, Yugoslavia. Concerning the system of calculation, survivors' benefit is almost always in proportion to the previous earnings of the breadwinner, or partly so; the different systems are to be found only in the two cases mentioned in the preceding paragraph (Italy for agricultural employees, and the United Kingdom) and in Canada, where benefit is fixed at uniform amounts under conditions in accordance with Article 66 of the Convention.

⁴ In the case of skilled workers as covered by Article 65, see above "General Rules", para. 8.

⁵ With regard to incapacity for work the Article provides, however, that benefit need not be paid for the first three days in each case of suspension of earnings (see next paragraph).

with the exception of a small number of special cases. Thus, maximum limits are set for granting of medical care in the United States (in 14 states, with regard to duration of benefit and/or the total amount of benefit), in Australia, New Zealand and Thailand (for the total amount of benefit)¹, in China, Japan, Turkey and the Union of South Africa (for duration of benefit)²; limits are also fixed for the granting of incapacity or invalidity benefit, particularly in the United States (in 24 states for duration and/or the total amount of benefit), in Ceylon, China, New Zealand, the Philippines, Thailand (for duration), in Australia (for the total amount of benefit, under most laws) and for survivors' benefit in the United States, in 42 states, subject to the same conditions as mentioned before), in New Zealand (for amount), in the Philippines and Thailand (for duration).

109. With particular reference to incapacity for work, Article 38 provides that benefit need not be paid for the first three days in each case of suspension of earnings. No waiting period is required in certain countries, including Belgium, Brazil, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Morocco, New Zealand, Rumania, Turkey, the U.S.S.R. and Yugoslavia. Where a waiting period of this nature is required, it does not generally exceed three days; a longer period is prescribed in very few cases, as indicated in the reports by Canada (New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island: four days; Ontario, Quebec: five days), Ceylon (seven days), the Dominican Republic (14 days), Italy (for agricultural workers: six days), Thailand (seven days), the Union of South Africa (for "Natives": seven days or 14 days, according to circumstances), the United States (in 49 states, seven days as a general rule) and Viet-Nam (four days).

110. Under Article 37, the various forms of benefit are required, in a contingency covered, to be secured at least to a person protected who was employed in the territory of the Member at the time of the accident, if the injury is due to accident, or at the time of contracting the disease, if the injury is due to a disease, and, for periodical payments in respect of death of the breadwinner, to the widow and children of such person. In pursuance of this Article, the only condition that may be required for entitlement to benefit is that the accident should have occurred or the disease should have been contracted when the person protected was employed in the territory of the Member. No other restrictive condition, such as a qualifying period, may be imposed, however. It appears from the information available that entitlement to benefit in case of employment injury is not subject to a qualifying period in any country.

CONCLUSION

111. The provisions of Part VI are on the whole applied in a fairly large number of countries. This appears, for example, from the reports of the following countries: Austria, Bulgaria, Byelorussia, Denmark, Finland, France, the Federal Republic of Germany, Greece, Israel, Italy, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Ukraine, the U.S.S.R., Yugoslavia. Allowing for exceptions authorised by Article 3, the situation would appear to be the same in India, Iran, Mexico, Tunisia, the United Arab Republic and Venezuela. In some other countries, the level of protection reaches and in certain respects exceeds that laid down by the

¹ In New Zealand, free maintenance of prosthetic appliances is subject to a maximum of three years.

² The report by Turkey states that abolition of this restriction is at present being considered.

Convention but there are certain limited divergences. This is so in the case of Canada with regard to the duration of the waiting period for incapacity benefit in some provinces, and in the United Kingdom (where beneficiaries have to pay certain charges in respect of medical benefits). From information available with regard to the other Conventions on the subject it would appear that the provisions of Part VI are also applied in a large number of other countries (subject, as already mentioned, to reservation in cases where compensation is not guaranteed under a public service or a compulsory insurance scheme regulated by the public authorities). In countries where Conventions are in force, their application has led to observations by the Committee in less than 10 per cent. of cases, and certain of these observations would not necessarily apply to the provisions of Part VI. In a more general way, the study made by the Committee this year of non-metropolitan territories and of States that have recently become independent reveals that the Conventions concerning employment injury compensation are completely or almost completely applied in over half the countries in question. Protection is guaranteed by a system of compulsory insurance, particularly in countries for whose international relations Belgium and France are or were responsible and in the Netherlands Antilles, the part of Somalia formerly under trusteeship, and in certain United Kingdom territories (compensation generally being based on employer's liability without compulsory insurance in other territories).

112. In some cases the fact that insurance is still voluntary may be regarded as constituting the only major difference from the provisions of Convention No. 102. This is particularly so in Belgium, for the general employment injury scheme, in Morocco and apparently in certain territories for whose international relations the United Kingdom is responsible.

113. In certain cases, protection diverges noticeably from the minimum standard owing to the fact that invalidity and survivors' benefit is not granted in the form of "periodical payments" but in lump-sum form (e.g. Afghanistan, Ceylon, China, Dominican Republic, Japan, the Federation of Malaya, Netherlands New Guinea, Togo, Viet-Nam and a large number of United Kingdom non-metropolitan territories). Experience shows that payment in this form generally tends to disappear fairly quickly with the development of protection schemes; for example, this type of payment has become much more limited in Japan recently.

114. A further major divergence from the provisions of the Convention occurs in certain cases where limits are fixed for the maximum duration or amount of benefit, so that benefit is not always granted for the whole duration of the contingency. This is the case, for example, in Afghanistan, Australia, Ceylon, China, the Dominican Republic, New Zealand, the Philippines, Thailand and the United States (in most states), and, as regards medical care, in Japan, Turkey and the Union of South Africa. In some of these countries, however, protection reaches a high level in other respects. The restrictions imposed, which vary in extent but are in any case incompatible with the minimum standards, are disappearing. The report by Turkey indicates that they will be abolished in the near future. This trend may be expected rapidly to become more general.

115. With regard to occupational diseases, the scope of the protection may at times be limited where it covers only diseases listed in a schedule. In some cases it may thus be difficult to show that such protection covers at least the number of employees required under the Convention. The present trend is, however, for entitlement to compensation to be admitted in an increasing number of cases where it can be proved that the disease arose out of employment, even when the particular disease is not included in a schedule.

CHAPTER VII

Part VII of the Convention : Family Benefit

116. Eight of the countries that have ratified the Convention (Belgium, the Federal Republic of Germany, Greece, Iceland, Italy, Norway, Sweden and the United Kingdom ¹) have accepted the obligations of this Part. The reports submitted by the other countries show that measures have been taken in this field in a majority of cases. However, a few countries mention the existence only of certain schemes of apparently limited scope ², and a certain number of other countries supply no information on this subject or state that the benefits mentioned in this Part are not provided.³

DEFINITION OF THE CONTINGENCY

117. Under Article 40 of the Convention the contingency covered is "responsibility for the maintenance of children as prescribed". It should be noted that Article 1 of the Convention states that the term "child" means a child under school-leaving age or under 15 years of age, as may be prescribed. These provisions do not seem to be complied with in Byelorussia, Ukraine and the U.S.S.R., where the benefits are apparently paid until the child reaches the age of five.⁴ Benefits are paid in principle up to the age of 12 in Morocco and 14 in Tunisia, and in these two countries there is no fixed school-leaving age⁵; however, in these two countries benefits are paid until the age of 18 years or more if the child continues its schooling. In a few other countries the age normally laid down is under 15 but equal to or higher than the school-leaving age; this applies in particular to Portugal and Spain, where children's allowances are paid in principle up to the age of 14 and where compulsory school attendance normally ends at the age of 12. In the remaining countries the benefits are always payable up to the age of 15 at least. Finally it should be noted that in most countries higher limits are laid down if the child attends school.

118. Article 40 allows national legislation to determine the number of children in respect of whom benefits shall be payable. In most countries allowances are payable as from the first child, and in respect of every child. Only in a few cases is this not so; for instance, benefits are payable only where there are at least two children in Iran, Norway, Spain and the United Kingdom, three in the Federal Republic of Germany and four in Byelorussia, Finland, Israel, the Ukraine and the U.S.S.R. As a rule allowances are payable for not more than two children in Greece, four in Tunisia and six in Morocco.

¹ The obligations of this Part have been accepted without modification by the United Kingdom on behalf of the Isle of Man.

² This is the case in Brazil (civil servants) and Mexico (pensioners).

³ Afghanistan, Ceylon, China, Dominican Republic, India, Indonesia, Iraq, Japan, Liberia, Federation of Malaya, Pakistan, Peru, Philippines, Thailand, Turkey, United Arab Republic, and Venezuela. The report from Argentina states that in this field there are certain schemes maintained by employers.

⁴ Decree of the Praesidium of the Supreme Soviet dated 8 July 1944, on assistance to mothers, etc. (section 2).

⁵ See the Committee's report for 1960, pp. 94 ff.: "Table I. Minimum Age for Admission to Industrial Employment and School-leaving Age in Reporting Countries."

SCOPE

119. Article 41 states that the persons protected shall comprise prescribed classes of employees, constituting not less than 50 per cent. of all employees (paragraph (a)); or prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents (paragraph (b)); or all residents whose means during the contingency do not exceed prescribed limits (paragraph (c)); or, where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more (paragraph (d)).

120. Where the persons protected comprise employees or economically active persons the scope of the schemes seems in most cases to meet the requirements of paragraphs (a) or (b) of Article 41.¹ The reports indicate that the persons protected are in principle all economically active persons in France, practically all employees in Austria, Belgium, Bulgaria, Italy, Spain, Togo and Viet-Nam; and apparently most employees in Greece, Portugal and Yugoslavia; the same holds good for Morocco² and Tunisia³ where, although detailed statistics are not available, the provisions of Article 41 (d) are at any rate complied with; the same is apparently also true of Iran.⁴ In Switzerland, on the other hand, according to the report, family benefits are provided only for agricultural workers and peasants in mountain areas (4 per cent. of residents).⁵

121. The persons protected comprise all residents (not merely those whose means during the contingency do not exceed prescribed limits) in Australia, Byelorussia, Canada, Finland, the Federal Republic of Germany, Ireland, Israel, New Zealand, Norway, Sweden⁶, Ukraine, the United Kingdom⁶ and the U.S.S.R.⁷; the provisions in force in those countries are therefore much more favourable as regards the persons protected than those of Article 41 (c).⁸ On the other hand, in the Union of South

¹ Austria (Act of 14 December 1949 concerning family allowances); Belgium (Act of 4 August 1940 concerning family allowances for employees, as consolidated by an order dated 19 December 1939); Bulgaria (decree of 1951 concerning family allowances); France (Social Security Code, Book V); Greece (legislative decree of 29 October 1958 concerning the Family Allowances Equalisation Fund); Italy (decree of 30 May 1955 to codify the legislation relating to family allowances); Portugal (legislative decree of 13 August 1942 to institute a family allowance scheme, as amended by a legislative decree dated 29 January 1944); Spain (Act of 18 July 1938 to establish the family allowances scheme, and subsequent legislation); Togo (order of 15 March 1956 to establish a family benefits scheme); Viet-Nam (Ordinance No. 2 of 20 January 1953, and Agricultural Labour Code of 1953); Yugoslavia (decree of 25 October 1951 concerning family benefits).

² Dahir of 31 December 1959 to set up a social security scheme (sections 39-41).

³ Social Security Organisation Act of 14 November 1960 (sections 51-65).

⁴ Workmen's Social Insurance, Act of 11 May 1960 (sections 66-69).

⁵ Federal Act of 20 June 1952 concerning family allowances.

⁶ The reports from these two countries also state that certain additional benefits in kind are provided in cases in which the means of the beneficiaries do not exceed certain limits.

⁷ Australia (Social Services Act 1947-59, sections 94-105); Byelorussia (see Ukraine and U.S.S.R.); Canada: Family Allowances Act of 1944; Finland: Act of 28 July 1948 concerning children's allowances; Federal Republic of Germany: Act of 13 November 1954 concerning family allowances; Ireland: Code of 1944 concerning children's allowances; Israel: 1954 Amendment to the National Insurance Act; New Zealand: Social Security Act, 1938, sections 28-32; Norway: Act of 24 October 1946 concerning family allowances; Sweden: Act of 26 July 1947 concerning general family allowances; United Kingdom: Family Allowances Act of 15 June 1945 and corresponding provisions for Northern Ireland; Ukraine and U.S.S.R.: decree of the Praesidium of the Supreme Soviet dated 8 July 1944 concerning assistance to mothers.

⁸ The Government of New Zealand states that children's benefits are in principle payable only to the father and mother and not to any resident responsible for the maintenance of children, but that the competent authority may prescribe in particular cases that the benefit shall be paid to any

Africa¹ there is a scheme for family allowances which are granted subject to a means test but this scheme applies only to certain classes of residents², which is not allowed by the Convention. In three other countries the scope of protection is governed by criteria which do not seem to correspond to the provisions of the Convention: in Denmark assistance legislation provides for the payment of certain benefits in respect in particular of children who have been born out of wedlock or whose parents are divorced, separated or deceased and who are destitute; in the Union of South Africa the legislation provides for relief payments to certain classes of residents without means (widows, invalids, the aged, etc.) who have dependent children, in addition to the family allowances previously mentioned; in the United States the assistance legislation of the various states provides for allowances in respect of destitute children whose fathers or mothers are deceased, disabled or absent, and in most states the legislation also makes provision for meals at reduced prices for school children. Schemes of these various kinds are to be found in a large number of countries in addition to other forms of protection.

LEVEL OF BENEFITS

122. Under Article 42 the benefit shall be a periodical payment or the provision for children of food, clothing, housing, holidays or domestic help, or a combination of cash benefits and benefits in kind. Article 44 states that the total value of the benefits granted shall be such as to represent 3 per cent. of the wage of an ordinary adult male labourer³, multiplied by the total number of children of persons protected (paragraph (a)) or 1.5 per cent. of the said wage, multiplied by the total number of children of all residents (paragraph (b)). In most cases the benefits consist mainly in periodical payments⁴ which seem to be generally sufficient on their own to meet the requirements of the Convention with regard to the value of benefits. This would seem to be so for example, according to the reports, in Austria, Belgium, Canada, Finland, France, the Federal Republic of Germany, Italy, Morocco, New Zealand, Norway, Sweden, Togo, Tunisia, the United Kingdom and Viet-Nam. The situation may apparently be the same in a certain number of other countries, but the information supplied is not sufficient to assess the level of benefits in the light of Article 44 in the following cases: Australia, Bulgaria, Byelorussia, Denmark, Greece, Iran, Ireland, Portugal, Spain, Ukraine, the Union of South Africa, the U.S.S.R. and Yugoslavia. According to the report from the United States the total value of benefits in cash and kind provided in the United States represents 0.5 per cent. of the wage of the labourer to whom the Convention refers, multiplied by the total number of children of all residents, and the report from Israel states that the level prescribed in the Convention is not reached but does not mention what percentage has been achieved.

reputable person for the benefit of the child; as stated in the report from New Zealand it does not seem that this can constitute a difficulty with regard to the application of this Part if the father and mother are not available and the benefits are paid subject to the foregoing conditions to other persons responsible for the maintenance of a child.

¹ Children's Act, 1960.

² Indians and Natives are excluded.

³ As determined in accordance with the rules laid down in Article 66. From an over-all point of view, the provisions of Article 44 (a) can be considered to have been complied with when the amount of the benefit (at least if it is due for each child of the protected persons) amounts on the average to at least 3 per cent. of the wage of the labourer in question.

⁴ Benefits in kind are also provided in a large number of countries, including Sweden, the United Kingdom and the U.S.S.R., etc.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFIT

123. Article 43 allows entitlement to benefits to be made subject to the completion of a qualifying period which may be three months of contribution or employment or one year of residence. No qualifying period is imposed in a large number of countries—Austria, Belgium, Byelorussia, France, the Federal Republic of Germany, Italy, Portugal, Spain, Sweden, Tunisia, Ukraine, the U.S.S.R. and Viet-Nam. In Canada and in New Zealand a waiting period is prescribed only in certain special cases, especially for children born outside the country and aliens (generally one year of residence). There is a similar waiting period for aliens in Finland (two years of residence)¹ and in Norway (six months of residence). In the United Kingdom the waiting period is generally six months, and one year's residence in certain cases. On the other hand, in a few countries there is a qualifying period of contribution or employment amounting to more than three months: this is the case in Morocco and Togo, where it amounts to six months; in Yugoslavia, where it may last as long as 12 months; and in Iran (two years).

124. Article 45 states that the benefits (periodical payments) must be granted throughout the contingency. The reports show that the application of this provision does not seem to call for any remarks apart from those previously made with regard to the age up to which children's benefits are payable.

CONCLUSION

125. The reports under review tend to indicate that the provisions of this Part are largely applied in a number of cases, including the following countries: Austria², Belgium, Canada, Finland, France, the Federal Republic of Germany, Italy, New Zealand, Norway, Sweden, Tunisia, the United Kingdom and Viet-Nam; it seems that this may also be true, subject to further information being required with regard to the total value of the benefits paid, in Australia, Bulgaria, Greece, Ireland, Portugal and Spain. In a few other cases the provisions of this Part seem to be also largely applied but the qualifying conditions seem to be stricter than is provided for in the Convention; this would seem to be so in Morocco, Togo and Yugoslavia.

126. In addition in certain countries (Byelorussia, the Ukraine and the U.S.S.R.) the age up to which benefits are payable in respect of children does not seem to meet the requirements of the Convention. Finally, the reports from certain countries (Denmark, Switzerland, the Union of South Africa and the United States), as already stated in connection with the persons protected or the level of benefit, show that the protection provided is not yet as extensive as that contemplated by the Convention.

127. Information supplied by different States as regards the countries or territories for whose international relations they are or were until recently responsible shows that advanced family benefit schemes exist in a number of cases: this is the case particularly in the various African States for whose international relations

¹ The report from this country expresses doubts regarding the conformity between this provision and the terms of the Convention. It should be pointed out, however, that Article 68 authorises special rules concerning non-nationals and nationals born outside the territory of the Member in respect of benefits which are payable out of public funds (see above, under "General Rules").

² The Government of this country states, without giving particulars, that it is thinking of adopting measures, with regard to the grant of family benefits to aliens, which might give rise to difficulties in the application of this Part. (With regard to the provisions on equality of treatment see the chapter entitled "General Rules".)

France was responsible prior to their becoming independent, in the French Overseas Departments and Territories, and in certain United Kingdom territories.¹ Information supplied in other cases shows that, apart from benefits provided to civil servants, benefits are also paid by employers to their employees² or assistance measures exist for persons of limited means.³

CHAPTER VIII

Part VIII of the Convention : Maternity Benefit

128. Five ratifying countries (Belgium, the Federal Republic of Germany, Greece, Italy and Yugoslavia) have accepted the obligations of this Part. The reports from the other countries generally mention the existence of various forms of protection in the event of maternity.⁴

129. Thirty-two countries are bound by the Maternity Protection Convention, 1919 (No. 3).⁵ Under it, women employed in industry and commerce are to receive, in the event of maternity, benefits in respect of suspension of earnings for 12 weeks (provided either out of public funds or by means of a system of insurance), together with free medical and other attendance. The Maternity Protection Convention (Revised), 1952 (No. 103), which applies to all women employed in industrial undertakings and in non-industrial and agricultural occupations and provides for similar protection as under the previous Convention (with certain supplementary requirements), now binds seven States Members.⁶

DEFINITION OF THE CONTINGENCY

130. Under Article 47 of the Convention the contingencies covered shall include pregnancy and confinement and their consequences as conditions justifying medical care, and suspension of earnings, as defined by national laws or regulations, resulting therefrom. These provisions are in most cases complied with. In certain countries, however, there seems to be no provision for periodical payments in respect of the suspension of earnings; this is apparent from the reports submitted by Australia, Finland, Indonesia, Iraq, Liberia⁷ and Portugal; some of these countries provide a lump-sum confinement grant.⁸ Moreover, as stated below, in certain cases it is not clear to what extent medical care is provided.

¹ Guernsey, Jersey, Isle of Man.

² Netherlands Antilles.

³ Netherlands New Guinea.

⁴ The reports from Afghanistan, Canada and the United Arab Republic supply no information.

⁵ *States Members* : Argentina, Brazil, Bulgaria, Chile, Colombia, Cuba, France, the Federal Republic of Germany, Greece, Hungary, Italy, Luxembourg, Nicaragua, Panama, Rumania, Spain, Uruguay, Venezuela and Yugoslavia. *Non-metropolitan territories* (applicable with modifications) : *France* : Comoro Islands, French Somaliland, French Guiana, Guadeloupe, Martinique, New Caledonia, French Polynesia, Réunion, St. Pierre and Miquelon; *United Kingdom* : Fiji Islands, Singapore, Solomon Islands, Southern Rhodesia.

⁶ Byelorussia, Cuba, Hungary, Ukraine, U.S.S.R., Uruguay and Yugoslavia.

⁷ The report from this country states, however, that civil servants are entitled to 12 weeks' paid maternity leave.

⁸ Australia (Social Services Act 1947-59, sections 84-93); Finland (Maternity Allowances Act of 13 June 1941); Iraq (Social Security Law No. 27 of 1956, section 10) and apparently Indonesia (Order No. 15 of 1957 of the Minister of Labour).

SCOPE

131. Under Article 48 the persons protected shall comprise all women in prescribed classes of employees which classes constitute not less than 50 per cent. of all employees (paragraph (a)); or all women in prescribed classes of the economically active population, which classes constitute not less than 20 per cent. of all residents (paragraph (b)); or where a declaration made in virtue of Article 3 is in force, all women in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more (paragraph (c)). In all three cases the persons protected must include not only women in those classes but also for medical benefit the wives of men in these classes.

132. Periodical payments for suspension of earnings and medical care seem to be guaranteed to a number of persons at least equal to that prescribed by paragraphs (a) and (b) of Article 48 in the following countries: Austria, Belgium, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Greece, Italy, Japan, Norway, Poland, Rumania, Spain, Sweden, the Ukraine, the United Kingdom, the U.S.S.R. and Yugoslavia.¹ The scope of the schemes providing for periodical payments and medical benefits in this contingency are the same as have been described in connection with Parts II and III, and it often goes much further than the standards set in the Convention. In addition, the report from Israel states that all women in the economically active population are entitled to benefits in respect of suspension of earnings and that all women residents are entitled to a benefit to cover hospital expenses.² In other cases, where the number of persons protected appears from the reports to be less extensive, the provisions of the Convention would seem to be met at least by reference to Article 48 (c). This is so, for example, in Brazil, the Dominican Republic, Iran, Mexico, Tunisia, Turkey and Venezuela.³ On the other hand, according to the reports from certain countries where such provisions could also be complied with, protection in respect of medical care does not always extend to the wives of insured employees: this is apparently the case in China, India (certain areas) and Peru.⁴

133. In one country (New Zealand) the persons protected with regard to medical benefit include all women residents, as is also the case for benefits in respect of suspension of earnings on condition that the woman's means during the contingency do not exceed prescribed limits.⁵ For the application of this Part, however, the Convention does not provide that periodical payments may be made subject to a means test during the contingency. In other cases, as in Denmark and Switzerland,

¹ For the legislation see under Parts II and III. See also for the Federal Republic of Germany, Act of 24 January 1952 concerning the protection of working mothers; for Italy, Act of 26 August 1950 concerning the physical and economic protection of working mothers; for Sweden, Act of 21 May 1954 concerning maternity benefits; for Byelorussia, the Ukraine and the U.S.S.R., decree of the Praesidium of the Supreme Soviet dated 8 July 1944 concerning assistance to mothers, etc.; for Yugoslavia, Act of 12 December 1957 concerning employment relations.

² National Insurance Act, 1953, Title III.

³ For the legislation and the definition of the persons protected see under Parts II and III; the reports from the Dominican Republic and Turkey state that unlike the situation with regard to Part II, in this contingency the wives of insured employees are also protected in respect of medical care. As regards Brazil, it should be noted that as emphasised in the report from that country, benefits in respect of suspension of earnings are paid by the employer directly.

⁴ See under Parts II and III. In India besides the employees' national insurance scheme there is special legislation providing for the grant of allowances in the event of maternity by employers, particularly to women employees who are not yet covered by the above-mentioned scheme and to women workers in mines and on plantations.

⁵ See under Parts II and III; medical care is secured to all residents without a means test.

there is also extensive coverage, as stated in connection with Parts II and III, but it is provided mainly through voluntary insurance, with regard to both medical care and benefits in respect of suspension of earnings; under Article 6 of the Convention this method is permitted for the application of this Part only with regard to medical care.

134. In certain cases the reports show that arrangements are made for payments in respect of suspension of earnings to more or less extensive classes of women employees but no specific information is given on the extent to which the medical benefits prescribed by the Convention are granted to such women and to the wives of employees. Such benefits seem to exist nevertheless in many of these cases, according to the information given under Part II (Medical Care). According to the reports from Ireland¹, the Union of South Africa² and Viet-Nam³ the schemes providing periodical payments cover practically all women employees or a great majority of them, and in Morocco¹ it seems that the standards of the Convention may also be complied with, at any rate in accordance with Article 48 (c). The report from the United States mentions in this connection that compulsory insurance schemes for the grant of cash benefits cover on the federal level railroad employees and in one state (Rhode Island) all employees, and that there are also a large number of schemes based on voluntary insurance or collective agreements, such methods not being contemplated by the Convention. The reports show that cash benefits are provided for all women employees in the Philippines and Togo and for various classes of women employees in Ceylon, the Federation of Malaya, Pakistan and Thailand, but that such benefits are payable directly by the employer.⁴

LEVEL OF BENEFITS

1. *Medical Care*

135. Medical care must include at least prenatal confinement and postnatal care either by medical practitioners or by qualified midwives, and hospitalisation where necessary (Article 49). On the whole these provisions seem to be complied with in the countries that have supplied sufficient information on this point. It should be noted that the provisions relating to this contingency do not expressly mention domiciliary visiting, and they can be applied by care given in hospitals, maternity homes, etc. One country (Israel) mentions the grant of benefits to cover hospital expenses, but does not indicate whether these benefits cover only expenses in respect of confinement, or are also in respect of prenatal and postnatal care, as required by the Convention. The report from India mentions that in regions where the wives of employees are protected they are not yet entitled to hospitalisation. Moreover neither in this Part nor in Part II does the Convention authorise schemes whereby beneficiaries bear any part of the expenses of medical care in respect of maternity; such participation is, however, required, as already mentioned in connection with Part II, in Greece, where the Government has stated that it would take the necessary

¹ See under Part III.

² Unemployment Insurance Act, 1946; Factories Act, 1941; and Shops and Offices Act, 1939. The latter two Acts provide for periodical payments for women employees who are not covered by the unemployment insurance scheme (with regard to the persons protected under this scheme see under Part III).

³ Labour Code, 1952, and Agricultural Labour Code, 1953.

⁴ Ceylon, Maternity Benefits Ordinance, 1939; Federation of Malaya, Employment Ordinance, 1955, sections 37 et seq.; Philippines, Act of 1952-54 concerning the employment of women and young persons; Togo, Labour Code, 1952, section 116.

action to eliminate this divergence. In addition, paragraphs 3 and 4 of Article 49 of the Convention contain certain provisions regarding the effectiveness of protection, the application of which does not seem to give rise to any difficulties.

2. Periodical Payments

136. For the calculation of periodical payments in accordance with Part XI of the Convention the amount required in the case of a standard beneficiary (woman) is fixed at 45 per cent. of the standard earnings.

137. Under Article 50 the benefits are to be calculated in such a manner as to comply with the requirements of either Article 65 or Article 66.¹ According to the reports these rules seem to be complied with in almost all cases. The benefits are calculated as percentages of previous earnings in almost all countries. It would seem that the level of benefits is generally between 50 and 60 per cent. of the standard earnings and even 70 or 75 per cent. or more in many countries, including Austria, Bulgaria, Byelorussia, the Federal Republic of Germany, India, Israel, Italy, Poland, Turkey, Ukraine, the U.S.S.R., Venezuela and Yugoslavia. On the other hand reports from certain countries state that benefits are lower than is required by the Convention; this is the case in Denmark², Norway³, the United Kingdom³, and the United States (Rhode Island).⁴ The information supplied by Ireland and the Union of South Africa is not sufficient for determining whether the standards in question are attained or not. Finally in one country (New Zealand) periodical payments are made to all persons whose means during the contingency do not exceed the prescribed limits and their amount is liable to be reduced in proportion to the means of the beneficiary or her family, in the manner described in connection with sickness benefit; such a scheme, which would comply with Article 67 of the Convention, is not allowed by the Convention for maternity benefits.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

1. Duration of Benefit

138. Under Article 52, periodical payments and medical care are to be granted throughout the contingency except that the periodical payment may be limited to 12 weeks, unless a longer period of suspension from work is required or authorised by national laws or regulations, in which event it may not be limited to a shorter period. The rules in force in almost all countries seem to give effect to these provisions.⁵ The duration of periodical payments is generally fixed in accordance with the provi-

¹ Article 50 also states that the amount of the periodical payment may vary in the course of the contingency provided that the average rate complies with the above-mentioned requirements.

² See under Part III; only women coming within the scope of the Workers' Protection Act of 11 June 1954 (about 150,000) are entitled to a benefit of an amount fixed by law at a level which would comply with the provisions of Article 66.

³ In Norway and the United Kingdom the amount of benefit is the same as that of sickness benefit (see Part III), but whereas the level required by the Convention is reached with regard to sickness, in view of the supplements for dependants, it is not reached with regard to maternity because in that case the amount of benefit must reach a prescribed level irrespective of the family situation of the beneficiary.

⁴ See under Part III.

⁵ With regard to the duration of hospital care in the event of maternity in certain countries, see under Part II, para. 41.

sions of the Convention; it is a period longer than 12 weeks in a number of countries, including the United Kingdom (18 weeks), Bulgaria (120 days), Byelorussia, Ukraine and the U.S.S.R. (16 weeks), Yugoslavia (15 weeks), France, Italy and the Philippines (14 weeks) and Sweden (13 weeks). In a few cases, however, periodical payments are due only for a period shorter than is provided for in the Convention: the period is not so very much shorter in Morocco (ten weeks) and Peru (72 days), but it is a good deal shorter in China (60 days), and in the Federation of Malaya and Viet-Nam (eight weeks).

2. *Qualifying Period*

139. Under Article 51 entitlement to benefit may be made subject to the completion of such a qualifying period as may be considered necessary to preclude abuse. Such qualifying periods are provided for in almost all the countries under consideration, at least for one of the two classes of benefit; in a few countries—Austria, Japan, Turkey, Ukraine, the U.S.S.R. and Yugoslavia—there seems to be no qualifying period for the grant of either class of benefit.

CONCLUSION

140. The information supplied on this Part of the Convention shows that on the whole its provisions are applied in quite a large number of cases, including Austria, Belgium, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Greece, Italy, Japan, Poland, Rumania, Spain, Sweden, Ukraine, the U.S.S.R. and Yugoslavia, and taking into account where appropriate the lower standards authorised by Article 3 with regard to the number of persons protected, in the Dominican Republic, Iran, Mexico, Tunisia and Turkey; the same might be said under the conditions just mentioned with regard to India and Peru, but the wives of insured employees are not always protected in those countries. There is extensive protection in Norway and the United Kingdom, whose reports mention, however, that the amount of cash benefits does not quite reach the level required by the Convention, as well as in Israel, whose report leaves certain doubts as to the extent to which all medical care is covered. In New Zealand the system of protection, although extensive, differs from those contemplated in the Convention for the application of this Part because it is based on a means test with regard to the benefits in respect of suspension of earnings. A large degree of protection seems to have been also achieved in Denmark and in Switzerland (but mainly on the basis of voluntary schemes). The situation seems to be the same in yet other cases (for example Ireland, Morocco, the Union of South Africa and Viet-Nam), in which, however, the information supplied does not indicate, in particular, whether medical care is made available in accordance with the Convention. There are also a number of countries where there seems to be sometimes quite extensive protection but where cash benefits are still paid by the employer directly for example, in Brazil, Ceylon, the Federation of Malaya, Pakistan, the Philippines, Thailand and Togo.

141. It should be noted that, among the States for which reports have not been supplied on Part VIII of the present Convention, the application of the corresponding provisions of one or other of the previously mentioned Conventions of 1919 and 1952 on maternity protection has not given rise to observations in the case of the following States: Chile, Colombia, Cuba, Hungary, Luxembourg, Uruguay. As regards the situation in other countries, the general remarks in the conclusions on Parts II (Medical Care) and III (Sickness Benefit) also apply to this Part. Further, in the countries and territories for whose international relations France is or was until

recently responsible, there exist maternity benefit schemes providing for free medical care and for the payment of an allowance equal to half the wages, out of the Family Allowance Equalisation Funds of these countries or territories.

CHAPTER IX

Part IX of the Convention : Invalidity Benefit

142. Five ratifying countries (Belgium, Denmark, the Federal Republic of Germany, Greece and Iceland) have accepted the obligations of this Part. In the other countries covered by this survey there is generally some protection for this contingency but the reports from a certain number of countries ¹ do not mention any protection in this field.

143. The Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37), which applies to workers in industry, commerce and the liberal professions as well as to outworkers and domestic servants, and the Invalidity Insurance (Agriculture) Convention, 1933 (No. 38), which applies to agricultural workers, both provide for the grant of an invalidity pension when the insured person becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration, after completion of a qualifying period of not more than five years. Both of these Conventions have been ratified by the following eight countries: Bulgaria, Chile, Czechoslovakia, France, Italy, Peru, Poland and the United Kingdom.²

DEFINITION OF THE CONTINGENCY

144. Under Article 54, the contingency includes inability to engage in any gainful activity, to an extent prescribed, if such inability is likely to be permanent or persists after the cessation of sickness benefit. The fact that the Convention refers to inability of an "extent prescribed" shows that to comply with the definition of the contingency in the instrument the protection should not be limited to cases of permanent total inability to engage in any gainful activity. The extent prescribed by national legislation is generally the loss of two-thirds of normal earning capacity. It is in general fixed at half in Austria, Japan and Switzerland, and also in Italy with regard to salaried employees. In certain countries, including Canada, New Zealand, Poland, Portugal, Rumania, Sweden, the Union of South Africa, the U.S.S.R., the United States and Yugoslavia, while no minimum percentage of invalidity has been fixed, the reports appear to indicate that protection is not limited in all cases to total inability to work. On the other hand the reports supplied by certain countries indicate that the contingency is defined in these countries in a more restrictive manner than is provided for in the Convention. In Turkey it is defined in principle as the loss of two-thirds of earning capacity but the Government mentions that the regulations include a restrictive list of cases that shall be deemed to correspond to that degree of loss (the Government states that amendments are being considered with a view to abolishing the restrictions resulting from these regulations). In other coun-

¹ Afghanistan, Ceylon, India, Indonesia, Israel, Liberia, Federation of Malaya, Pakistan, Thailand, Tunisia, Venezuela and Viet-Nam (with the reservation that in several of these countries benefits are payable in the event of invalidity resulting from an employment injury—see under Part VI).

² In addition, the ratification of these Conventions by the United Kingdom rendered them applicable *ipso jure* in Guernsey, Jersey and the Isle of Man.

tries only total inability provides entitlement to protection: this is so in the United Arab Republic, Iraq, Morocco and the Philippines, as well as in Ireland and the United Kingdom (where the contingency is covered by the grant without limit of duration of the sickness benefits referred to under Part III, provided that the beneficiary is not gainfully employed). In Spain the grant of benefits in respect of invalidity which is not total is subject to the condition that the applicant has reached the age of 50 (only absolute inability for work of any kind can provide entitlement to benefit before that age).¹

145. It should be noted that in respect of this contingency, unlike old-age benefit (Article 26, paragraph 3) and survivors' benefit (Article 60, paragraph 2), the Convention does not provide that the benefit may be suspended or reduced in certain circumstances according to the level of the beneficiary's earnings (or where appropriate his other means).² Such provisions would not be suitable for this contingency, the definition of which already implies that the beneficiary has at best only limited earning capacity; they would also have the effect of discouraging an invalid from engaging in paid work although it is desirable that he should be retrained and rehabilitated.³ The reports from a small number of countries only mention that allowance is made for such possibilities; this is apparently true of Austria, the Dominican Republic, Greece⁴, Italy, Mexico, Portugal (in respect of earnings) and Poland (in respect of earnings or other means).⁵

SCOPE

146. Under Article 55, the persons protected are to comprise prescribed classes of employees constituting not less than 50 per cent. of all employees (paragraph (a)); or prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents (paragraph (b)); or all residents whose means during the contingency do not exceed the limits prescribed in such a manner as to comply with the requirements of Article 67 (paragraph (c)); or, where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more (paragraph (d)).

147. In a large number of countries the classes of employees or economically active persons protected are at least as extensive as is prescribed in paragraph (a) or (b) of Article 55. According to the reports almost all economically active persons are protected in the United Kingdom and the United States, all, or almost all employees (generally in addition to other classes of economically active persons) in Argentina, Austria, Belgium, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Ireland, Italy, Poland, Rumania, Ukraine and the U.S.S.R., and at any rate more

¹ In the United States an Act of 13 September 1960 abolished the age condition (50 years) governing entitlement to invalidity benefits.

² Entitlement to benefit may not be made conditional on the means during the contingency not exceeding prescribed limits unless the persons protected include all residents (Article 56 (b) and Article 67); see para. 151 below.

³ These arguments apply mainly to earnings resulting from remunerated employment, but it is easy to understand that in these circumstances the Convention does not allow any possibility of a reduction corresponding to other means such as is provided for in Parts V (Article 26, para. 3) and X (Article 60, para. 2) in the special case of non-contributory benefits.

⁴ The Government of this country stated that it was going to take steps to repeal such provisions (International Labour Conference, 43rd Session, Geneva, 1959: *Record of Proceedings*, Appendix VI, Report of the Committee on the Application of Conventions and Recommendations, p. 694).

⁵ See above, Part V, para. 83.

than 50 per cent. of all employees in Japan, Greece and Spain.¹ In a few countries² a smaller number of employees are protected, but it seems that in many cases the scope of protection could meet the requirements of Article 55 (*d*) when a declaration can be made under Article 3. Countries to which this would apply include Brazil, the Dominican Republic, Iran, Mexico, Morocco, Peru, the Philippines, Turkey and the United Arab Republic, as stated with regard to Part V. The report from Togo states that public servants, or about 22 per cent. of employees, are protected in respect of this contingency.

148. In other cases protection is available for *residents*, but to an extent which varies according to the particular case. In Japan³, Norway and Switzerland, it covers all residents irrespective of their means during the contingency and its coverage is more extensive in this respect than the minimum standards under Article 55. It is subject to the passing of a means test in Canada, Finland and New Zealand; the same is true in Australia, Denmark and Sweden, where, on the other hand, there is no coverage in principle for residents who are not nationals (unless special treaties so provide, and in Australia for British subjects). In the Union of South Africa protection is also subject to a means test which is different for the various categories of residents, as in the case of old-age benefit, and the report from that country shows that the requirements of Article 67 would not be complied with in respect of some of these classes.⁴

LEVEL OF BENEFITS

149. For the purpose of calculating benefits, in accordance with Part XI of the Convention, the amount granted must be such as to attain for a standard beneficiary (man with a wife and two children) at least 40 per cent. of the standard earnings after completion of the maximum qualifying period provided for in Article 57, paragraph 1 (in principle either 15 years of contribution or employment or ten years of residence).⁵ However, Article 57, paragraph 3, provides that the minimum requirements shall also be deemed to be satisfied if a benefit amounting to 30 per cent. of the previous earnings of a standard beneficiary is secured at least to a person who has completed five years of contribution, employment or residence. Article 57, paragraph 4, adds that a proportional reduction of the normal percentage may be effected when the qualifying period for the pension corresponding to the reduced percentage exceeds five years but is less than 15 years of contribution or employment.

150. In a great majority of cases the rates of benefit are calculated in accordance with the provisions of Article 65 or 66. Generally, their amount at least attains the normal level laid down by the Convention after completion of a qualifying period not exceeding the duration fixed in Article 57, paragraph 1; this is apparent in particular from the reports of the following countries⁶: Argentina, Austria, Belgium,

¹ For the legislation of the various countries mentioned above, see under Part III with regard to Belgium, Ireland and United Kingdom, and under Part V with regard to the other countries.

² Brazil, China, the Dominican Republic, Iran, Iraq, Mexico, Morocco, Peru, the Philippines, Portugal, Turkey and United Arab Republic; for the legislation and information on the persons protected in those countries, see under Part V.

³ In addition, the National Pensions Act, 1959, provides for assistance payments granted subject to a means test in respect of persons who would not fulfil the contribution requirements for ordinary pensions.

⁴ In the various countries mentioned above the legislation is the same as that mentioned in connection with Part V, save in the cases of Canada (Disabled Persons Act and Blind Persons Act), Switzerland (Federal Invalidity Insurance Act of 19 June 1959), and the Union of South Africa (Disability Grants Act 1946 and Blind Persons Pensions Act 1936).

⁵ See below, "Conditions Governing Entitlement to Benefits".

⁶ The level of benefits in relation to the provisions of the Convention cannot be determined from the information supplied by Ireland and Japan.

Brazil, Bulgaria, Byelorussia, Dominican Republic, France, the Federal Republic of Germany, Greece, Iran, Mexico, Norway, Peru, Rumania, Spain (mutual benefit societies)¹, Switzerland, Turkey, Ukraine, the U.S.S.R., the United Kingdom, the United States and Yugoslavia. There is a flat rate of benefit in Norway and in the United Kingdom and the rates are proportionate or partly proportionate to a beneficiary's previous earnings in the remaining countries. The percentage calculated in accordance with the provisions of Part XI attains or exceeds 60 per cent. of standard earnings of a standard beneficiary in Greece, the United Kingdom and the United States, and would seem to be generally about 50 per cent. of such earnings, in particular in the following countries: Austria, Belgium, Bulgaria, Byelorussia, Mexico, Norway, Poland, Rumania, Turkey, Ukraine and the U.S.S.R. It should be noted that in a large number of countries the benefits attain at least the normal level required by the Convention, even though the qualifying period is shorter than that mentioned in Article 57, paragraph 1 (so that the rate of benefit could be reduced under paragraphs 3 and 4 of Article 57).² In addition it seems that in Italy benefits granted after a waiting period not exceeding five years would be at least sufficient to meet the requirements of Article 57, paragraph 3.³ On the other hand in three countries the rate of benefit would not be sufficiently high to meet the standards of the Convention: after a qualifying period of at least 15 years of contribution or employment the benefit amounts to only 20 per cent. of a beneficiary's previous earnings in Morocco and 30 per cent. in Portugal; in the United Arab Republic, where the qualifying period is less than five years, the benefit amounts to only 25 per cent. of previous earnings. Finally, in a few countries the benefits are not periodical payments but take the form of a lump sum: in Iraq this corresponds to the contributions standing to the account of the beneficiary, together with interest, and in China and the Philippines it corresponds to a certain number of months' wages.

151. The benefits depend on the means available to the invalid or his family during the contingency in a small number of countries (Australia, Canada, Denmark, Finland, New Zealand, Sweden and the Union of South Africa).⁴ In most of these countries the level of benefits would seem to be equal to or higher than that fixed in the Convention: the reports state that the amount for a standard beneficiary represents 75 per cent. of the standard earnings in New Zealand, 55 per cent. in Australia, and over 40 per cent. in Denmark, Finland and Sweden (while in these last three countries there is no qualifying period or it does not exceed five years, so that an amount representing only 30 per cent. of the standard earnings of the standard beneficiary would meet the minimum standard laid down in Article 57, paragraph 3). On the other hand, the report from Canada does not permit an evaluation of the extent to which benefits (which vary from one province to another) meet the standards laid down in Article 67. Finally, it appears from the report of the Union of South Africa that these standards are not always met for certain categories of residents, as stated above.

¹ On the other hand the benefits paid by the social insurance scheme in this country are of uniform amounts (normally 400 pesetas a month).

² See below under Entitlement to Benefit.

³ According to the report the minimum rate of benefit would seem to be 123,500 lire a year (not including supplements for dependants), and it therefore seems that the provisions of Article 66 would be complied with at any rate on the basis of the reduced percentage authorised by Article 57, para. 3 (with regard to the wage of the labourer referred to in Article 66 in Italy see under Part III, para. 55, note 5).

⁴ However, in Denmark, Finland and Sweden a certain basic amount is guaranteed to all protected persons, whatever their means during the contingency.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFIT

152. As previously stated there are a number of provisions in Article 57 relating to the length of the qualifying period which may have to be completed in accordance with prescribed rules to secure the benefits provided for in the Convention. As regards the reference to "prescribed rules" in this Article, the remarks made with regard to similar provisions in Part V are also applicable to this Part.

153. If the qualifying period consists of a period of contribution or employment¹ its duration may not as a rule exceed 15 years under Article 57, paragraph 1 (a).² As stated with regard to the level of benefits the requirements of the Convention are met in almost all countries where a period of contribution or employment is required (although a qualifying period of more than 15 years appears to be required in Morocco and Portugal³). The qualifying period for the entitlement to the normal amount fixed in the Convention is very often less than 15 years (although in these cases paragraphs 3 and 4 of Article 57 authorise the grant of a smaller amount): the qualifying period amounts to not more than six months in Belgium, one year in France, five years in Bulgaria, Greece, Iran, Peru and Poland⁴ and ten years in Spain (mutual benefit societies). In a certain number of other countries such as Byelorussia, Rumania, Ukraine and the U.S.S.R., where the rate of benefit varies according to the length of the qualifying period, it also seems that the benefits come up to the normal standard provided for in the Convention even when the qualifying period is shorter than 15 years. Paragraphs 2 and 4 of Article 57 also provide that a reduced benefit must at least be secured in principle after a qualifying period of five years.⁵ These provisions are, of course, fully applied in those of the above-mentioned countries which grant the normal benefit provided for by the Convention after a qualifying period of not more than five years; in the other cases reduced benefits are provided, as specified in those provisions, except in Spain, where no such reduced benefits are payable, and in Portugal, where the minimum qualifying period is generally ten years (except in certain sectors in which it is five years, as required by the Convention).

154. If the qualifying period is a period of residence, it may not last longer than ten years under Article 57, paragraph 1 (a). Such a qualifying period must be completed in Canada. In Finland and Norway the qualifying period, when required, does not exceed five years. On the other hand the rules applicable in a few cases would seem to be more restrictive than provided for in the Convention: for example in Australia the qualifying period must be 20 years when the invalidity has not arisen within the country (as against five years in other cases): in New Zealand the qualifying period is also 20 years when the invalidity did not arise in New Zealand or when the invalid was not resident in the country at the time of the adoption of the legislation

¹ This is almost always the case, and a period of residence is provided for only in a few cases in which all residents are protected (Australia, Canada, Finland, New Zealand, Norway and the Union of South Africa—see above); there is no qualifying period in Denmark and Sweden.

² However, Article 57, para. 1 (b), lays down more flexible rules for cases in which a scheme applies to all economically active persons (as in the United Kingdom and the United States): entitlement to benefit may be conditional on the completion of a qualifying period of three years of contribution and on the payment while the invalid was of working age of a prescribed yearly average number of contributions.

³ In these two countries the amount of the benefit varies according to the length of the qualifying period: the qualifying period for the grant of a benefit amounting to 40 per cent. of an invalid's previous earnings would be 20 years in Portugal and 35 years in Morocco.

⁴ With regard to Italy, where the qualifying period is also five years, see para. 150 above.

⁵ Article 57, para. 2 (b), makes special provision, as in para. 1 (b) already referred to, for the case in which all the economically active persons are protected.

in 1936 (it is otherwise ten years); and in most cases in the Union of South Africa the qualifying period is 15 years of residence.

155. Article 58 provides that benefits are to be granted throughout the duration of the contingency or until they are superseded by an old-age benefit. Consequently the benefits must continue to be paid as long as there is inability to engage in any gainful activity, to an extent prescribed, as stated in Article 54 (and as long as the invalid does not become entitled to old-age benefit under the conditions laid down in Part V of the Convention). The only limitation would lie in the possibilities of suspension authorised by Article 69.

CONCLUSION

156. According to the reports supplied the provisions of this Part seem to be generally applied in quite a large number of countries. This seems to be so in particular (subject in some cases to the reservations previously made) in the following countries: Belgium, Bulgaria, Byelorussia, Denmark, Finland, France, the Federal Republic of Germany, Norway, Rumania, Sweden, Switzerland, Ukraine, the U.S.S.R., the United States and Yugoslavia, as well as in Brazil, Iran and Peru if allowance is made for the lower standards authorised by Article 3 of the Convention. In several other countries extensive protection also appears to exist: according to the reports, this is true, for example, of Canada and Japan, subject to necessary clarification as to the level of benefits. In some cases, the protection differs only in certain respects from the provisions of Part IX, for example in Australia and New Zealand (owing to the length of the qualifying period in certain cases), and in Austria, the Dominican Republic, Greece, Italy, Mexico and Poland (owing to the possibility of suspending or reducing benefit according to the beneficiary's income). In other countries the amount of benefit seems to be lower than is provided for in the Convention: this is shown by the reports from Portugal and the Union of South Africa (for certain categories of residents); in addition, in these two countries, the requirements concerning the qualifying period do not seem to be complied with. In a few countries it is mainly the definition of the contingency which is more restricted: this is so in particular in Ireland, Spain and the United Kingdom, as well as in Turkey, where the removal of such restrictions is under consideration. The definition is also too restricted in Morocco and in the United Arab Republic (where in addition the rate of benefit does not seem sufficient), as well as in China, Iraq, and the Philippines, where the benefits consist of lump-sum payments and not of periodical payments as prescribed by the Convention.

157. It should also be noted as regards Chile and in Czechoslovakia, for which no reports on this Convention were available, that the application of the previously mentioned Conventions of 1933 on invalidity insurance has not given rise to observations. Finally, the information supplied by different States Members in respect of countries or territories for whose international relations they are or were until recently responsible, shows that in several cases quite general protection seems to exist.¹ However, more often, the information available shows that—leaving aside the special position of civil servants—measures of the kind provided for in the Convention have not yet been taken.

¹ Algeria, Cyprus, Congo (Leopoldville), French Guiana, Guadeloupe, Jersey, Malta, Isle of Man, Martinique, Réunion. Further, the information supplied with regard to Netherlands New Guinea indicates that there exist assistance measures for persons of limited means.

CHAPTER X

Part X of the Convention : Survivors' Benefits

158. Six ratifying countries have accepted the obligations of this Part: Belgium, the Federal Republic of Germany, Greece, Israel, the United Kingdom¹ and Yugoslavia. In the remaining cases a form of protection in case of the death of a breadwinner frequently appears to exist; the reports of several countries, however, reveal the absence of any measures in this field or do not give any information on this point.² Furthermore, some countries merely mention in a general way the existence of more limited measures than those provided for in the Convention.³

159. The Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39), applicable to employees in industry, commerce and the liberal professions, outworkers and domestic servants, and the Survivors' Insurance (Agriculture) Convention, 1933 (No. 40), applicable to employees in agriculture, provide for the granting of a pension to the widow or orphans in the event of the death of a breadwinner, on completion by the insured person of a qualifying period of not more than five years. Both these Conventions have been ratified by six member States: Bulgaria, Czechoslovakia, Italy, Peru, Poland and the United Kingdom.⁴

DEFINITION OF THE CONTINGENCY

160. Article 60 of the Convention provides that the contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner. Protection should thus cover both the widow who was dependent on the deceased breadwinner and children whose breadwinner (whether their father or their mother) is deceased. Survivors' protection is generally provided for within the framework of old-age and invalidity benefit schemes; on occasion, as far as children are concerned, it is assured under the family allowances scheme or similar legislation.⁵

¹ The obligations of this Part have also been accepted by the United Kingdom without modification, on behalf of the Isle of Man.

² Afghanistan, Ceylon, India, Indonesia, Liberia, the Federation of Malaya, Pakistan, Portugal, Thailand, Tunisia, Venezuela, Viet-Nam (apart from benefit payable in case of death as the result of an employment injury: see under Part VI).

³ The report of Finland mentions briefly the existence of certain voluntary insurance and survivors' pension schemes for the families of public officials. The report of Norway refers to certain allowances paid to dependent children in the event of the death of the breadwinner. In Tunisia the social security scheme (see especially under Part III) provides for the granting to survivors of a sum equal to 120 days' sickness benefit in the event of the death of the insured employee. The report of the Union of South Africa indicates that the sickness and unemployment insurance scheme (referred to under Parts III and IV) provides for the payment of a sum corresponding to 26 weeks' sickness benefit to the surviving dependants of an insured employee.

⁴ In addition, the ratification of these Conventions by the United Kingdom made them applicable *ipso jure* to Guernsey, Jersey and the Isle of Man.

⁵ This is the case, *inter alia*, in Belgium, Denmark, France and New Zealand. The latter country expresses doubts as to the compatibility of national legislation with the Convention due to the fact that special provision for survivors is made only in the case of widows (and children dependent on them) and children who have lost both father and mother; however, with regard to a child or children whose mother, being the breadwinner, is deceased, it should be observed that the family allowances to which these orphans are entitled will probably provide in this case the protection envisaged by the Convention, on condition that these allowances are of a reasonable amount as compared with that prescribed by the Convention for a standard beneficiary as defined in Part XI (see below).

161. In the case of a widow the right to benefit may be made conditional on her being presumed, in accordance with national legislation, to be incapable of self-support (Article 60, paragraph 1). The determination of the cases in which such incapacity shall be presumed is left to national legislation, with the reservation that the restrictions which may thereby be placed on the right of the widow to receive benefit must be reasonably justified according to the criteria laid down by the Convention. As revealed by the preparatory work of the Convention, in accordance with the practice followed in most countries these cases are likely to be the following: widows responsible for one or more children, invalid widows or widows who have reached an age where they cannot be expected to work.¹ No provision for a condition of this nature seems to be made in Argentina, Brazil, Greece, Iran, Italy, Mexico, Turkey or the United Arab Republic. In the remaining cases a widow is recognised as being entitled to benefit where she has children in her care or is disabled, and also, in all cases, when she reaches a specified age: this age is fixed at 40 years in Israel, Japan, Spain and Switzerland, 45 years in Belgium, Bulgaria and Yugoslavia, 50 years in Australia, Morocco, New Zealand, Rumania, Sweden and the United Kingdom, 55 years in Byelorussia, Denmark, Poland, Ukraine and the U.S.S.R., 62 years in the United States and 65 years in France. The extent to which the age prescribed corresponds to that below which a widow may be presumed to be capable of self-support, in accordance with the Convention, depends of course on the conditions prevailing in each country as regards employment opportunities for women, the working ability of persons of a certain age, etc. It seems at all events that where the prescribed age is equivalent or almost equivalent to that laid down in respect of old-age benefit (as for example in France and the United States), the requirements of the Convention would hardly be complied with. Finally, in one country (Denmark) a widow with children in her care must herself comply with an age requirement (45 years) and in addition have at least two children: the report of this country indicates that these conditions would be more restrictive than those provided for in the Convention.

162. Paragraph 2 of Article 60 states that national legislation may provide for the suspension of benefit if a person otherwise entitled thereto is engaged in any prescribed gainful activity, or for the reduction of the benefit, if contributory, where the earnings of the beneficiary exceed a prescribed amount, and, if non-contributory, where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount. In the light of the information available, the granting of benefit is not generally conditional on a person otherwise entitled thereto refraining from engaging in certain gainful activities; however, this is the case, for example, in Belgium, where benefit is suspended if the widow engages in any gainful activity other than casual work. On the other hand, provision is made for the reduction of benefit in proportion to the earnings of the beneficiary in a number of countries, for example Austria, Greece, Italy, the United Kingdom, the United States (so long as the person concerned is under 72 years of age) and Yugoslavia. The reduction of benefit in proportion to the earnings plus the other means of the beneficiary is also provided for in Poland.²

SCOPE

163. According to Article 61, the persons protected should comprise at least the wives and children of breadwinners in prescribed classes of employees or prescribed classes of the active population, defined in the same manner as in Parts V and IX

¹ International Labour Conference, 35th Session, 1952, Report V (a) (2), *Minimum Standards of Social Security*, op. cit., p. 131 and p. 216.

² See above, Part V, para. 83.

(Article 61, paragraphs (a) and (b), and where a declaration made in virtue of Article 3 is in force, Article 61, paragraph (d)), or all resident widows and resident children who have lost their breadwinner and whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67 (Article 61, paragraph (c)).

164. Protection is applicable to classes of employees or active persons at least as extensive as those specified in paragraphs (a) and (b) of Article 61 in a large number of countries; according to their reports such protection covers practically all active persons in Israel, the United Kingdom and the United States; all or nearly all employees (and in most cases other classes of active persons) in Argentina, Austria, Belgium, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Ireland, Italy, Poland, Rumania, Ukraine, the U.S.S.R. and Yugoslavia; and at all events more than 50 per cent. of all employees in Greece, Japan and Spain.¹ A smaller number of employees are protected in certain other countries: it would appear nevertheless that in many of these cases the coverage is at least sufficient to comply with the provisions of paragraph (d) of Article 61 (if a declaration made in virtue of Article 3 is in force), including, it seems, Brazil, Iran, Mexico, Morocco, Turkey and the United Arab Republic; the report of Togo states that provision is made for survivors' pensions in respect of some 36 per cent. of employees.² It would appear that at least the provisions of Article 61 (d) could also be complied with, as has been stated in respect of Parts V and IX, in China, the Dominican Republic, Peru and the Philippines, where, however, survivors' benefit takes the form of a lump-sum payment and not of periodical payments as laid down by the Convention.

165. Protection is applicable to residents in a number of countries.³ It is not subject to conditions with respect to means in Japan, Sweden or Switzerland, and is therefore more favourable in this respect than the required minimum standard. Protection is conditional on the means of the beneficiary in the conditions provided for under Article 67 of the Convention in New Zealand, and a similar formula is applied in Australia and Denmark, although protection in these countries does not, in principle, extend to non-nationals (except in Denmark, where provided for under special treaties and in Australia where British subjects are concerned). The report of Canada indicates that, on the condition that their means do not exceed a certain amount, mothers deprived of a breadwinner (whether or not they are widows) with children to support are entitled to allowances which vary with provincial legislation, but it is not clear whether the requirements of Article 67 are met. Finally, in several countries there exist alongside the other forms of protection already mentioned survivors' assistance benefits, subject to criteria as to means, as for instance in Ireland, Japan and the United Kingdom, whose reports do not indicate whether the requirements of Article 67 are complied with in such cases.

LEVELS OF BENEFITS

166. Under the terms of Part XI of the Convention, the rate of benefit should be such as normally to represent in the case of a widow with two children at least 40 per cent. of the standard earnings on completion of the maximum qualifying period

¹ For legislation and information on coverage see under Part V (and also under Part VII with reference to legislation in Belgium concerning orphans' benefit).

² Certain classes of public officials and employees of undertakings insured with the West African Welfare and Retirement Pensions Institution.

³ Denmark, Japan, New Zealand, Sweden, Switzerland: for legislation see under Part V; for orphans' benefit in Denmark, National Assistance Act, and in Sweden, Children's Pensions Act of 5 May 1960.

prescribed in paragraph 1 of Article 63 (in principle 15 years of contribution or employment or ten years of residence).¹ Paragraph 3 of Article 63 provides, however, that the minimum requirement shall likewise be deemed to be satisfied where a benefit equalling 30 per cent. of the standard earnings in the case of a standard beneficiary is secured at least to a person protected who has completed not more than five years of contribution, employment or residence. Furthermore, paragraph 4 of Article 63 allows for a proportional reduction of the normal percentage where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years but is less than 15 years of contribution or employment.

167. In the majority of cases benefits are calculated in accordance with the provisions of Article 65 or 66. They are generally wholly or partly in proportion to the previous earnings of the breadwinner, but are fixed at standard amounts in a very few cases (Ireland, Israel, Sweden and the United Kingdom). Their amount generally reaches the standard level laid down by the Convention after a qualifying period not exceeding that prescribed in paragraph 1 of Article 63 ; this is apparent in particular from the reports of the following countries ²: Argentina, Austria, Belgium, Brazil, Bulgaria, Byelorussia, France, the Federal Republic of Germany, Greece, Iran, Israel, Mexico, Poland, Rumania, Spain, Sweden, Turkey, Ukraine, the U.S.S.R., the United Kingdom and the United States. Their amount as calculated in accordance with Part XI is equal to or greater than 50 per cent. of the standard earnings in many cases, including, according to their reports, in Austria, Belgium, Bulgaria, Byelorussia, Rumania, Spain, Sweden, Turkey, Ukraine, the U.S.S.R. and the United States. It should be noted that the standard rate laid down by the Convention is very often secured after a qualifying period shorter than that prescribed in paragraph 1 of Article 63 ³, even though in such cases the rate could be lower in virtue of paragraphs 3 and 4 of the Article.¹ Finally, in certain cases where the qualifying period is not more than five years, the benefit granted seems at least to attain the level prescribed in paragraph 3 of Article 63.⁴ On the other hand, the reports of some countries show that benefits fail to comply with the requirements of the Convention: this is so in Switzerland, whose report indicates that the benefit calculated in conformity with the provisions of the Convention equals 31 per cent. of the standard earnings, but that an increase is under consideration; in the United Arab Republic, where the qualifying period is less than five years but the benefit represents only 25 per cent. of the previous earnings of the breadwinner; in Morocco, where the benefit represents 20 per cent. of the previous earnings of the breadwinner (after the qualifying period prescribed in paragraph 1 of Article 63); and in Togo, where, according to its report, the required percentage is not arrived at until a qualifying period of 30 years has been completed; furthermore, in certain countries benefits are not provided as periodical payments as prescribed by the Convention but take the form of a lump-sum equivalent to either the sum of the contributions paid into the account of the deceased breadwinner, plus interest (Iraq) or the total wages he would have received over a specified number of months (China, the Dominican Republic, Peru and the Philippines).

168. Benefits calculated according to the procedure laid down in Article 67, taking into account the means of the person concerned (or her family) during the

¹ See below: Conditions Governing Entitlement to Benefits.

² From the reports of Ireland and Japan it is not possible to estimate how the rate of benefit compares with the requirements of the Convention.

³ Or even without any qualifying period being required (Belgium, Sweden).

⁴ Yugoslavia and possibly Italy (where the total benefit paid to a widow with two children represents 90 per cent. of the invalidity pension to which the deceased breadwinner would have been entitled: see above, Part IX, para. 150).

contingency, are paid, *inter alia*, in Australia, Denmark and New Zealand.¹ It appears from their reports that in these three countries the rate of benefit is higher than the required minimum; on the basis of the calculation provided for by the Convention it would reach 75 per cent. of the standard earnings in New Zealand, nearly 50 per cent. in Denmark and more than 40 per cent. in Australia, even though in these three countries a qualifying period is not required or does not exceed five years of residence, in which conditions the provisions of paragraph 3 of Article 63, allowing for a lower percentage, could be applied.

CONDITIONS GOVERNING ENTITLEMENT TO BENEFITS

169. As already stated, Article 63 lays down a number of requirements as to the length of the qualifying period that the breadwinner should have completed, where applicable, in accordance with prescribed rules, for the benefits provided for under the Convention to be secured to the persons protected (as regards the reference in this Article to "prescribed rules", the remarks made concerning the use of a like term in Part V are equally applicable to this Part).

170. Where the qualifying period is one of contribution or employment², it should not in principle exceed 15 years (paragraph 1 (a) of Article 63).³ As revealed by the comments made in connection with the rate of benefit, the requirements of the Convention are complied with in nearly all the countries concerned; however, in Morocco and Togo the qualifying period is more than 15 years.⁴ The qualifying period which must be completed by the breadwinner in order to obtain entitlement to benefit at the standard rate laid down by the Convention is very often less than 15 years (even though paragraphs 3 and 4 of Article 63 allow for the payment of reduced benefit in such cases): this is the case, *inter alia*, with a qualifying period representing as a general rule not more than five years in Bulgaria, Greece, Iran and Poland, and ten years in Israel, Spain and the United States. In other countries, where the rate of benefit varies according to the length of the qualifying period, such as Byelorussia, Rumania, Ukraine and the U.S.S.R., it also seems that after a qualifying period of under 15 years benefits in most cases reach the standard level prescribed by the Convention. Furthermore, paragraphs 2 and 4 of Article 63 provide that a reduced benefit may be secured where the breadwinner has completed a qualifying period of five years.⁵ These provisions are amply complied with in the cases where, as stated above, the standard benefit is granted after a qualifying period of not more than five years; in the remaining cases reduced benefits are paid in conformity with the Convention (in Spain, however, no provision seems to be made for entitlement to benefit after a qualifying period shorter than the standard one).

¹ With regard to allowances for mothers in Canada, see above under "Coverage".

² This is the case in nearly all countries (a qualifying period of residence is called for only in Australia, and in certain cases in New Zealand; no qualifying period is required in Belgium, Denmark or Sweden).

³ As with Parts V and IX, a more flexible rule is given in cases where the scheme is applicable to all active persons, as for instance in the United Kingdom and the United States: benefits in these cases may be conditional on the completion of a qualifying period of three years of contribution and on the prescribed yearly average number of contributions having been paid while the breadwinner was of working age.

⁴ See above; in Morocco the qualifying period needed to secure benefit equal to 40 per cent. of the reference wage would seem to be 35 years, while in Togo, according to its report, it is 30 years.

⁵ Paragraph 2 (b) of Article 63 also makes special provision for cases where all active persons are protected (see above).

171. Where the qualifying period is one of residence it should not exceed ten years. A qualifying period of this kind is required in Australia and New Zealand, the length of which, variable from case to case, is never more than five years (so that the provisions of paragraph 3 of Article 63, which allows for the payment of a benefit lower than the standard amount prescribed by the Convention, could be applied).

172. In addition, paragraph 5 of Article 63 provides that, in order that a childless widow presumed to be incapable of self-support may be entitled to a survivors' benefit, a minimum duration of the marriage may be required. Provisions to this effect, designed to prevent possible abuse, exist in a number of countries, where the minimum duration of the marriage thus prescribed varies from a few months to five years; these countries include Austria, Denmark, Greece, Mexico, Morocco, New Zealand, Poland, Spain, Sweden, the United Kingdom and Yugoslavia.

173. Finally, Article 64 stipulates that benefit should be granted throughout the contingency. Hence, benefit may not be withdrawn from widows or children so long as the situation defined in paragraph 1 of Article 60 persists, subject only to the reservation that, where appropriate, the benefit may be suspended in virtue of Article 69¹, or paragraph 2 of Article 60, as has already been stated.

CONCLUSION

174. In the light of the reports on this Convention and subject to reservations which have been indicated where necessary, it seems that effect is on the whole given to this Part, *inter alia*, in the following countries: Argentina, Australia, Austria, Belgium, Bulgaria, Byelorussia, the Federal Republic of Germany, Greece, Israel, New Zealand, Poland, Rumania, Sweden, Ukraine, the U.S.S.R., the United Kingdom and Yugoslavia, and if account were taken of the temporary exceptions permitted under Article 3, in Brazil, Iran, Mexico and Turkey. In some cases where the protection provided also seems to comply with and in certain respects exceed that prescribed in Part X, as in Denmark, France, the United States, the age requirements which must be met by the widow seem nevertheless more restrictive than those envisaged by the Convention. The same would seem to be true in Spain under the workers' mutual benefit societies scheme, where, however, the granting of a reduced benefit after a qualifying period of five years of contribution or employment does not seem to be guaranteed. Extensive coverage seems to be provided in Canada, Ireland, Italy and Japan, though more details would be necessary with regard to the rate of benefit; in Switzerland, according to its report, the amount of survivors' pensions is not yet adequate, but an increase is contemplated. Benefits are also said to be below the level required by the Convention in the reports of the United Arab Republic, and they do not reach this level until after a qualifying period longer than authorised by the Convention in Morocco and Togo. Finally, in some cases benefits are still only provided in the form of lump-sum payments and not periodical payments (for example in China, the Dominican Republic, Iraq, Peru and the Philippines).

175. It should also be noted, as regards Czechoslovakia, for which no report on this Convention has been received, that the application of the 1933 Conventions on survivors' insurance previously mentioned, which have been ratified by this country, has not given rise to observations. Finally, the information supplied by

¹ As well as the causes for suspension which are common to the various benefits, Article 69 provides with special reference to this contingency that survivors' benefit may be suspended so long as the widow is living with a man as his wife.

different States Members in respect of countries or territories for whose international relations they are or were until recently responsible shows that in many cases relatively advanced protection seems to exist, provided by the public authorities¹ or by collective agreements², as well as measures of assistance.³ However, more often, as in the case of invalidity benefits, the information available shows that—leaving aside the special position of civil servants—measures of the kind provided for in the Convention have not yet been taken.

* * *

General Conclusions

176. The preceding review has shown that, according to the information available, the provisions of the Convention are widely applied. This is all the more interesting when it is remembered that only 11 member States have so far ratified the Convention, the number of States having accepted the obligations of the individual Parts being ten for Part V (old-age benefit), eight for Parts IV (unemployment benefit) and VI (employment injury benefit), seven for Parts II (medical care) and VII (family benefit), six for Part III (sickness benefit) and X (survivors' benefit) and five for Parts VIII (maternity benefit) and IX (invalidity benefit). Particulars are shown in the table on p. 224.

177. It would seem, from the general situation in the 50 or so countries which have supplied reports, whether or not they have accepted the obligations of the Convention, and, subject in certain cases to minor adjustments or more detailed information, that the provisions of the Convention are at least substantially applied in over 30 (or roughly two-thirds) of these countries as regards Part II (medical care)⁴, Part III (sickness benefit)⁵ and Part V (old-age benefit)⁶; in 25 to 30 (about half) of the countries concerned as regards Part VI (employment injury benefit)⁷,

¹ For example Cyprus, Gibraltar, Guernsey, Malta, Isle of Man.

² For example, in the various countries of Africa where the scheme administered by the West African Welfare and Retirement Pensions Institution set up in 1959 in the former territory of French West Africa, is in operation.

³ For example Guernsey, Netherlands New Guinea.

⁴ Including Australia, Austria, Belgium, Bulgaria, Byelorussia, Denmark, France, Federal Republic of Germany, Greece, Italy, Japan, New Zealand, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Ukraine, U.S.S.R., United Kingdom and Yugoslavia; with temporary exceptions under Article 3, as appropriate: Brazil, Iran, Mexico and Venezuela; and subject to the comments in Part II: Dominican Republic, Finland, India, Israel, Peru and Turkey.

⁵ Including Austria, Belgium, Bulgaria, Byelorussia, France, Federal Republic of Germany, Greece, Italy, Japan, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Ukraine, U.S.S.R., United Kingdom, Yugoslavia; with temporary exceptions under Article 3, as appropriate: Brazil, Dominican Republic, India, Iran, Mexico, Morocco, Tunisia, Turkey and Venezuela; and subject to the comments in Part III: Australia, Denmark, Finland, Ireland, Israel, New Zealand, Philippines and Portugal.

⁶ Including Argentina, Australia, Austria, Belgium, Bulgaria, Byelorussia, Canada, Denmark, Finland, France, Federal Republic of Germany, Greece, Israel, Italy, New Zealand, Norway, Rumania, Spain, Sweden, Togo, Turkey, Ukraine, U.S.S.R., United Kingdom, United States and Yugoslavia; with temporary exceptions under Article 3, as appropriate: Brazil, Dominican Republic, Iran, Mexico and Peru; and subject to the comments in Part V: Ireland, Japan, Morocco, Philippines and Switzerland.

⁷ Including Austria, Bulgaria, Byelorussia, Denmark, Finland, France, Federal Republic of Germany, Greece, Israel, Italy, Norway, Poland, Rumania, Spain, Sweden, Switzerland, Ukraine, U.S.S.R. and Yugoslavia; with temporary exceptions under Article 3, as appropriate: India, Iran, Mexico, Tunisia, United Arab Republic and Venezuela; and subject to the comments in Part VI: Belgium, Canada, Morocco and United Kingdom.

STATE OF RATIFICATIONS—THE SOCIAL SECURITY (MINIMUM STANDARDS) CONVENTION, 1952 (NO. 102)

Country	Part II: Medical care	Part III: Sickness benefit	Part IV: Unemploy- ment benefit	Part V: Old-age benefit	Part VI: Employment injury benefit	Part VII: Family benefit	Part VIII: Maternity benefit	Part IX: Invalidity benefit	Part X : Survivors' benefit	Total
Belgium	×	×	×	×	×	×	×	×	×	9
Denmark	×	—	×	×	×	—	—	×	—	5
Germany (Federal Republic)	×	×	×	×	×	×	×	×	×	9
Greece	×	×	×	×	×	—	×	×	×	8
Iceland	—	—	—	×	—	×	—	×	—	3
Israel	—	—	—	×	×	—	—	—	×	3
Italy	—	—	—	×	—	×	×	—	—	3
Norway	×	×	×	×	×	×	—	—	—	6
Sweden	—	—	×	—	×	×	—	—	—	3
United Kingdom	×	×	×	×	—	×	—	—	×	6
Yugoslavia	×	×	×	×	×	—	×	—	×	7
Total (11)	7	6	8	10	8	7	5	5	6	—
<i>Non-Metropolitan Territory:</i> Isle of Man (United Kingdom) . .	×	×	×	×	—	×	—	—	×	—

Part VIII (maternity)¹, Part IX (invalidity)² and Part X (survivors)³ and in a score of countries as regards Part IV (unemployment)⁴ and Part VII (family benefit).⁵ Certain information available about the situation in other countries in respect of other social security Conventions suggests that these figures may be considerably higher for most Parts of the Convention.

178. Since the Convention stipulates as a minimum for ratification the acceptance of obligations in respect of three of Parts II to X (Article 2)⁶, two other important conclusions can be stated. Firstly, the reports received from non-ratifying countries indicate that, in addition to the 11 States which have already ratified the Convention (Belgium, Denmark, Federal Republic of Germany, Greece, Iceland, Israel, Italy, Norway, Sweden, United Kingdom, Yugoslavia) a considerable number of other countries may be able to meet these conditions: Argentina, Australia, Austria, Bulgaria, Byelorussia, Canada, Finland, France, Ireland, Japan, New Zealand, Poland, Rumania, Spain, Switzerland, Ukraine, U.S.S.R. and the United States, and with temporary exceptions under Article 3, as appropriate⁷, Brazil, Dominican Republic, India, Iran, Mexico, Morocco, Peru, Tunisia, Turkey and Venezuela—that is, a total of nearly 40 ratifying and non-ratifying countries. It deserves to be mentioned, in particular, that although most ratifications so far have come from European countries, which are economically developed, ratification also seems possible for a large number of non-European countries with a lower level of general development. As will be seen below, ratification is actually under consideration in several of the above-mentioned countries as well as in others which did not supply detailed reports on the Convention.

179. Secondly, the number of Parts whose provisions are on the whole applied seems in almost all of the above-mentioned countries to exceed the minimum laid down in Article 2. Substantial effect seems to be given to a large majority of Parts (that is, seven, eight or nine Parts altogether) in about half the countries concerned,

¹ Including Austria, Belgium, Bulgaria, Byelorussia, France, Federal Republic of Germany, Greece, Italy, Japan, Poland, Rumania, Spain, Sweden, Ukraine, U.S.S.R. and Yugoslavia; with temporary exceptions under Article 3 as appropriate: Dominican Republic, Iran, Mexico and Tunisia; and subject to the comments in Part VIII: Denmark, India, Israel, Norway, Peru, United Kingdom and Switzerland.

² Including Belgium, Bulgaria, Byelorussia, Denmark, Finland, France, Federal Republic of Germany, Norway, Rumania, Sweden, Switzerland, Ukraine, U.S.S.R., United States and Yugoslavia; with temporary exceptions under Article 3, as appropriate: Brazil, Iran and Peru; and subject to the comments in Part IX: Australia, Austria, Canada, Dominican Republic, Greece, Italy, Japan, Mexico, New Zealand and Poland.

³ Including Argentina, Australia, Austria, Belgium, Bulgaria, Byelorussia, Federal Republic of Germany, Greece, Israel, New Zealand, Poland, Rumania, Sweden, Ukraine, U.S.S.R., United Kingdom and Yugoslavia; with temporary exceptions under Article 3 as appropriate: Brazil, Iran, Mexico and Turkey; and subject to the comments in Part X: Canada, Denmark, France, Ireland, Italy, Japan, Switzerland and United States.

⁴ Including Australia, Belgium, Canada, Denmark, Federal Republic of Germany, Greece, Japan, Norway, New Zealand, Sweden and the United Kingdom; and subject to the comments in Part IV: Austria, Bulgaria, France, Ireland, Italy, Spain, United States and Yugoslavia.

⁵ Including Austria, Belgium, Canada, Finland, France, Federal Republic of Germany, Italy, New Zealand, Norway, Sweden, Tunisia, United Kingdom and Viet-Nam; and subject to the comments in Part VII: Australia, Bulgaria, Greece, Ireland, Morocco, Portugal, Spain, Togo and Yugoslavia.

⁶ These three parts must include at least one of Parts IV, V, VI, IX or X (see above, para. 3).

⁷ Some of these countries, such as India, Peru, Turkey and Venezuela, are actually considering recourse to these provisions. In other cases, it is not possible to ascertain with sufficient accuracy from the information supplied whether or not the normal requirements of the Convention regarding scope are fulfilled although at least the standards of Article 3 in this respect seem to be attained (see Parts II to X).

including Australia, Austria, Belgium, Bulgaria, Byelorussia, Denmark, France, Federal Republic of Germany, Greece, Italy, New Zealand, Norway, Poland, Rumania, Spain, Sweden, Ukraine, U.S.S.R., United Kingdom and Yugoslavia. Of these countries, only two have accepted the obligations of all of Parts II to X (Belgium, Federal Republic of Germany), one eight Parts (Greece), another seven Parts (Yugoslavia), and five fewer than seven Parts; the remainder have not ratified the Convention. In other countries, existing provisions seem on the whole to reach the general level required by the Convention at least for a majority of the contingencies, for example, in Canada, Finland, Ireland, Israel, Japan and Switzerland, and with appropriate temporary exceptions under Article 3, in Brazil, Iran, Mexico and Turkey. Finally, as already mentioned, the requirements of the Convention would also seem to be met in an appreciable number of countries which have not supplied reports on the Convention.

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180. From the information supplied it is clear that consideration has been given in a large number of countries to the possibility of ratifying the Convention or extending ratification to further Parts. Certain countries, while not stating that ratification is being considered, stress that the level of existing protection exceeds that required by the Convention, a fact which would not seem to affect the utility of ratification. In Peru, the competent authorities have approved the ratification of the Convention (Parts III, V and IX); Argentina, Brazil and Iran state that ratification Bills have been submitted to the competent authorities; and Ecuador and the Netherlands likewise refer to the existence of such Bills involving, in the case of the Netherlands, acceptance of most, if not all, of Parts II to X. Austria, Costa Rica, Finland, Mexico, Turkey and Venezuela are also considering ratification. Elsewhere ratification may become possible when certain improvements have been introduced; indications to this effect are contained in the reports of China, India, the Philippines and Portugal. Thus the number of ratifications seems likely to increase considerably, especially among countries outside Europe, whereas the ratifications registered hitherto have come mainly from this continent. As noted elsewhere, the possibility also seems open to a considerable number of other countries. At the same time, countries which have already accepted the obligations of the Convention in respect of certain of Parts II to X are also anxious to extend their obligations to other Parts. Denmark has recently done so and Sweden reports that the possibility is being considered. The remarks made above show that, as a rule, more Parts than specified in the ratification are fully or substantially applied in these countries.

181. A few countries which have considered ratification or the acceptance of further Parts have called attention to certain problems or doubts of varying magnitude. The reports of Austria, Brazil, Italy, New Zealand and Poland, for example, raise a number of special points which have been mentioned in connection with the relevant provisions. Other countries mention certain general problems. For instance, the United States indicates, in its report, that the subject matter of the Convention falls partly within federal and partly within state jurisdiction. However, three Parts (V, IX and X) fall within federal jurisdiction. The Government of Canada states that ratification would be possible on the basis of existing provisions for coverage of the contingencies dealt with in Parts IV, V and VII, which are within federal jurisdiction. However, its report states that in certain circumstances it may be preferable not to ratify, in order to ensure flexibility in future social security development. However, this concern does not seem incompatible with the maintenance of the requisite standards for the three types of coverage concerned. France mentions difficulties arising out of the new Constitution in the determination of the territories covered

by any ratification, but states that the matter is being studied. In short, it seems that, in general, the Convention should not encounter major obstacles due to constitutional structures.

182. As regards the particular problems of federal States, it seems that the subject matter of the Convention almost always falls wholly or primarily within federal jurisdiction. In Australia the Commonwealth Constitution was amended to that effect in 1946 (and even before that invalidity and old-age pensions were matters for the Commonwealth Parliament). In Switzerland, as the Government indicates, social security legislation is a federal matter, although the cantons may adopt additional measures based directly on federal law (for example, cantonal laws making compulsory the voluntary sickness insurance provided for in federal legislation). The reports of Argentina, Brazil, Burma, the Federation of Malaya and Mexico state that the subject-matter of the Convention falls within the jurisdiction of the federal authorities. India reports that, under the Constitution of the Union, the central and state governments have concurrent jurisdiction in these matters; as already noted, the central authorities have enacted social security legislation. Two countries, Canada and the United States, report that the matters dealt with in the Convention are partly within federal and partly within state or provincial jurisdiction. In Canada unemployment (Part IV), old-age (Part V) and family benefits (Part VII), and, in the United States, old-age, invalidity and survivors' benefits (Parts V, IX and X) are governed directly by federal legislation. Thus it seems that the particular constitutional structure of these countries has not stood in the way of direct federal action as regards a number of contingencies. With respect to others, all the states or provinces individually have taken action on the initiative and with the financial assistance of the federal government. This has, for instance, occurred in Canada with regard to hospital care and invalidity benefits and in the United States with regard to unemployment benefit. Other significant developments may thus be expected, either as a result of direct action by the federal authorities or on their initiative.

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183. All that now remains is, however broadly, to outline the main trends of development in relation to the minimum standards and to see what stimulus and guidance the Convention offers. Three criteria will serve in this assessment.

184. The first of these is the number of contingencies covered. This naturally varies on the whole according to the general level of development and needs of the countries concerned. However, the need to extend their number is normally not overlooked. Initially, protection centres on compensation for employment injury—generally starting merely with employers' liability. The first measures in the field of social security as such normally relate to sickness, maternity, new forms of protection against employment injuries, and frequently provision for old age. It is generally in relation to these matters that the minimum standards of the Convention concerning the number of contingencies covered are first reached (Article 2). Family allowances, although they have existed for quite some time in several countries, are still relatively rarely provided for, and unemployment benefits are still practically unknown in countries in course of development. However, even though the extension of protection to various contingencies normally calls for the establishment of an order of priority depending upon the conditions of each country, such extension is still of prime importance. Where the choice has to be made, the consensus of opinion is that it is better to concentrate on extending the range of contingencies covered than on improving the protection provided in respect of a limited number of contingencies.

185. In countries which have reached a higher level of general development, protection is for the most part provided in respect of all the nine contingencies covered by the Convention. However, in certain cases no or only very limited protection at present exists for certain contingencies. Unemployment and invalidity or survivors' benefits seem to be the worst affected. Certain countries where no provision is made for unemployment benefit state that their economy is so organised that no unemployment problem exists (Byelorussia, Poland, Rumania, Ukraine and U.S.S.R.). It seems that in one case (the United States) the general social security schemes in force make very little provision for medical care, in contrast to the situation in other countries which have reached a certain level of development. It is to be expected that the increasing importance of providing appropriate protection for this contingency will not be overlooked.

186. The second of these criteria is the number of persons protected. Within the general trend towards the protection of the entire population, the number of persons covered varies from country to country, largely according to the level of development. Initially, protection is generally afforded to certain limited classes of employees, for example, in industrial enterprises of a certain size or in certain regions. The special standards for which provision is made in the Convention as temporary exceptions and which seem to be reached in many cases, are intended to meet passing phases of this kind, which should rapidly lead to the attainment of the general minimum standards set in the Convention. It would seem preferable to give priority to extending protection to more persons, even if as a result benefits have to be kept at the minimum level, rather than to increasing the benefits for a small number of persons. This remains true throughout the process of development.

187. At a later stage, the tendency to cover practically all the population becomes increasingly marked, whatever the basic concept from which protection developed. Measures to protect workers often limited at first to those with the lowest earnings and particularly to employed persons, have gradually been extended to other classes of workers, and lead ultimately to the protection of all economically active persons and members of their families—that is, practically the whole population. Naturally this trend has reached a more or less advanced stage in different countries. It was considered necessary in several countries to extend protection at an early stage to classes of workers other than employees, particularly in agriculture, while still protecting only the lowest income groups, an approach which may ensure fairer shares in development. In these cases, the main improvement still to be made is the removal of the restriction regarding means, especially in respect of employees. In other countries, however, the protection has been extended primarily among employees, while other workers, particularly in agriculture, have received far less consideration, in some cases being left without social security protection of any kind. This phenomenon has been partly due to difficulties inherent in certain sectors calling for special technical solutions. Certain countries have recently taken or propose to take measures to deal with this situation and there are grounds for believing that the improvements particularly necessary in this respect will be made in ever increasing measure. Schemes aiming in the first instance to protect all residents of modest means (mainly for the provision of old-age, invalidity and survivors' benefits) are increasingly giving way to systems in which the right of all residents to protection is recognised, and conditions as to means tend to lose importance or to disappear altogether. Remarkable progress has been made in this respect, particularly in relation to old-age benefit. However, considerable improvements still seem to be necessary before the minimum standards are exceeded, particularly as regards invalidity and survivors' benefits. The minimum standards of the Convention seem as yet unattained also by certain schemes still based on the limited concept of assistance.

188. The third criterion is the substance of protection in the various contingencies. Here the standards of the Convention seem to be reached or exceeded in a large number of instances; where this is not already the case, progress is very often already being made towards the realisation of the objectives set by the Convention. In this connection, the Convention has influenced a large number of measures which have recently been taken or are contemplated in various countries. In some cases, these countries state that the measures in question are intended to apply certain provisions of the Convention¹; in others, influence of the Convention is apparent from the measures themselves. It should however be noted that the minimum standards are more frequently reached or exceeded in certain branches than in others, not only in developing countries, but also in a number of more developed ones. In certain countries which have just begun to provide for medical care, domiciliary care in some cases and hospitalisation in others are not yet covered or have not yet achieved the scope desirable; this is generally a passing phase, but the need for further progress should not be overlooked. As regards payments to compensate for loss of earnings or of support, the standards of the Convention seem to be more frequently reached or exceeded in the case of short-term benefits than for long-term benefits—invalidity and survivors' benefits, for instance. Importance is now rightly being attached in many countries to the improvement in the level of long-term benefits. It also seems that, as regards conditions of entitlement, qualifying periods, etc., the minimum standards for invalidity and survivors' benefits are less frequently exceeded than those for other contingencies; protection in these fields is often of more recent origin, and much room for improvement remains.

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189. This movement towards social security which sprang from the desire to provide minimum protection to the least favoured workers against risks involving their work and earning capacity, is today turning towards the provision of a substantial body of protection against a very wide range of the hazards of existence. The purpose of the Convention was to set certain average minimum standards for this movement. It is encouraging to see that these standards are already reached or exceeded in certain, if not in all types of protection and that the movement seems destined to pursue its course rapidly. In this connection and from the point of view of general development it seems that the Convention offers not merely a choice of rules by which to ascertain whether or not the requisite minimum standards are reached; it also supplies—and this is perhaps the main function of "minimum standards"—a yardstick for the measurement of the extent to which its provisions are superseded by higher standards of social security.

190. Social security can no longer be considered a luxury. It answers the call which must be heard for any social policy to be comprehensive.² It necessarily reposes on other aspects of economic and social policy, such as public health, employment, prevention of risk, vocational guidance and retraining and so on. In its turn, well organised social security ensures rational use of social resources and increased productivity; it is not only indispensable to the welfare of the individual, but also seems a prerequisite for smooth economic development and the stability of society as a whole.

¹ This is true of Denmark, Israel, Sweden, Norway, and Yugoslavia, among ratifying countries, and of Brazil, China, Finland, Iran and Turkey, among countries which have not ratified the Convention.

² See *Approaches to Social Security, an International Survey* (Geneva, I.L.O., 1942).

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Regulations to govern the employment of persons in industrial establishments in Afghanistan, dated 16 January 1946 (*L.S.* 1946—Afghan. 1), as subsequently amended.

Argentina.

Decree No. 29176 of 27 October 1944 respecting the setting up and organisation of the National Social Welfare Institution (*L.S.* 1944—Arg. 4 A).

Act No. 14236 of 13 October 1953 to reorganise the National Social Security Office (*Boletín Oficial*, 16 Oct. 1953, p. 1).

Act No. 14370 of 13 October 1954 to amend all welfare schemes (*Boletín Informativo*, 27 Oct. 1954, p. 10).

Acts and legislative decrees on pensions schemes covering different branches of activity ; Nos. 4349/04 (civil servants); 10650/19 (railways); 11110/21 (public utilities); 11575/29 (banks and insurance); 12581/39 (journalists); 12612/39 (mercantile marine); 31665/44 (commerce); 13937/46 (industry), (*L.S.* 1946—Arg. 2), 14397/54 (self-employed workers, employers and the liberal professions), (*L.S.* 1954—Arg. 1), 14399/54 (agricultural workers) (*L.S.* 1954—Arg. 2); 11911/56 (domestic service); and subsequent amendments.

Australia.

National Health Act No. 95 of 1953 (*Commonwealth Acts*, 1953, p. 351), as subsequently amended.
National Health Regulations Statutory Rules No. 35 of 1954, No. 71 of 1957, No. 63 of 1958, No. 71 of 1960.

Social Services Act No. 26 of 1947 (*L.S.* 1947—Aust. 3).

Commonwealth Employees' Compensation Act No. 24 of 1930 (*L.S.* 1930—Aust. 5), as subsequently amended.

State legislation respecting workers' compensation.

Austria.

General Social Insurance Act of 9 September 1955 (*Bundesgesetzblatt (BGBl)*, 30 Sep. 1955, No. 50, Text 189) (*L.S.* 1955—Aus. 3), and subsequent amendments.

Unemployment Insurance Act of 1 July 1958 (*BGBl*, 10 Sep. 1958, No. 57, Text 199) (*L.S.* 1958—Aus. 1), and subsequent amendments.

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Belgium.

Legislative Order of 28 December 1944 respecting social security for employees (*Moniteur belge (M.B.)*, 30 Dec. 1944) (*L.S.* 1944—Bel. 2), amended by the Act of 16 July 1951 (*M.B.*, 16 Dec. 1951) (*L.S.* 1951—Bel. 2 B), and by the Act of 14 July 1955 (*M.B.*, 7 Aug. 1955).

Royal Order of 22 September 1955 respecting the organisation of sickness and invalidity insurance (*M.B.*, 25-27 Sep. 1955) (*L.S.* 1956—Bel. 1 B), and subsequent amendments.

Order of the Regent of 26 May 1945 to set up the National Placement and Unemployment Office (*M.B.*, 25-26 June 1945), and subsequent amendments.

Act of 21 May 1955 respecting retirement and survivors' pensions for wage earners (*M.B.*, 19 June 1955) (*L.S.* 1955—Bel. 4), and subsequent amendments.

Act of 12 July 1957 respecting retirement and survivors' pensions for salaried employees (*M.B.*, 21 July 1957) (*L.S.* 1957—Bel. 4), amended by the Act of 18 February 1959 (*M.B.*, 22 Feb. 1959, errata *M.B.*, 5 Mar. 1959).

Royal Order dated 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 (*M.B.*, 30 Oct. 1931) (*L.S.* 1931—Bel. 9), and subsequent amendments.

Act of 24 July 1927 respecting compensation for injury caused by occupational diseases (*M.B.*, 12 Aug. 1927) (*L.S.* 1927—Bel. 7), as subsequently amended.

Royal Order of 9 September 1956 containing a list of occupational diseases showing for each the industries or occupations in which they give rise to compensation and the categories of workers entitled to such compensation (*M.B.*, 15-16 Oct. 1956) (*L.S.* 1956—Bel. 2), amended by the Royal Order of 15 September 1958 (*M.B.*, 26 Sep. 1958).

Royal Order of 19 December 1939 consolidating the Act of 4 August 1930 respecting family benefit for wage earners and the Royal Orders issued under subsequent delegation of legislative power (*M.B.*, 22 Dec. 1939) and subsequent amendments.

Legislative Order of 10 January 1947 establishing a National Office for the Consolidation of Family Benefit (*M.B.*, 26 Jan. 1947), and subsequent amendments.

Brazil.

Basic Welfare Law No. 3807 of 26 August 1960 (*Diário oficial (D.O.)* of 5 Sep. 1960).

Welfare Regulation No. 48959 (*D.O.* of 29 Sep. 1960).

Bulgaria.

Decree No. 540 to promulgate the Labour Code (*Izvestia (I.)* of 13 Nov. 1951; *L.S.* 1951—Bul. 2), as subsequently amended.

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Pension Act (*I.*, No. 51 of 12 Nov. 1957; *L.S.* 1957—Bul. 1).

Act respecting pensions of members of co-operative farms (*I.*, No. 1 of 1 Jan. 1957), as subsequently amended.

Decree respecting free general medical assistance (*I.*, No. 23 of 20 Mar. 1951).

Ordinance respecting insurance of professional workers and lawyers (*I.*, No. 22 of 11 Apr. 1958).

Decree respecting the mutual insurance of members of producer co-operatives (*I.*, No. 63 of 7 Aug. 1953; *L.S.* 1953—Bul. 5).

Burma.

Social Security Act No. 67 of 22 October 1954 (*L.S.* 1954—Bur. 1), as subsequently amended: Social Security Act (amendment) No. 50 of 12 October 1955 (*L.S.* 1955—Bur. 1); Social Security Act (amendment) No. 8 of 5 March 1956 (*L.S.* 1956—Bur. 1).

Canada.

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Unemployment Insurance Act, 11 July 1955 (*L.S.* 1956—Can. 2), as amended.

Old-Age Assistance Act, 1951 (*L.S.* 1951—Can. 1), as amended.

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Ceylon.

Workmen's Compensation Ordinance No. 19 of 1939, as amended (I.L.O., *Asian Labour Laws*, New Delhi 1951, Ceylon 7).

Maternity Benefits Ordinance No. 32 of 1939, as amended, and regulations thereunder (*Government Gazette*, 1946, No. 9,634 and 1957 No. 11,046).

Employees Provident Fund Act, No. 15, 1958, and regulations thereunder (*Government Gazette*, 1958, No. 11,573).

China.

Labour Insurance Act of 21 July 1958 (annexed to the Government's report).

Denmark.¹

National Insurance Act of 20 May 1933, Notification No. 228 of 1957 (*L.S.* 1957—Den. 1), as subsequently amended.

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions* submitted to the International Labour Conference (Report III (Part I)) from the 42nd (1958) to the 45th Session (1961).

Placement and Unemployment Insurance Act of 23 June 1932, Notification No. 153 of 1947 (*L.S.* 1947—Den. 1), as subsequently amended.

Act of 20 May 1933 respecting insurance against the effects of industrial accidents, as subsequently amended. Notification of 1959 (*Lovtidende A*, 1959, No. VIII, p. 477).

Act of 11 June 1954 respecting workers' protection generally (*L.S.* 1954—Den. 1), as subsequently amended.

Pensions and Widows' Assistance Act of 13 March 1959 (*Lovtidende A*, 1959, No. VI, p. 433).

Dominican Republic.

Social Insurance Law No. 1896 of 6 January 1949 (*Gaceta oficial (G.O.)*, No. 6883 of 14 Jan. 1949, p. 3; *L.S.* 1948—Dom. 1), as amended by Law No. 2480 of 2 August 1950 (*G.O.* of 12 Aug. 1950, p. 10; *L.S.* 1950—Dom. 6).

Regulation to enforce Social Insurance Law, No. 1896 of 6 January 1949 (*G.O.* of 14 Jan. 1949, p. 24) (*L.S.* 1949—Dom. 1 A).

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Finland.

Assistance Funds Act. Dated 19 June 1942 (*Suomen Asetuskokoelma—Finlands Författningssamling (S.A.-F.F.)*, No. 471).

Welfare Assistance Act. Dated 17 February 1956 (*S.A.-F.F.*, No. 116).

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Hospital Act. Dated 20 January 1956 (*S.A.-F.F.*, No. 49).

Unemployment Assistance Act. Dated 20 June 1960 (*S.A.-F.F.*, No. 322).

Act respecting unemployment funds entitled to a state grant. Dated 23 March 1934 (*S.A.-F.F.*, No. 125) (*L.S.* 1934—Fin. 3).

National Pensions Act. Dated 8 June 1956 (*S.A.-F.F.*, No. 347) (*L.S.* 1956—Fin. 2 A).

Act respecting accident insurance. Dated 20 August 1948 (*S.A.-F.F.*, No. 608) (*L.S.* 1948—Fin. 4 A).

Act respecting occupational diseases. Dated 12 May 1939 (*S.A.-F.F.*, No. 139) (*L.S.* 1939—Fin. 3).

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Act respecting child allowances. Dated 22 July 1948 (*S.A.-F.F.*, No. 541) (*L.S.* 1948—Fin. 3).

Act respecting family allowances. Dated 30 April 1943 (*S.A.-F.F.*, No. 375) (*L.S.* 1943—Fin. 2 A).

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Maternity Allowances Act. Dated 13 June 1941 (*S.A.-F.F.*, No. 424).

Invalid Allowances Act. Dated 14 June 1951 (*S.A.-F.F.*, No. 374).

Act respecting family pensions insurance of civil servants and government employees. Dated 29 June 1951 (*S.A.-F.F.*, No. 395).

France.

Social Security Code of 10 December 1956 (*Journal officiel (J.O.)*, 18 Dec. 1956), as subsequently amended.

Rural Code of 16 April 1955 (*J.O.*, 18 Apr. 1955), as subsequently amended (Book VII—Welfare).

Decree No. 51-319 of 12 March 1951 to lay down the conditions for the grant of unemployment benefit (*J.O.*, 13 Mar. 1951) (*L.S.* 1951—Fr. 3).

Ordinance of 7 January 1959 concerning action in favour of the unemployed (*J.O.*, 9 Jan. 1959, p. 644).

Federal Republic of Germany.¹

Federal Insurance Code; Notification of 1924 (*L.S.* 1924—Ger. 10), as subsequently amended (see in particular: *L.S.* 1926—Ger. 1; *L.S.* 1957—Ger. (F.R.) 1).

Salaries Employees' Insurance Act; Notification of 1924 (*L.S.* 1924—Ger. 6), as subsequently amended (see in particular *L.S.* 1957—Ger. (F.R.) 1).

Miners' Insurance Act; Notification of 1926 (*L.S.* 1926—Ger. 5), as subsequently amended (notably by the Act of 21 May 1957, *Bundesgesetzblatt*, Part I, p. 533).

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions* submitted to the International Labour Conference (Report III (Part I)) at the 45th Session (1961).

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Act of 24 January 1952 for the protection of working mothers (*L.S.* 1952—Ger. (F.R.) 2).

Act of 13 November 1954 respecting family allowances; (*L.S.* 1954—Ger. (F.R.) 1).

*Greece.*¹

Emergency Law No. 1846 of 14 June 1951 respecting social insurance (*L.S.* 1951—Gr. 4), as subsequently amended.

Legislative Decree No. 2961 of 10 August 1954, to create an Employment and Unemployment Insurance Organisation (*L.S.* 1954—Gr. 2; 1955—Gr. 3), as subsequently amended.

Legislative Decree No. 3868 of 29 October 1958 to establish a Compensation Fund for the wage earners' family allowances scheme (*Ephemeris tes Kyberneseos*, No. 178, 29 Oct. 1958).

India.

Employees' State Insurance Act, 1948 (*Gazette of India (G.I.)*, 19 Apr. 1948) (*L.S.* 1948—Ind. 3) and regulations issued thereunder.

Coal Mines Labour Welfare Fund Act, 1947 (*G.I.*, 19 Apr. 1947) (*L.S.* 1947—Ind. 2).

Act No. 19 of 4 March 1952 to provide for the institution of provident funds for employees in factories and other establishments (*G.I.*, 5 Mar. 1952, No. 13, Part II, sect. 1, Extraordinary, p. 97; *L.S.* 1952—Ind. 2).

Workmen's Compensation Act, No. 8 of 15 March 1923 (*L.S.* 1923—Ind. 1) as subsequently amended in particular by Act No. 8 of 20 March 1959 (*G.I.*, 31 Mar. 1959, Part II, sect. 1, No. 5, Extraordinary, p. 49).

Act to provide for the welfare of labour and to regulate the conditions of work on plantations, No. 69 of 2 November 1951 (*G.I.*, 3 Nov. 1951, No. 50, Part II, sect. 1, Extraordinary, p. 45).

Indonesia.

Accidents Law No. 33 of 1947 (*Lembaran Negara*, 1951, No. 3) (*L.S.* 1951—Indo. 2).

Regulation of 1957 of the Minister of Labour respecting sickness insurance (No. 15).

Iran.

Act respecting Social Insurance for Workers of 11 May 1960 (*L.S.* 1960—Iran 1).

Iraq.

Social Security Law. Dated 17 May 1956. No. 27 of 1956 (*Official Gazette*, 2 June 1956, No. 3799) (*L.S.* 1956—Iraq 1).

Ireland.

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Unemployment Assistance Act No. 49 of 1933 (*L.S.* 1933—Irl. 3), as subsequently amended.

Old Age Pension Act of 1908, as subsequently amended (*L.S.* 1924—I.F.S. 3; *L.S.* 1932—I.F.S. 1; *L.S.* 1948—Irl. 1; *L.S.* 1952—Irl. 1).

Workmen's Compensation Act No. 9 of 1934 (*L.S.* 1934—I.F.S. 1), as subsequently amended (*L.S.* 1948—Irl. 2).

Children's Allowance Act No. 2 of 1944 (*L.S.* 1944—Irl. 1), as subsequently amended.

Widow's and Orphans' Pension Act No. 29 of 1935 (*L.S.* 1935—I.F.S. 1), as subsequently amended (*L.S.* 1937—I.F.S. 1; *L.S.* 1948—Irl. 1; *L.S.* 1952—Irl. 1).

Health Act No. 28 of 1947 (Acts of the Oireachtas passed in year 1947, p. 27) and Mental Treatment Act No. 35 of 1953 (Acts of the Oireachtas passed in year 1953, p. 547), as subsequently amended.

*Israel.*²

National Insurance Law of 18 November 1953 (*Sefer Hakhukim*, 20 Kislev 5714, No. 137, p. 6) (*L.S.* 1953—Isr. 3), as subsequently amended (*L.S.* 1957—Isr. 3; 1959—Isr. 2).

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions* submitted to the International Labour Conference (Report III (Part I)) from the 43rd (1959) to the 45th Session (1961).

² See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions* submitted to the International Labour Conference (Report III (Part I)), from the 42nd (1958) to the 45th Session (1961).

*Italy.*¹

- Legislative Decree No. 1827 of 4 October 1955 (*Gazzetta Ufficiale (G.U.)*, 26 Oct. 1935, No. 251) (*L.S.* 1935—It. 5) to amend and consolidate the laws relating to social insurance, as amended and subsequently converted into Act No. 115 of 6 April 1936 (*G.U.*, 1936, p. 2066).
- Act No. 138 of 11 January 1943 (*G.U.*, 3 Apr. 1943, No. 77) concerning the establishment of the National Sickness Insurance Institute (I.N.A.M.).
- Act No. 860 of 26 August 1950 (*G.U.*, 3 Nov. 1950, No. 253) (*L.S.* 1950—It. 2) concerning the physical and economic protection of working mothers, as amended by Act No. 394 of 23 May 1951 (*G.U.*, 15 June 1951, No. 134) (*L.S.* 1951—It. 2) and Act No. 1904 of 15 November 1952 (*G.U.*, 10 Dec. 1952, No. 283).
- Act No. 35 of 18 January 1952 (*G.U.*, 7 Feb. 1952, No. 327) (*L.S.* 1952—It. 1) to extend the sickness insurance scheme to domestic workers.
- Act No. 1136 of 22 November 1954 (*G.U.*, 13 Dec. 1954, No. 285) to extend the scheme providing assistance in case of sickness to cover independent agricultural workers.
- Act No. 1533 of 29 December 1956 (*G.U.*, 4 May 1957, No. 113) concerning compulsory sickness insurance for artisans.
- Act No. 264 of 13 March 1958 (*L.S.* 1958—It. 1) concerning protection of home work.
- Act No. 264 of 29 April 1949 (*L.S.* 1949—It. 2) concerning placement of unemployed persons and unemployment assistance.
- Decree No. 1323 of 24 October 1955 (*G.U.*, 4 Jan. 1956) to extend the compulsory insurance scheme in case of unintentional unemployment to cover agricultural workers.
- Decree No. 1765 of 17 August 1935 (*G.U.*, No. 240 of 14 Oct. 1935) (*L.S.* 1935—It. 8) concerning compulsory insurance in case of industrial accidents and occupational diseases in industry.
- Legislative Decree No. 1450 of 23 August 1917 (*G.U.*, No. 18 of 14 Sep. 1917) (*L.S.* 1921—It. 2) concerning accidents at work in agriculture.
- Act No. 313 of 21 March 1958 (*G.U.*, No. 91 of 15 Apr. 1958) (*L.S.* 1959—It. 1 A and B) to extend the occupational diseases insurance scheme to cover agricultural workers.
- Presidential Decree No. 799 of 30 May 1955 to consolidate the legislation respecting family allowances (*G.U.*, 7 Sep. 1955, No. 206) (*L.S.* 1955—It. 2) as subsequently amended and supplemented.
- Legislative Decree No. 636 of 14 April 1939 (*G.U.*, 3 May 1939, No. 105) (*L.S.* 1939—It. 1) to amend the provisions concerning compulsory insurance against invalidity, old-age, tuberculosis and involuntary unemployment as amended and subsequently converted into Act No. 1276 of 6 July 1939 (*G.U.*, 7 Sep. 1939, No. 209) (*L.S.* 1939—It. 2).
- Act No. 218 of 4 April 1952 (*G.U.*, 15 Apr. 1952, No. 89) to regulate the pensions payable under the compulsory invalidity, old-age and survivors' insurance scheme.
- Act No. 1047 of 26 October 1947 (*G.U.*, 11 Nov. 1947) to extend the invalidity and old-age insurance scheme to cover freehold and leasehold farmers.
- Act No. 463 of 4 July 1959 (*L.S.*, 1959—It. 2) to extend the invalidity, old-age and survivors' insurance scheme to cover artisans and members of their families.

Japan.

- Unemployment Insurance Law No. 146 of 1947 (*Official Gazette (O.G.)*, Dec. 1947; *L.S.* 1947—Jap. 1 B), as subsequently amended by Law No. 87 of 20 May 1949 (*O.G.*, 20 May 1949, *L.S.* 1949—Jap. 1).
- Ordinance to enforce the Unemployment Insurance Law No. 6 of 1949.
- Workmen's Accident Compensation (Ministry of Labour, Labour Legislation 1949, p. 626), Insurance Law No. 50 of 1947 (*O.G.*, 7 Apr. 1947; *L.S.* 1947—Jap. 6).
- Ordinance to enforce Workmen's Accident Compensation Insurance Law No. 22 of 1955 (*E.H.S. Law Bulletin Series : Japanese Law in English Version*, Vol. III, No. 8101).
- Health Insurance Law No. 70 of 1922 (*L.S.* 1922—Jap. 3) as subsequently amended and regulations thereunder.
- Regulations for the administration of the Health Insurance Act: Ordinance No. 36 of 1926 (*L.S.* 1926—Jap. 4 D).
- Day Labourer's Health Insurance Law No. 207 of 14 August 1953 (*O.G.*, 14 Aug. 1953) and regulations thereunder.

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions* submitted to the International Labour Conference (Report III (Part I)) at the 44th Session (1960) and at the 45th Session (1961).

National Health Insurance Law No. 192 of 27 December 1958 (*O.G.*, 27 Dec. 1958, p. 3).
Law to enforce National Health Insurance Law No. 193 of 27 December 1958 (*O.G.*, 27 Dec. 1958, p. 18).

Welfare Pension Insurance Law No. 115 of 19 May 1954 (*O.G.*, 19 May 1954) and regulations thereunder.

National Pension Law No. 141 of 16 April 1959 (*O.G.*, 16 Apr. 1959).

Liberia.

Liberian Code of Laws of 1956 (Vol. 2, Title 19).

Federation of Malaya.

The Labour Code, 1923 (*Laws of the Federated Malay States*, Ch. 154) (*L.S.* 1923—F.M.S.1) as amended by the Employment Ordinance of 1955.

Workmen's Compensation Ordinance of 1952 (*Government Gazette (G.G.)*, 30 Dec. 1952) (*L.S.* 1952—Mal. 1).

Employment Ordinance, 1955 (*G.G.*, 4 July 1955) (*L.S.* 1955—Mal. 2.).

Employees Provident Fund Ordinance, 1951 (*G.G.*, 31 May 1951) (*L.S.*, 1951—Mal. 1).

Mexico.

Act of 31 December 1942, respecting Social Insurance (*Diario Oficial (D.O.)*, 19 Jan. 1943; (*L.S.* 1947—Mex. 2) as subsequently amended.

Decree of 30 December 1947 amending the Act of 31 December 1942 (*D.O.*, 31 Dec. 1947) (*L.S.* 1947—Mex. 1).

Decree of 3 February 1949 amending the Act of 31 December 1942 (*D.O.*, 28 Feb. 1949) (*L.S.* 1949—Mex. 1).

Decree of 29 December 1956 amending the Act of 31 December 1942 (*D.O.*, 31 Dec. 1956) (*L.S.* 1956—Mex. 1).

Act of 28 December 1959 respecting the Government Servants' Social Security and Welfare Institution (*Boletín Oficial*, 30 Dec. 1959, No. 49, p. 41).

Decree of 30 December 1959 amending the Act of 31 December 1942 (*D.O.*, 31 Dec. 1959) (*L.S.* 1959—Mex. 2).

Morocco.

Dahir of 25 June 1927 (25 Hija 1345) respecting compensation for industrial accidents (*L.S.* 1927—Mor. 3A), and subsequent amendments and supplements.

Dahir of 31 May 1943 (26 Jumada I 1362) extending to occupational diseases the provisions of the legislation respecting compensation for industrial accidents (*Bulletin officiel (B.O.)*, No. 1598) and subsequent amendments and supplements.

Dahir of 25 December 1957 (2 Jumada II 1377) respecting the Social Aid Fund, and decree of application of the same date (*B.O.* No. 2361).

Dahir of 31 December 1959 (30 Jumada II 1379) to set up a social security scheme (*B.O.* No. 2465) (*L.S.* 1959—Mor. 2).

New Zealand.

Social Security Act 1938 (*L.S.* 1942—N.Z. 1 A) as subsequently amended and regulations thereunder.

Workers' Compensation Act 1956 (*L.S.* 1956—N.Z. 1) as subsequently amended and regulations thereunder.

Norway.¹

Family Allowances Act of 24 October 1946 (*L.S.* 1946—Nor. 7), as subsequently amended.

Sickness Insurance Act of 2 March 1956 (*Norsk Lovtidende (N.L.)*, 26 Mar. 1956, No. 10, p. 156) (*L.S.* 1956—Nor. 1), as subsequently amended.

Old-Age Insurance Act of 6 July 1957 (*N.L.*, 7 Aug. 1957, No. 27, p. 897) (*L.S.* 1957—Nor. 1).

Industrial Accident and Occupational Disease Insurance Act of 12 December 1958 (*N.L.*, 17 Jan. 1959, No. 1, p. 51) (*L.S.* 1958—Nor. 3).

Act respecting unemployment insurance, No. 4 of 28 May 1959 (*N.L.*, 15 June 1959, No. 23, p. 689) (*L.S.* 1959—Nor. 1).

Act of 22 January 1960 respecting invalidity insurance generally (*N.L.*, 12 Feb. 1960, No. 3, p. 48).

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions*, submitted to the International Labour Conference (Report III (Part I)), from the 40th (1957) to the 45th Session (1961).

Peru.

Act No. 8433 dated 12 August 1936 respecting compulsory social insurance (*L.S.* 1936—Peru 2) as subsequently amended, particularly by Act No. 8509 of 23 February 1937 (*L.S.* 1937—Peru 1) and Legislative Decree No. 11321 of 24 March 1950 (*L.S.* 1950—Peru 1).

Decree of 18 February 1941 to issue administrative regulations under Acts Nos. 8433 and 8509 respecting compulsory social insurance (*L.S.* 1941—Peru 1), as subsequently amended.

Philippines.

The Social Security Act of 1954 as amended by Act No. 1792 of 21 June 1957 (*L.S.* 1954—Phi. 1 and *L.S.* 1957—Phi. 1).

Act No. 679 of 8 April 1952 to regulate the employment of women and children as amended by Act No. 1131 of 16 June 1954 (*L.S.* 1952—Phi. 1 and *L.S.* 1954—Phi. 2).

Act No. 3428 concerning compensation for industrial accidents of 10 December 1927 as subsequently amended (*Manila, Bureau of Printing*, 1957, 71845).

Poland.

Act of 28 March 1933 concerning sickness insurance (*Dziennik Ustaw (D.U.)*, 11 July 1933, No. 51, p. 396) (*L.S.* 1933—Pol. 5) as subsequently amended in particular by legislative decree of 8 January 1946 (*L.S.* 1946—Pol. 2) and legislative decree of 28 October 1947 (*L.S.* 1947—Pol. 4).

Notification of 18 April 1958 of the Minister of Labour and Social Welfare to promulgate the consolidated text of the decree of 26 June 1954 respecting universal pension security for workers and their families (*D.U.*, 29 Apr. 1958, No. 23, text 97) (*L.S.* 1958—Pol. 1) as subsequently amended in particular by Act of 11 Sep. 1956 (*D.U.*, 1 Oct. 1956, No. 43, text 99) and Act of 28 March 1958 (*D.U.*, 19 Apr. 1958, No. 28, text 93).

Portugal.

Act No. 1884 of 16 March 1935 to specify the institutions which are to be deemed provident institutions (*Diário do Governo (D.G.)*, No. 61) (*L.S.* 1935—Por. 4).

Decree No. 25935 of 12 October 1935, to issue regulations for the provident funds of industrial associations (*D.G.*, No. 237).

Decree No. 28321 of 27 December 1937, to issue regulations for pension or provident funds (*D.G.*, No. 300).

Decree No. 37762 of 24 February 1950, to regulate the granting of pecuniary benefit and medical and pharmaceutical benefit (*D.G.*, No. 38) (*L.S.* 1950—Por. 1).

Legislative Decree No. 32192 of 13 August 1942 (*D.G.* No. 188) (*L.S.* 1942—Por. 1), to institute a system of family allowances and subsequent texts; Legislative Decree No. 33512 of 29 January 1944 (*D.G.*, No. 20) (*L.S.* 1944—Por. 1); Legislative Decree No. 35410 of 29 December 1945 (*D.G.*, No. 290).

Rumania.

Labour Code of 30 May 1950 (*L.S.* 1950—Rum. 1).

Decree respecting Pension Insurance (*L.S.* 1959—Rum. 1).

Spain.

Act of 14 December 1942 to establish compulsory sickness insurance (*Boletín oficial del Estado (B.O.E.)*, 27 Dec. 1942) (*L.S.* 1942—Sp. 4).

Decree of 11 November 1943 to lay down rules for the application of the above Act (*B.O.E.*, 28 Nov. 1943) and subsequent texts.

Act of 10 February 1943 respecting the special system of social insurance for agriculture (*B.O.E.*, 2 Mar. 1943) (*L.S.* 1943—Sp. 1).

Decree of 18 October 1957 extending compulsory sickness insurance to casual agricultural workers (*B.O.E.*, 4 Nov. 1957).

Act of 19 July 1944 concerning the application of social insurance to domestic servants (*B.O.E.*, 21 July 1944) and regulations applying that Act.

Decree of 16 June 1954 instituting technological unemployment insurance (*B.O.E.*, 25 July 1954) and regulations applying that decree.

Decree of 26 November 1959 relating to unemployment benefit (*B.O.E.*, 28 Nov. 1959) and regulations applying that decree.

Act of 1 September 1939 to replace the accumulation system for workers' pensions by the fixed pension system (*B.O.E.*, 9 Sep. 1939) (*L.S.* 1939—Sp. 3) and regulations applying that Act.

INDEX OF PRINCIPAL LEGISLATION

Decree of 18 April 1947 to establish a National Old-Age and Invalidity Insurance Fund and to prepare a system giving protection against invalidity (*B.O.E.*, 5 Apr. 1947) (*L.S.* 1947—Sp. 2 A) and order to lay down rules for the administration of that decree (*B.O.E.*, 20 June 1947) (*L.S.* 1947—Sp. 2 B).

Decree of 10 August 1954 relating to workers' mutual benefit societies (*B.O.E.*, 13 Sep. 1954).

Decree of 22 June 1956 to approve a consolidated text of the legislation relating to industrial accidents (*L.S.* 1956—Sp. 1) and regulations applying that decree.

Act of 13 July 1936 respecting occupational diseases (*Gaceta de Madrid*, 15 July 1936) (*L.S.* 1936—Sp. 2).

Decree of 10 January 1947 to establish a system of insurance against occupational diseases (*B.O.E.*, 21 Jan. 1947) (*L.S.* 1947—Sp. 1).

Order of 19 July 1949 to approve the Occupational Disease Insurance Regulations (*L.S.* 1949—Sp. 3).

Act of 18 July 1938 to institute a compulsory system of family allowances (*B.O.E.*, 19 July 1938) (*L.S.* 1941—Sp. 3 B) and regulations applying that Act.

Order of 29 March 1946 to consolidate the rules for the administration of the bonus for family maintenance expenses instituted by the order of 19 June 1945 (*B.O.E.*, 30 Mar. 1946) (*L.S.* 1946—Sp. 1).

Act of 13 December 1943 respecting benefit for large families (*B.O.E.*, 16 Dec. 1943).

Sweden.¹

Royal Code No. 264 of 15 June 1934 respecting recognised unemployment funds (*L.S.* 1934—Swe. 2), as subsequently amended (*L.S.* 1936—Swe. 1, 1937—Swe. 2, 1941—Swe. 1, 1943—Swe. 1, 1944—Swe. 3 C, 1946—Swe. 3 A and B, 1947—Swe. 3 A and B).

National Pensions Act of 29 June 1946 (*L.S.* 1946—Swe. 4) as subsequently amended.

Public Sickness Insurance Act of 3 January 1947 consolidated in 1955 (*L.S.* 1956—Swe. 1 B) as subsequently amended.

Act of 26 July 1947 respecting ordinary child allowances (*L.S.* 1947—Swe. 4 A) as subsequently amended.

Act of 14 May 1959 respecting insurance against occupational injuries (*L.S.* 1959—Swe. 1) as subsequently amended.

Maternity Benefit Act of 21 May 1954 (*L.S.* 1954—Swe. 2) as subsequently amended.

Child Pensions Act of 5 May 1960 (*Svensk Författningssamling*, 1960, No. 102).

Switzerland.

Federal Act of 13 June 1911 respecting Sickness and Accident Insurance money as subsequently amended (*L.S.* 1920—Swi. 7, *L.S.* 1927—Swi. 3 A).

Federal Act of 22 June 1951 respecting Unemployment Insurance (*L.S.* 1951—Swi. 1).

Regulation of 17 September 1951 to enforce the Federal Act of 22 June 1951 (*Recueil des lois Fédérales (R.L.F.)*, 1951, p. 1191).

Federal Act of 20 December 1946 respecting Old-Age and Survivors' Insurance (*L.S.* 1946—Swi. 1) as subsequently amended (*L.S.* 1950—Swi. 1; *L.S.* 1953—Swi. 1; *R.L.F.*, 1957, No. 94, p. 264).

Federal Act of 20 June 1952 respecting Family Allowances for Agricultural Workers (*R.L.F.*, 16 Oct. 1952, No. 43, p. 843; *L.S.* 1952—Swi. 1).

Federal Act of 19 June 1959 respecting Invalidity Insurance (*R.L.F.*, Oct. 1959, No. 35, p. 857; *L.S.* 1959—Swi. 1).

Thailand.

Announcement of the Ministry of the Interior of 20 December 1958 (*Buddhist Era (B.E.)*, 2501) concerning working hours, holidays of employees, conditions of women and child labour, payment of wages and welfare services.

Announcement of the Ministry of the Interior of 20 December 1958 (*B.E.* 2501) concerning rules and method of payment and amount of compensation.

Social Security Act (*B.E.* 2497).

Togo.

Order of 11 August 1921 to establish a public hygiene scheme (*Journal Officiel du Togo (J.O. Togo)*, No. 9, 23 Sep. 1921).

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions* submitted to the International Labour Conference (Report III (Part I)) from the 40th (1957) to the 45th Session (1961).

Order No. 236 of 27 November 1923 relating to mobile medical assistance (*J.O. Togo*, No. 39, 1 Dec. 1923).

Law No. 52-1322 of 15 December 1952 to lay down Labour Code (*L.S.* 1952—Fr. 5) and enforcement regulations respecting the medical and sanitary service of undertakings (Order No. 885-55 ITLS of 28 Oct. 1955, *J.O. Togo*, 1955, p. 7), and compensation for sick or injured workers (Order No. 990-55 ITLS of 1 Dec. 1955, *J.O. Togo*, 1955, p. 970).

Order No. 242-56 ITLS of 15 March 1956 to institute a system of family allowances (*J.O. Togo*, No. 874, 15 Mar. 1956).

Order No. 221 MTAS—FP of 18 December 1958 relating to Maternity Benefit (*J.O. Togo*, No. 82, 1 Jan. 1959).

Collective Agreement of 27 March 1958 (published in *J.O. Togo*, 29 Apr. 1958, p. 814), instituting an old-age pension scheme and creating the Retirement and Providence Institute of West Africa and subsequent additional clauses.

Tunisia.

Act No. 57-73 of 11 December 1957 (*Journal officiel (J.O.)*, 20 Dec. 1957) (*L.S.* 1957—Tun. 1) respecting compensation for injuries resulting from industrial accidents and occupational diseases.

Act No. 60-30 of 14 December 1960 relating to organisation of Social Security Schemes (*J.O. de la République tunisienne*, 13, 16 Dec. 1960, No. 57, p. 1602).

Turkey.

Act No. 4772 of 27 June 1945 respecting insurance for industrial accidents, occupational diseases, and maternity (*Resmî Gazete (R.G.)*, 7 July 1945, No. 6051) (*L.S.* 1945—Tur. 1) as amended by Acts No. 5019 of 1947 (*R.G.*, 26 Feb. 1947, No. 6542) (*L.S.* 1947—Tur. 2); No. 5564 of 1950 (*R.G.*, 6 Mar. 1950, No. 7449); No. 6707 of 1956 (*R.G.*, 11 Apr. 1956, No. 9282); No. 6917 of 1957 (*R.G.*, 23 Feb. 1957, No. 9543) (*L.S.* 1957—Tur. 3A); No. 7232 of 1959 (*R.G.*, 3 Mar. 1959, No. 10149).

Act No. 6900 of 9 February 1957 respecting invalidity, old-age and survivors' insurance (*R.G.*, 13 Feb. 1957, No. 9534) (*L.S.* 1957—Tur. 1) as amended by Act No. 7231 of 1959 (*R.G.*, 3 Mar. 1959, No. 10149).

Act No. 5502 of 4 January 1950 respecting sickness and maternity insurance (*R.G.*, 10 Jan. 1950, No. 7402) (*L.S.* 1950—Tur. 1) as amended by Acts No. 6709 of 1956 (*R.G.*, 11 Apr. 1956, No. 9282); No. 6901 of 1957 (*R.G.*, 13 Feb. 1957, No. 9534) (*L.S.* 1957—Tur. 2); No. 7233 of 1959 (*R.G.*, 3 Mar. 1959, No. 10149) and No. 7317 of 1959 (*R.G.*, 11 June 1959, No. 10228) (*L.S.* 1959—Tur. 3).

Union of South Africa.

Unemployment Insurance Act, No. 53 of 1946 (*L.S.* 1946—S.A. 1), as amended, and regulations thereunder.

Old-Age Pensions Act, No. 22 of 1928 (*L.S.* 1928—S.A. 1), as amended, and regulations thereunder.

Workmen's Compensation Act, No. 30 of 1941 (*L.S.* 1941—S.A. 2), as amended, and regulations thereunder.

The Children's Act, No. 33 of 1960 (*Government Gazette*, 14 Apr. 1960, No. 6417) and regulations thereunder.

Factories, Machinery and Building Work Act, No. 22 of 1941 (*L.S.* 1941—S.A. 3), as amended, and regulations thereunder.

Disability Grants Act, No. 36 of 1946, as amended, and regulations thereunder (annexed to the Government's report).

Blind Persons Pensions Act, No. 11 of 1936, as amended, and regulations thereunder (annexed to the Government's report).

United Arab Republic.

Act No. 92 of 6 April 1959 to lay down a Social Insurance Code (*Al-jarida al-rasmiya* of 7 Apr. 1959, No. 71bis B; p. 28) (*L.S.* 1959—U.A.R. 2).

U.S.S.R.

Constitution of the U.S.S.R., of the Union and of the autonomous republics.

Labour Code of the R.S.F.S.R. (*L.S.* 1936—Russ. 1) and Labour Codes of the other Soviet Federated Republics.

National Pensions Act of 14 July 1956 (*Vedomosti*, 1956, No. 15) (*L.S.* 1956—U.S.S.R. 4).

Decree of 26 June 1959 of the Praesidium of the Supreme Soviet of the U.S.S.R. concerning the improvement of the pension scheme for workers suffering invalidity as a result of pneumoconiosis (*Vedomosti*, 1959, No. 26).

Decree of 26 December 1959 of the Presidium of the Supreme Soviet of the U.S.S.R. concerning the amendment of the Act relating to state pensions (*Vedomosti*, 1959, No. 52).

Regulations concerning the methods of allocation and payment of state pensions as approved by decision of the Council of Ministers of the U.S.S.R. dated 4 August 1956 (as subsequently supplemented) (*Sobranie Postanovlenii*, 1960, pp. 592-630).

Regulations concerning the method of allocating state insurance contributions, as provided by decision of the Central Council of Unions of the U.S.S.R., dated 5 February 1955 in accordance with the resolution of the Council of Ministers of the U.S.S.R. dated 22 January 1955, No. 113 (as subsequently amended and supplemented) (*Sobranie Postanovlenii*, 1960, pp. 540-573, 688).

Decree of 8 July 1944 of the Presidential Board of the Supreme Soviet of the U.S.S.R. to increase state aid for pregnant women, mothers of large families and unmarried mothers, to extend the system of maternity and child welfare and to institute the honorary title of "Mother Heroine", the Order of "Glory of Motherhood" and the "Motherhood Medal" (*Vedomosti*, 1944, No. 37) (*L.S.* 1944—U.S.S.R. 1).

Ukase of 26 March 1956 of the Presidium of the Supreme Soviet of the U.S.S.R. to extend leave periods during pregnancy and confinement (*Vedomosti*, 1956, No. 6) (*L.S.* 1956—U.S.S.R. 2).

Act of 30 October 1959 concerning the rights of the Union of Soviet Socialist Republics and of the different autonomous republics of the Union during preparation of the budget (*Vedomosti*, 1959, No. 44).

Ukase of 15 July 1958 of the Supreme Soviet of the U.S.S.R. to approve regulations respecting the rights of factory, works and local trade union committees (*Vedomosti*, 1958, No. 15) (*L.S.* 1958—U.S.S.R. 3).

*United Kingdom.*¹

Family Allowances Act of 15 June 1945 (*L.S.* 1945—U.K. 3), as subsequently amended.

National Health Service Act of 6 November 1946 (*L.S.* 1946—U.K. 5) as subsequently amended.

National Insurance Act of 1 August 1946 (*L.S.* 1946—U.K. 3) as subsequently amended.

National Insurance (Industrial Injuries) Act of 26 July 1946 (*L.S.* 1946—U.K. 2) as subsequently amended.

National Assistance Act of 13 May 1948 (*L.S.* 1948—U.K. 1), as subsequently amended.

United States.

Social Security Act of 14 August 1935 (Public—No. 271—74th Congress) (*L.S.* 1935—U.S.A. 2), as amended.

Railroad Retirement Act of 29 August 1935 (Public—No. 399—74th Congress) (*L.S.* 1935—U.S.A. 3), as amended.

Railroad Unemployment Insurance Act of 25 June 1938 (Public—No. 722—75th Congress) (*L.S.* 1938—U.S.A. 2), as amended.

Federal Employees Health Benefits Act of 1959 (Public Law 86-382, 86th Congress, S. 2162).

Civil Service Retirement Act of 1930, as amended.

Federal Employees Compensation Act of 7 September 1916 (Public—No. 267—64th Congress) (*L.S.* 1922—U.S.A. 2), as amended.

Federal Employees' Group Life Insurance Act of 1954 (Public Law 598, 83rd Congress, S. 3681), as amended.

State laws dealing with sickness, unemployment and employment injury benefits; old-age and invalidity and children's assistance; and benefits for state and local employees.

Venezuela.

Labour Act of 21 October 1947 (*L.S.* 1945—Ven. 1 and *L.S.* 1947—Ven. 2) and Regulations of 30 November 1938.

Organic Act respecting compulsory social insurance of 24 July 1940 subsequently amended (*L.S.* 1951—Ven. 2A), and 1944 regulations of applications, subsequently amended (*L.S.* 1951—Ven. 2 B).

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions*, submitted to the International Labour Conference (Report III (Part I)) from the 42nd (1958) to the 45th (1961), Sessions.

Viet-Nam.

Labour Code, of 8 July 1952 (*L.S.* 1956—V.N. 1 C) and texts of application.

Labour Code for agricultural enterprises of 26 June 1953 (*Journal Officiel*, 24 July 1953) and regulations thereunder.

Ordinance No. 2 of 20 January 1953 relating to family benefits (*Bulletin Officiel*, 30 Apr. 1953).

*Yugoslavia.*¹

Decree of 25 October 1951 respecting child bonuses (*L.S.* 1951—Yug. 1), as subsequently amended.

Decree of 29 March 1952 respecting unemployment benefit (*L.S.* 1952—Yug. 3) as subsequently amended.

Act of 24 November 1954 respecting health insurance for wage and salary earners (*L.S.* 1954—Yug. 2).

Pension Insurance Act of 6 December 1957 (*L.S.* 1957—Yug. 1) as subsequently amended.

Act of 12 December 1957 respecting employment relationships (*L.S.* 1957—Yug. 2).

Invalidity Insurance Act of 28 November 1958 (*Službeni List*, 1958, No. 49).

APPENDIX

REPORTS REQUESTED BY THE GOVERNING BODY UNDER ARTICLE 19 OF THE CONSTITUTION OF THE I.L.O. AND UNDER ARTICLE 76 OF THE SOCIAL SECURITY (MINIMUM STANDARDS) CONVENTION, 1952 (No. 102)

A total of 73 States were requested to supply reports by 1 July 1960 under article 19 of the Constitution on the Social Security (Minimum Standards) Convention, 1952 (No. 102). Reports were not received from the following 26 States: Albania, Bolivia, Cameroun, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Ethiopia, Ghana, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, Jordan, Lebanon, Libya, Luxembourg, Nicaragua, Panama, Paraguay, El Salvador, Sudan, Uruguay.

In addition reports were requested under Article 76 of the Social Security (Minimum Standards) Convention, 1952 (No. 102), from eight countries which have ratified the Convention but for which certain parts only are in force. All these reports were received.

¹ See also the texts listed at the front of the summaries of report on this Convention contained in the *Summary of Reports on Ratified Conventions*, submitted to the International Labour Conference (Report III (Part I)) from the 40th (1957) to the 45th (1961) Sessions.

PART FOUR

ASPECTS OF SOCIAL EVOLUTION IN PRESENT AND FORMER NON-METROPOLITAN TERRITORIES

**General Review of Developments in the Situation and in the Application
of International Labour Conventions in Present and Former
Non-Metropolitan Territories**

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¹ Unless otherwise indicated, the names given below to former Non-Metropolitan Territories are those under which they were known before they attained independence.

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ASPECTS OF SOCIAL EVOLUTION IN PRESENT AND FORMER NON-METROPOLITAN TERRITORIES

General Review of Developments in the Situation and in the Application of International Labour Conventions in Present and Former Non-Metropolitan Territories

General Introduction

The over-all review of social evolution in non-metropolitan territories which the Committee periodically makes is concerned mainly with developments in "local conditions" and with the manner in which international labour Conventions are applied in these territories. The Committee's aim in deciding to make these periodical surveys was not merely to ensure that States Members were fulfilling the obligations that they had assumed under the I.L.O. Constitution. By highlighting what had been achieved in certain countries, by indicating how certain difficulties have been overcome and what problems remained and by reviewing the various forms of action available to attain these ends, this procedure was also intended to enable the governments concerned to use the information in the formulation of their policies of social protection and social advancement.

This year the periodical review of social evolution in non-metropolitan territories has been made in particularly striking circumstances. In the course of the year 1960, 19 territories, most of them being in Africa, for whose international relations western European States—Belgium, France, Italy and the United Kingdom—were previously responsible, have attained international sovereignty. Admittedly, attainment of independence by a large number of new States in a relatively short period is not without historical precedents. At the beginning of the nineteenth century the years between 1810 and 1830 saw the creation of a large number of new States constituted by the former Spanish colonies in the Americas which had proclaimed their independence. Later, at the end of the First World War, it was Europe's turn to witness the emergence of several new independent States. Even more recently, shortly after the Second World War, a dozen new Asian States were created between 1945 and 1950 out of former territories in the Middle East or in the Far East. And in various parts of the world numerous other non-metropolitan territories have already reached the stage of development where changes in their international status will probably occur in the not too distant future, either through their own acquisition of international sovereignty or by becoming an integral part of an independent State through federation with other territories or otherwise. For certain of these territories, indeed, the date on which they will become independent is already known.

Under these circumstances it seemed desirable that the Committee's findings and conclusions this year might be used not only by the authorities responsible for territories whose international status has not been modified or is not about to change, but also by the governments of new States which have undertaken, by state succession, the obligations previously fulfilled by the States responsible for their international relations.

For this purpose it has been necessary to take into account the position in a large number of countries ¹ for whose international relations another State was responsible during the greater part of the period since 1955, the date of the last periodic survey carried out by the Committee. Furthermore, it seemed desirable not to confine this survey to developments which have occurred since 1955, but rather to go back further, referring in certain cases to the situation of countries ¹ which had already attained their independence at an earlier date. By taking stock of the present situation in the countries with which this report is primarily concerned it may be possible to single out some of the characteristic features of this evolution. Thus the governments of States Members—both those of the new States anxious to promote the rapid economic and social development of their countries and those of States which continue to be responsible for non-metropolitan territories—the workers' and employers' organisations, and the International Labour Organisation itself may possibly be able to use this material to formulate certain of their objectives of social policy and select the most appropriate types of action for achieving these objectives.

DIVERSITY OF CONDITIONS

Scattered at every latitude from the equatorial belt to the confines of the polar regions, lying deep in the heart of a continent or girt about by the sea, and ranging in extent from less than a hundred to over 2 million square kilometres, the countries with which this review is concerned differ widely from one another in geography and climate. Equally great is the diversity of populations, be it in the number of inhabitants—the total population of some amounting only to a few thousand, while in others it may run to tens of millions—be it in the population density, which varies from less than one to more than two thousand per square kilometre, or be it in other factors such as the origin of the inhabitants, for instance, in which the geographical conditions have often played a decisive role.

On the economic and social plane this diversity of natural conditions is necessarily reflected in considerable disparities which should not be lost sight of when attempting to form an over-all impression of the situation in these countries. Within the necessarily limited framework of this report it is scarcely possible to describe in detail the situation of non-metropolitan territories before the First World War, and indeed a few very general remarks will doubtless suffice for the purpose of gauging the magnitude of economic and social evolution in those countries.

In many of the countries under review the economy at that time was almost exclusively a subsistence economy in which practically the whole of the population was engaged in traditional agricultural pursuits. Indeed, in some of these countries the population still lived basically from hunting and gathering wild fruit and the like. Wage-earning employment was almost entirely unknown and the individual found in the existing social structure such protection as he might need.

Nevertheless, in a number of other countries in various regions the subsistence economy already occupied a less important place. The production of certain agricultural or sometimes mineral commodities with a view to international trade was beginning to occupy a growing place in the economy, along with an increase in the number of wage earners. In other rare cases, manufacturing industries already existed.

In a third class of country, mainly those lying around the shores of the Mediterranean basin, a subsistence economy still prevailed in the countryside, but a large part of the urban population was engaged in commerce and in fairly highly developed

¹ Unless otherwise indicated, the names given below to these countries are those under which they were known before they attained independence.

handicraft activities, or even in some cases in manufacturing industries, the products of which were both sold on the home market and exported to other countries.

The use of one and the same expression—that of “non-metropolitan territory”, which is employed in article 35 of the I.L.O. Constitution as amended—should not obscure the fact that the constitutional links which exist or have existed between the countries under review and the States responsible for their international relations are varied in the extreme. In 1919 the Constitution of the International Labour Organisation referred to various categories of territories “which [were] not fully self-governing” and in respect of which the “decision” to apply Conventions ratified by a member State had to be taken by that State itself. This already gives a general idea of the degree of constitutional and political development then enjoyed by the countries under consideration.

PLAN OF THE REVIEW

Most of the information used in this review has been taken from reports by governments on the application of Conventions. Since 1927 the Committee has examined this information in respect of each Convention and each territory. By analysing this information it has been possible to make a special survey for each group of Conventions dealing with the same or related questions.

These surveys, which make up the various chapters of this review, deal with coercion to work (forced labour and indirect coercion), freedom of association, problems relating to remuneration (minimum wages, equality of remuneration and protection of wages), general labour conditions (hours of work, weekly rest, holidays with pay, protection of women and young workers and occupational safety and health), social security, labour administration (inspection, employment services and statistics) and social policy in general.

These chapters, with the exception of the last, for which it has been necessary to adopt a special form of presentation on account of the matters discussed, include a reference to the measures taken before 1955 in certain territories in regard to each of the questions under review, details of the progress made in that field during the period 1955-60, an outline of the over-all situation as regards both the area of application of the relevant Conventions and an assessment of the effect given to them, and an indication of the principal problems yet to be solved.

Many of the questions dealt with in the various chapters of this over-all review are somewhat technical in nature, and their relative importance and topical interest for the countries whose situation is examined in this review will not everywhere be the same.

It has therefore been considered desirable to give greater prominence to questions such as forced labour, freedom of association and social policy which can fairly be said to be matters of general concern. It is thus with particular reference to these questions that the Committee has endeavoured in its conclusions to outline the changes in local conditions in the countries under review, to make an over-all assessment of what has been achieved, especially with regard to the application of international labour Conventions, and to discern the main avenues which lie ahead for governments, employers, workers and the I.L.O. itself.

The present review is accompanied by three appendices. Appendix II consists of a “Chart of the Application of Conventions in Present and Former Non-Metropolitan Territories” similar to that submitted by the Committee in 1955 and revised in 1957. Particulars of the way in which the chart was drawn up and the factors to be borne in mind when referring thereto are given in Appendix I. The list of principal legislation mentioned in the present review constitutes Appendix III.

Chapter I. Abolition of Compulsion to Labour

Introduction

The problem of compulsory labour was one of the main questions to which the I.L.O. gave attention from its creation. The Organisation's standard-setting activities in this field had their origin in the appointment by the Governing Body in 1926, arising out of discussions in the League of Nations on the Slavery Convention, of a Committee of Experts on Native Labour. The first task undertaken by this Committee was the study of systems of forced or compulsory labour, leading to the adoption of the Forced Labour Convention (No. 29) in 1930. Although the Conference decided that this Convention should be of general application, the special problems then to be found in a number of colonial territories and certain independent States in a similar stage of social and economic development were given special attention in the preliminary studies and in the actual drawing up of the instrument. The subsequent work of the Committee of Experts on Native Labour related to certain practices affecting indigenous workers which were liable to lead to varying degrees of compulsion—recruitment, work under long-term contracts, and penal sanctions for breach of contracts of employment. Conventions on all these questions were adopted in the years 1936-39, and in the post-war period two further instruments on these questions were added. The post-war period also saw comprehensive surveys of forced labour undertaken by the U.N.-I.L.O. *Ad Hoc* Committee on Forced Labour and subsequently by the I.L.O. Committee on Forced Labour, which prepared the way for the adoption of a new Convention on the abolition of forced labour in 1957.

While it is not always possible to draw a clear dividing line between law and practice with respect to forced labour as such and law and practice relating to certain less distinct forms of compulsion to work, the present study will deal separately with the two groups of Conventions concerned. As already noted, the 1930 Convention is of general application: its scope is not limited to particular categories of workers, as in the case of the latter group of Conventions.

As the Committee is this year examining for the first time reports on the Abolition of Forced Labour Convention, 1957 (No. 105), it is too early to attempt a precise assessment of the extent to which the provisions of this instrument are being met or of its impact. Thus the section of this study concerning forced labour will deal essentially with the position as regards implementation of the 1930 Convention. A more detailed examination of the question of forced labour will be made by the Committee in 1962, since reports have been requested by the Governing Body under article 19 of the Constitution, for the Committee's next session, in respect of the two Conventions on forced labour, as well as two Recommendations complementing the 1930 Convention. These reports are to cover non-metropolitan territories as well as member States.

Section I. Abolition of Forced Labour

Brief Description of Principal International Standards.

The Forced Labour Convention, 1930 (No. 29), provides for the progressive suppression of forced labour and for the limitation of its use, pending such suppression, to public purposes as an exceptional measure and subject to the conditions and guarantees laid down in the Convention. "Forced labour" is defined so as to exclude certain limited kinds of compulsory work or service (compulsory military service, certain civic obligations, certain forms of convict labour, work in emergencies, and

minor communal services). Three kinds of forced labour had to be abolished immediately: work for the benefit of private persons or concerns, forced labour in mines, and forced labour as a means of collective punishment. In other cases, recourse to forced labour was authorised only as an exceptional measure and subject to a number of safeguards of an administrative nature and regulations to ensure the health, safety and welfare of the workers concerned and the maintenance of normal family life and social intercourse.

The Abolition of Forced Labour Convention, 1957 (No. 105), provides for the immediate and complete abolition of five specified forms of forced labour.¹

Earlier Measures for the Abolition of Forced Labour.

A comprehensive review of the situation which then obtained as regards the exaction of forced labour was presented to the Conference in 1929 and 1930 in the reports which served as a basis for the discussions preceding the adoption of the Forced Labour Convention. Already at that time forced labour, even for public purposes, had disappeared in a number of territories which had attained a more advanced stage of economic and social development and where a greater proportion of the active population was already engaged as wage earners in a market economy. This was true, for example, of West Indian territories, where emancipation laws had in many cases been enacted a century earlier. Elsewhere also measures had already been taken to abolish or regulate forced labour. Thus in the earlier part of the present century compulsory road works had been abolished in Ceylon and Tunis, and in 1925 the United Kingdom Secretary of State for the Colonies informed the Government of Kenya that he would not in future sanction compulsory recruitment of labour for public works unless the existence of an emergency was established. The basic principle of not allowing forced labour for the benefit of private individuals was accepted in most cases, even if certain provisions might lead indirectly to such a situation (e.g. through recruitment by officials, hiring out of prison labour, taxes, etc.).

In a substantial number of countries and territories recourse to forced labour was still permitted for a wide range of purposes (general public works, portage, cultivation (*inter alia*, to provide the population with food), emergencies, local works, etc.). In many cases, the exaction of such labour was, however, subject to various conditions relating to such matters as the exclusion of women, children, the aged and infirm, maximum yearly periods of compulsory service, payment, etc. These matters were regulated in varying degrees of detail and comprehensiveness and on the whole fell short of the body of rules which, in the light of international experience, it was possible to write into the Convention. Moreover, as was observed in one of the reports submitted to the Conference, forced labour existed for the most part in areas where administration was as yet incomplete and where public opinion was negligible, and it was frequently difficult to ascertain to what extent practice as regards forced labour effectively corresponded to the legislative provisions which were supposed to regulate it.

International action, not only by the I.L.O., but also through the Mandates Commission of the League of Nations, was influencing government policies already prior to the adoption of the 1930 Convention. It may be noted, for example, that when a trade association in a certain territory expressed the wish in March 1928 that the government recognise the obligation to work in order to meet an existing labour

¹ The specified categories are forced labour (*a*) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; (*b*) as a method of mobilising and using labour for purposes of economic development; (*c*) as a means of labour discipline; (*d*) as a punishment for having participated in strikes; (*e*) as a means of racial, social, national or religious discrimination.

crisis, the reply was given that "it was necessary to wait until the International Labour Office, which was now examining the question, had given its opinion".

The adoption of the Convention rapidly led to action in many different countries. For example, in the years immediately following the United Kingdom's ratification in 1931, legislation was enacted in a considerable number of United Kingdom territories with the specific purpose of implementing the Convention by regulating recourse to forced labour and preparing the way for its progressive abolition. Such legislation was adopted in 1932 in Kenya, Uganda and Zanzibar, in 1933 in Fiji, the Gilbert and Ellice Islands, Nigeria, North Borneo, Nyasaland, Sierra Leone, and the Solomon Islands (with corresponding administrative measures in Tanganyika), in 1934 in Gambia and Transjordan, and in 1935 in the Gold Coast.

Although France did not ratify the Convention until 1937, a decree to regulate recourse to forced labour for public purposes in the French colonies, pending the total abolition of such labour, was issued on 21 August 1930, less than two months after the adoption of the Convention. In several respects this decree and the local orders issued thereunder imposed more severe limitations than were required by the Convention. In the succeeding years various further measures were taken to bring legislation more closely into line with the Convention. Of particular significance was the abolition by a decree of 6 July 1937 of the system existing in Madagascar whereby persons liable to call-up for military service who were surplus to the army's recruiting needs could be required to perform public works. It is of interest to note that its abolition was decreed less than a fortnight after the registration of France's ratification on 24 June 1937.

Following Italy's ratification of the Convention in 1934, Royal Decree No. 917 of 18 April 1935 was issued to regulate the exaction of forced labour in Italian colonies. The decree, which referred expressly to the Convention and closely followed its provisions, stated in particular that recourse might only be had to forced labour for public purposes during the transitional period mentioned in Article 1 of the Convention.

When the Netherlands ratified the Convention in 1933, certain modifications were made with regard to its application to the Dutch East Indies. Among the forms of forced labour then still permitted in certain parts of this territory were labour for public purposes and compulsory services of feudal origin on certain private estates in Java. The former form of forced labour was abolished in Java and Madura as from 1 February 1938, and in the remaining areas it was replaced by a road tax as from 1 January 1942. Compulsory labour on private estates was abolished in 1946.

During the Second World War various forms of compulsory services were imposed under emergency measures (e.g. for work in tin mines in Nigeria, labour for private employers for certain purposes in Kenya and Tanganyika, a government conscript labour force for agricultural work in Northern Rhodesia, and compulsory cultivation in Zanzibar). However, these obligations were abolished after the war. The post-war period also witnessed an acceleration in the adoption of measures to abolish forms of forced labour which, in accordance with the Convention, had been temporarily retained. For example, compulsory portage was abolished in North Borneo and Nyasaland in 1950 and in Kenya in 1952, and the exaction of forced labour as a tax was abolished in Tanganyika in 1951. By an ordinance of 18 July 1952, forced labour was finally abolished in the Trust Territory of Somaliland; the Trust Administration's explanatory note on this legislation stated that the transitional period provided for in Article 1 of the Convention must be considered to have expired. In 1954 the modifications to which the application of the Convention to French non-metropolitan territories had been subject were cancelled, following the final abolition of forced labour in these territories. This abolition was first provided for in an Act of 11 April 1946. That Act however stated that penalties for the illegal exaction of forced labour

were to be prescribed by further provisions. One territory indicated in its reports that, even in the absence of such further provisions, penalties laid down in the Penal Code would be applied to ensure the application of the Act of 1946, and, at the suggestion of the Committee of Experts, the other territories subsequently confirmed that a similar solution would be adopted by them. The Overseas Labour Code 1952 restated the prohibition of recourse to forced labour, and laid down specific penalties for any violation of this prohibition.

Developments Since 1955.

On the occasion of its review in 1955, the Committee noted that the forms of forced labour which the Forced Labour Convention, 1930, permitted as an exceptional measure during the transitional period pending their complete abolition had almost completely disappeared in the great majority of territories for which reports were supplied. Even in those territories, however, measures have been taken in a number of instances to define more strictly the exceptions to the definition of "forced or compulsory labour" provided for in the Convention. Thus, in December 1959 a decree was issued in the Netherlands Antilles to ensure that prisoners should not be placed against their will at the disposal of private persons or concerns.

Further progress has also been made in the past six years in the abolition of forms of forced labour whose temporary continuance the Convention permitted. Thus, legislation was adopted in Sierra Leone in 1956 with a view to the final abolition of all forms of forced labour falling within the Convention; until then, the exaction of forced labour was still authorised for public works, labour for chiefs and portage. Provisions permitting the imposition of compulsory cultivation were repealed in the Seychelles in 1955, in Zanzibar in 1957, and in Gambia by amendments adopted in 1958 and 1959. In North Borneo provisions permitting the imposition of compulsory cultivation and other relief works in the event of famine were repealed in 1959, although certain obligations to grow rice still affect some native lands.

Compulsory portage was abolished in Papua in 1957. In 1956 Nigeria also repealed provisions which permitted the exaction of labour for portage; the Government stated that they had already become a dead letter and that their repeal was designed to ensure legislative conformity with the Convention.

In the Federation of Malaya and in Singapore new labour legislation adopted in 1955 omitted provisions contained in previous legislation permitting the imposition of three hours' compulsory overtime daily in case of need or emergency. These provisions also were stated to have become obsolete.

In the Belgian Congo certain changes were made by a decree of 10 May 1957 in the provisions governing compulsory cultivation which restricted somewhat the scope of the previous obligations of the population in this respect and provided certain new safeguards for the individual. The principal changes made by this decree were as follows: compulsory cultivation was limited to exceptional cases where required in the public interest; the prior consultation of the local native council was made necessary; orders imposing compulsory cultivation were to state the reasons for which they were made; in the case of cultivation of an educational character, the provincial governor was to determine its educational character and its duration; and certain categories of persons were exempted from the obligation in question (e.g. inhabitants of extra-customary centres, persons bound by a contract of employment or apprenticeship, persons residing in educational establishments).

An order of 20 November 1959 repealed provisions in force in the Belgian Congo and Ruanda-Urundi permitting forced labour as a means of collective punishment.

Finally, it may be noted that, although the Abolition of Forced Labour Convention, 1957, came into force only in 1959, information has already been supplied in the case of two territories concerning measures taken with the express purpose of

securing observance of its provisions. The legislation of Gambia was amended in 1958 to curtail the list of purposes for which minor communal services might be exacted, and to provide that such services should not be used in connection with or relating to any scheme or project of development as may be prescribed. In Tanganyika amendments were made to the Employment Ordinance in 1960 with a view to excluding the exaction, as minor communal services, of labour for purposes of economic development.

Area of Application of the Relevant Conventions and Assessment of Their Application.

During the last six years the Forced Labour Convention, 1930 (No. 29) has become applicable without modification to all Portuguese non-metropolitan territories. During the period since the Committee's last review, the Convention has thus been or become applicable to all the territories of Australia, Belgium, Denmark, France, Italy, Netherlands, New Zealand, Portugal, Spain and the United Kingdom. Moreover, the Convention is applicable without modification in 97 of the countries concerned, in addition to Ruanda-Urundi, where the application of the Convention remains subject to a number of modifications. It may also be noted that all former non-metropolitan territories which attained independence during the past six years and became Members of the I.L.O. confirmed their obligations under the Convention on entering the Organisation. In the case of the Congo (Leopoldville) this confirmation was accompanied by the cancellation of the modifications subject to which the Convention had originally been declared applicable to the Belgian Congo.

The Abolition of Forced Labour Convention, 1957 (No. 105), has been ratified by six States responsible for the international relations of non-metropolitan territories and has been the subject of declarations of application to 49 territories, in 44 cases without modifications and in the remaining five cases subject to modifications. Two countries to which the Convention was declared applicable while they were still non-metropolitan territories—Cyprus and Nigeria—subsequently confirmed their obligations thereunder on becoming Members of the I.L.O.

As has been noted above, the last six years have witnessed a further reduction of the cases in which forced labour might be exacted in the countries covered by this review. The main forms of forced labour still to be found there are compulsory labour for public works, compulsory portage and compulsory cultivation; in a more limited number of cases personal services to chiefs and forced labour as a tax may be exacted. Recourse to one or more of these forms of forced labour is still authorised by the legislation of New Guinea ¹ and Papua ¹ (Australia), Congo (Leopoldville) ^{1 2 3}, Ruanda-Urundi ^{1 2 3} (Belgium), the Federation of Malaya ¹, the overseas provinces of Portugal ^{1 2 4}, Bechuanaland ^{1 2 5}, Fiji ^{3 5}, Kenya ^{1 2}, North Borneo ¹, Northern Rhodesia ^{1 2}, Nyasaland ¹, Sarawak ^{1 3}, Solomon Islands ², Southern Rhodesia ^{1 2}, Swaziland ⁵, Tanganyika ^{1 2 3} and Uganda ^{1 2 3} (United Kingdom). Moreover, the general prohibition of forced labour contained in the legislation applicable to Natives in the Portuguese overseas provinces is stated to be without prejudice to the fulfilment by Natives of "the moral duty necessarily falling upon them to acquire means of existence through work and to contribute thus to the general benefit of humanity". The Committee has requested further information regarding the practical effect of this statutorily defined moral duty. It may also be mentioned that the Committee

¹ Cultivation of crops.

² Public works.

³ Portage.

⁴ Tax.

⁵ Personal services to chiefs.

has requested clarification of certain points as regards several other countries covered by this review: Congo (Brazzaville), Guinea (former French Guinea) and Madagascar. Finally, as regards the territories of Spain, no information has been supplied by the Government on the measures implementing the Convention.

Although in the cases listed in the preceding paragraph legislative authority is still to be found for the exaction of forced labour of the kinds mentioned, in a number of instances the reports have indicated that recourse is no longer had to such labour or that the repeal of the relevant legislation is contemplated. Thus, the last reports for the Australian territories of New Guinea and Papua indicated that a Bill was being prepared to repeal the provisions regarding compulsory cultivation. In Fiji the abolition of both portage and services to chiefs is under consideration. In Sarawak, no recourse is had to the power to order compulsory cultivation. Similarly, according to the reports of Tanganyika and Uganda, recourse is no longer had to compulsory cultivation or compulsory labour for public works.

In so far as the 1957 Convention is concerned, the Committee refers to its earlier observations concerning the comprehensive study which it will be called upon to make next year on the occasion of its examination of reports under article 19 of the I.L.O. Constitution.

Principal Outstanding Problems.

It is instructive to compare the indications given above as to the present application of the Forced Labour Convention with the information concerning the countries covered by this review marshalled in the reports presented to the Conference in 1929 and 1930. Even if at that time there was agreement on the necessity of abolishing forced labour in all its forms within the shortest possible period, the institution of forced labour remained a significant factor in the economies of a considerable number of territories. In the intervening three decades, this phenomenon has disappeared in a long succession of countries, and where forced labour is still permitted, its use has in many instances shrunk to quite minor proportions. Various factors have facilitated this development. In the period immediately after the adoption of the Convention economic crisis and stagnation led to a lessening of demand for labour. Since then, general economic and social progress has everywhere led to an expansion of the wage-earning sector, and has even in certain instances stimulated an exodus from the rural to urban areas of such dimensions as to create unemployment problems. However, the countless legislative and administrative measures inspired by the 1930 Convention, and the place which this instrument has occupied in both national and international discussion, attest to the major contribution made by the Convention itself to the changes of the last 30 years.

It has been noted that, in a number of countries where legislative authority still exists for the exaction of forced labour within the meaning of the 1930 Convention, the legislation is in fact no longer invoked, and in certain cases its final repeal is under consideration. Subject to certain exceptions, it would seem that in these countries the provisions authorising forced labour may be regarded as marginal, sometimes being held in reserve out of a feeling of caution rather than necessity. Where this is the case, reconsideration of the matter might lead the authorities to the conclusion that the relinquishment of the powers in question is now feasible.

In this connection, it deserves to be remembered that the retention of certain forms of forced labour was permitted by the Convention only during a transitional period and as an exceptional measure. When the Convention was under consideration by the Conference, certain delegates suggested that the transitional period be limited to five years. The Conference, instead of fixing a rigid time limit of this kind, provided for five-yearly review by the Governing Body of the possibility of final suppression of forced labour without a further transitional period. As in the

majority of cases the transitional period has in fact come to an end, the question of the extent to which their experience should be generalised will call for examination.

As already mentioned, once the stage of total suppression of forced labour has been reached, a problem may still remain as to the definition of the various exclusions from the expression "forced or compulsory labour" provided for in Article 2, paragraph 2, of the Convention. It may be of interest to note that the requirement in clause (a) of this paragraph that services exacted under compulsory military service laws should be of a purely military character gave rise to considerable discussion at the Conference in 1930, being then described as one of the most difficult phases in the work of drawing up the Convention. These difficulties had their origin in the system to be found in certain territories of using conscripts partly for military service and partly for public works. The particular provisions which the Conference then refused to countenance were subsequently repealed. As regards work by convicts, dealt with in clause (c), the main preoccupation must remain, for non-metropolitan territories as for other countries, the guarantees that such labour reposes upon a conviction in a court of law and that prisoners are not made to work for private employers against their will.

In the case of two exceptions provided for in Article 2, paragraph 2, particular problems may arise in a number of countries. The exaction of minor communal services is still authorised in various countries. The range of services which may be called for under this heading is at times extensive, and may include purposes which in fact constitute public works within the scope of Article 10 of the Convention. To ensure that the limits set by the Convention upon minor communal services are observed, it appears necessary to take account of the following criteria:

- (a) the services must be "minor services", i.e. relate primarily to maintenance work and—in exceptional cases—to the erection of certain buildings intended to improve the social conditions of the population of the community itself (a small school, a medical consultation and treatment room, etc.);
- (b) the services must be "communal services" performed "in the direct interest of the community", and not relate to the execution of works intended to benefit a much wider group;
- (c) the "members of the community" (i.e. the community which has to perform the services) or their "direct" representatives (e.g. the village council) must "have the right to be consulted in regard to the need for such services".

Finally, as regards the exception covering cases of emergency, it has sometimes been suggested for example in governments' reports that compulsory cultivation as a precaution against famine, which is still provided for in a number of non-metropolitan territories, might be brought within this exception. In this connection it should be remembered that Article 19 of the Convention deals with this particular form of compulsory labour, and that, in so far as Article 19 does apply, the obligation to abolish forced labour within the shortest possible period laid down in Article 1 also operates.

While thus the general trend has been towards the gradual disappearance of forced labour in non-metropolitan territories, there remain a handful of cases where the satisfaction of manpower requirements still appears to depend to a marked degree on compulsion. When it is borne in mind what results it has been possible to achieve elsewhere when the authorities have been determined to put an end to forced labour practices, the failure in these remaining cases to take corresponding action in the 30 years which have elapsed since the adoption of the Convention can hardly be explained otherwise than in terms of government policy. Quite apart from humanitarian considerations, the wisdom of the policies pursued in these

cases must be doubted since they appear not to have favoured economic and social progress.

The question of the economic advantages and drawbacks of forced labour, fully discussed at the time of the adoption of the Forced Labour Convention, has not lost its topical interest. Practically everywhere today the emphasis is on an acceleration of economic development, and the rate of development may be limited, amongst other things, by quantitative and qualitative insufficiencies of manpower. The manner of securing the fullest use of available resources of labour must evidently be one of the major preoccupations of official planning. The temptation may not be absent in all cases to facilitate a solution of these problems by recourse to some form of compulsion, particularly in countries where the bulk of the population is still living in a subsistence economy. It seems appropriate therefore to recall some of the conclusions emerging from international experience.

The first point on which there appears to be general consensus of opinion is that output under any system of compulsory labour is inferior to that of voluntary workers. This view was expressed on numerous occasions and on the basis of experience it has been recorded that if the system of forced labour had been generalised, as many overseers as workers would have been needed. Conversely, it has also been claimed that the people of certain territories had never worked as hard as since they had been freed from compulsion to labour.

There are evident reasons why output from compulsory labour should be poor. Thus it has been pointed out that a person forced to work sees in labour a punishment, an oppression on the part of the employer and of the State. In effect, the association of the idea of labour with the sense of oppression would negative any educative influence which labour on a voluntary basis might possess. Further, it appears that there is a danger that a man, once compelled, might take up the attitude that he would not work unless compelled; and it has been observed that a human being accustomed to slavery, when freed, seems to have lost all incentive to work. These considerations seem of particular importance for countries in which economic development depends on the transition of large numbers from a traditional subsistence economy to wage-earning employment. Compulsion to hasten this process is likely to defeat its own ends by hardening resistance to change and to the acquisition of skills.

The low output of workers under compulsion is not the only cause of the unproductiveness of forced labour systems. This is attributable also to the excessive time and attention which supervisors and skilled workers have to give to compulsory labour.

In the light of these various considerations, it is apparent that on practical as much as on humanitarian grounds, there must exist the gravest possible doubts as to the propriety of having recourse to compulsion as a means of satisfying the labour requirements of economic development plans.

In these circumstances, labour for economic development must be obtained by persuasion, by making available facilities to acquire skill, and by offering the necessary material inducements represented by adequate conditions of employment and incidental social benefits. In certain circumstances, the voluntary enthusiasm of the people has also been harnessed to a country's efforts to improve its lot, by the use of techniques similar to those employed for community development in respect of projects which are not of direct interest to the persons giving their labour. There exists, however, a danger that, if the State were to make general use of these techniques at such levels, it would tend to institutionalise them, that gradually various forms of pressure and compulsion would arise, and that the adverse consequences in human and economic terms of forced labour would thereupon make their appearance.

The I.L.O.'s position on the question discussed above has been stated in unequivocal terms. The Abolition of Forced Labour Convention, which the Conference

adopted in 1957 by 240 votes to 0, with 1 abstention, provides that no form of forced or compulsory labour shall be used as a method of mobilising and using labour for purposes of economic development.

Section II. Recruitment, Long-term Contracts, and Penal Sanctions

Brief Description of International Standards.

The Recruiting of Indigenous Workers Convention, 1936 (No. 50), specifies certain general social considerations to be taken into account before schemes of economic development are approved or recruiting permitted in any area. It provides for controlled recruiting of workers under licence, the medical examination of recruits and their appearance before a public officer, the provision of proper transport, repatriation of recruits and their families, and inter-territorial recruiting control.

The Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), deals with contracts of employment by indigenous workers for six months or more. It makes provision for the conclusion of written contracts and their attestation by a public officer, and lays down detailed safeguards as to the conclusion, conditions and termination of such contracts. The corresponding Convention of 1947 (No. 86) specifies the maximum periods for which contracts of employment may be concluded by indigenous workers.

The Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), provides for the progressive abolition of specified penal sanctions for breach of contracts of employment by indigenous workers, and their immediate abolition in relation to non-adults. The Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104), provides for the abolition of the penal sanctions in question within a year, as well as for the abolition of any other penal sanctions for breach of contracts of employment which apply to indigenous but not to non-indigenous workers.

Earlier Measures to Regulate Recruiting and Long-term Contracts and to Abolish Penal Sanctions.

The regulation of recruiting and long-term contracts was of direct relevance to conditions in most parts of Africa South of the Sahara and in extensive regions of Asia and Oceania. Not only was the local labour in many of these countries obtained by recruitment and engaged under contracts backed by penal sanctions, but there were extensive migratory movements of Africans in southern, Central and East Africa, of Indians and Chinese in Asia and the Pacific Islands, etc. These workers frequently worked under some form of compulsion in view of coercion or misrepresentation in the course of their recruitment, the long periods for which they were bound, or the fact that the force of the criminal law could be invoked to ensure that contracts were in fact carried out.

As in the case of forced labour, a considerable volume of legislation concerning recruiting and long-term contracts already existed when the relevant Conventions were adopted. Much of this legislation had originally been aimed primarily at ensuring a regular flow of labour to plantations, mines, etc., but subsequently the protection of the labour concerned had gradually acquired greater emphasis. The Conventions served essentially to co-ordinate and generalise principles and rules operating in more or less isolation in a great variety of territories. Thus an Act to regulate contracts of employment was adopted in the Cape of Good Hope in 1856 and served as a basis for subsequent legislation in many other British territories in Africa. In Malaya the registration of all labour contracts by Chinese immigrants was required by an ordinance of 1877, and a licensing system for worker-recruiters was introduced in 1901. In the Netherlands Indies the recruiting of Natives for

employment abroad was prohibited in 1887, and ordinances of 1914 and 1915 regulated recruitment in Java and Madura. In the Belgian Congo a decree of 1922 imposed penalties for force or deceit in recruitment, and laid down certain conditions concerning the conclusion and public attestation of contracts of employment for more than six months.

The movement for the abolition of penal sanctions for breaches of contracts of employment had also already begun. Such sanctions were abolished in Ceylon in 1920, and in Malaya in 1920 as regards Chinese and Indian workers and in 1932 for Javanese workers. They disappeared in Hong Kong in 1923 and in North Borneo and Sarawak in 1935. In the Netherlands Indies penal sanctions had been abolished in Java some 60 years before, and legislation of 1931 and 1936 provided for their abolition in the other islands within ten years. Penal sanctions were also abolished in the Gold Coast in 1931, in Gambia in 1932, in Nigeria in 1933, in Sierra Leone (subject to one slight exception) in 1934, in Grenada in 1936, in Barbados and St. Vincent in 1937 and in St. Lucia in 1938. When the Convention was adopted in 1939, penal sanctions also appeared to be unknown in the territories then constituting French West Africa and French Equatorial Africa.

Following the adoption of the Conventions of 1936 and 1939, a very considerable volume of legislation was enacted with the specific purpose of giving effect to their provisions; in many cases the provisions of the Recruiting of Indigenous Workers and the Contracts of Employment Conventions were reproduced almost literally. By way of example, reference may be made to the legislation adopted in Bechuanaland, Fiji, North Borneo, Nyasaland and Tanganyika. In Nigeria these two Conventions served as a basis for agreements concluded in 1942 and 1949 respectively to regulate the recruitment and conditions of work of Nigerian workers employed for work in Fernando Po and Gabon, and legislation based on these Conventions was enacted in 1945. In Western Samoa legislation based on the Contracts of Employment Convention was enacted in 1950. In the Belgian Congo and Ruanda-Urundi decrees of 1954 brought the legislation into closer conformity with the Conventions. In the meantime the practice of recruiting workers and of concluding long-term contracts also disappeared in various areas, such as the West Indies, Malaya and some of the Pacific Islands.

Action to abolish penal sanctions for breaches of contracts of employment also continued. Legislation was enacted to this end, for example, in Jamaica in 1940, in Bermuda in 1943, in the Seychelles in 1945, in Fiji in 1947, in Singapore and Western Samoa in 1950, in the Trust Territory of Somaliland in 1952, in British Somaliland and the Leeward Islands in 1953, and in Uganda in 1943 and 1955. In the period 1940 to 1943, penal sanctions for non-adults were abolished in Kenya, Northern Rhodesia, Nyasaland and Tanganyika. In Tanganyika the number of penal sanctions has been considerably reduced by legislation adopted in 1941 and 1955, notwithstanding representations by local employers against such action.

As a result of these various developments, the Committee was able to note at the time of its review in 1955 that the area in which penal sanctions might still be imposed for breach of contracts of employment had shrunk very considerably. It also observed that the most striking illustration of the social evolution of the great majority of non-metropolitan territories was undoubtedly given by the fact that all forms of recruitment within the meaning of the 1936 Convention were progressively disappearing and at the same time the manpower of these territories was less and less ready to be bound by long-term contracts.

Developments Since 1955.

During the last six years legislation has been adopted in a number of territories to ensure further application of the Recruiting of Indigenous Workers and Con-

tracts of Employment (Indigenous Workers) Conventions, including Basutoland, British Honduras, Brunei, Kenya, North Borneo, Singapore, Solomon Islands, Swaziland and Uganda. In particular, the maximum duration of contracts of employment has been reduced in the Seychelles, Sierra Leone, Tanganyika and Zanzibar with a view to the implementation of the Contracts of Employment (Indigenous Workers) Convention, 1947.

The last remaining penal sanctions for breach of contracts of employment were repealed in Sierra Leone and British Honduras in 1956 and 1957 respectively. In Basutoland the legislation was amended in 1956 to exclude all possibility of penal sanctions being imposed on non-adults, and in Kenya penal sanctions for desertion were abolished in 1957. Further measures for the repeal of penal sanctions have also been stated to be under consideration in Bechuanaland, British Guiana, Kenya, Northern Rhodesia and Swaziland.

Area of Application of the Relevant Conventions and Assessment of Their Application.

Since 1955 a number of new declarations have been received in respect of the Conventions under consideration. The Recruiting of Indigenous Workers Convention was declared applicable to three further territories, in one case without modification and in the other two subject to modifications. It is now in force in 42 territories, without modification in all but two cases. The Contracts of Employment (Indigenous Workers) Convention, 1939, was declared applicable to one further territory, and is now in force in 41 territories, in all cases without modification. The Contracts of Employment Convention of 1947 has, during the last six years, been declared applicable, subject to modifications, to two further territories and in two other cases modifications were cancelled. It is now in force in 38 territories, without modification in all but three cases. The Penal Sanctions (Indigenous Workers) Convention, 1939, is now in force, without modification, in 44 territories, whereas the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955, which came into force in 1958, has hitherto been ratified by only two States responsible for 11 non-metropolitan territories.

In considering the extent of application of the above-mentioned Convention in the various territories, regard must be had to the fact that recruiting and long-term contracts are now to be found in only limited areas. Thus, with one or two exceptions (for example the rather special case of labour migration from Hong Kong to Brunei, North Borneo, etc.), recruiting as defined in the Recruiting of Indigenous Workers Convention appears now to be confined to southern, Central and East Africa and Nigeria. In other cases, even if there is a considerable migration of labour, workers seek employment voluntarily or are engaged through public agencies, as in the case of West Indians going to work in the United States. The use of long-term contracts and penal sanctions has similarly declined.

Against this background, it would appear that the Recruiting and Contracts of Employment Conventions have been very substantially implemented in the territories in which they are in force. Where discrepancies exist, they are mostly on matters of detail. Considerable progress has also been made in the abolition of penal sanctions, although further measures to this end are still required, *inter alia*, in Basutoland, Bechuanaland, Kenya, Northern Rhodesia, and Swaziland. It should also be noted that no declaration in respect of the Penal Sanctions Convention has been made for Southern Rhodesia, where it would appear that the only measure taken to modify the classical range of sanctions has been to exempt skilled African workers from liability to them. It should also be remembered that, as this survey is based on information supplied in reports from governments, the situation in the territories of Portugal (for which the Abolition of Penal Sanctions Convention will come into

force only in April 1961) is not here reviewed, although the matters dealt with in the Conventions appear to have considerable relevance to the conditions obtaining in these territories.

Principal Outstanding Problems.

It has been noted that, while originally legislation on recruiting and long-term contracts was frequently inspired more by the desire to facilitate supplies of labour than protection of the workers concerned against coercion, the latter factor subsequently assumed increasing importance. At the present time, when the main currents of labour migration have acquired a more or less regular rhythm, the principal advantages of controlled recruitment tend to be represented by proper transport arrangements, facilities for repatriation, and standardised conditions of employment. The question will therefore require consideration by the authorities concerned whether the time has not come to provide for the progressive assumption by public employment services of the responsibilities at present discharged by recruiting organisations. It should be remembered that the Conference regarded the conditions embodied in the Recruiting of Indigenous Workers Convention, 1936, as providing merely an interim solution. In a Recommendation adopted at the same time it placed on record its view that policy should be directed to the progressive elimination of recruiting by measures including, for example, facilitating the voluntary movement of labour under administrative supervision and control and the promotion of settlement of workers and their families in the area of employment. Parallel with expanding responsibilities of public placement services, it would seem that the protection of migrant workers should increasingly be approached from the standpoint of migration for employment generally rather than on the basis of the special provisions hitherto applicable to indigenous workers.

One problem still looms large in the main areas of recruitment: how to combat the untoward economic and social effects of large-scale labour migration resulting from the absence from home of a considerable proportion of the adult male population. Official returns show, for example, that in some areas of Northern Rhodesia the proportion of able-bodied adult males away from home has reached 75 per cent.; a high proportion of absence from home of adult males is also to be found in Nyasaland and in Basutoland, Bechuanaland, and Swaziland. The Recruiting of Indigenous Workers Convention provides that the possible effects of the withdrawal of adult males on the social life of the population concerned shall be taken into consideration before permission to recruit is granted. Appropriate powers in this connection are granted to the competent authorities by the legislation of most territories, but, in the absence of sufficient employment opportunities at home, these powers seem but sparingly exercised. There seem to be two solutions to this problem: to create employment opportunities in the home territories (a course which may be rendered difficult by a lack of natural resources, an insufficient market, etc.) or to promote the settlement of workers, with their families, at the place of employment. A policy of labour stabilisation has been actively pursued in certain regions of the Congo (Leopoldville) and on the Copperbelt in Northern Rhodesia. However, in the case of certain important migratory movements, no provision is yet made even for workers to be accompanied by their families. In these cases, the continual ebb and flow of workers between their home territories and the territories of employment cannot but have pernicious effects upon the men themselves and upon their home communities. If such conditions are left unchanged, there is a distinct danger that, contrary to the principles enshrined in the I.L.O. Constitution, the labour in question may come to be regarded as a mere commodity.

Finally, as regards penal sanctions, action to implement the 1939 Convention has gone far and sanctions within the scope of that Convention now exist only in

a few territories. In view of this, it would seem that the obligations of the 1955 Convention might be accepted in respect of a far greater number of territories than has hitherto been the case.

Chapter II. Freedom of Association and Protection of the Right to Organise

Introduction

Freedom of association is the one fundamental human right which falls directly within the field of activity of the International Labour Organisation and is specifically referred to in the preamble of the I.L.O. Constitution and the Philadelphia Declaration. Its essential purpose is to enable individuals to establish occupational organisations in freedom in order to further and defend their interests. Part of this objective may be attained, especially, by means of collective bargaining which, leaving aside the question of public officials, is generally directed towards the conclusion, revision or renewal of collective agreements. It may also be attained by means of consultation with occupational organisations by the public authorities and by co-operation between the authorities and those organisations.

In the countries which have recently achieved independence, or which are in process of moving towards independence, and even, in general, in countries which are nearing the conclusion of the first stages in their economic and social development, as is the case with regard to many non-metropolitan and former non-metropolitan territories, occupational organisations are called upon to perform, and often have already performed, an essential role both as regards their members and in the field of industrial relations as well as in relation to the public authorities.

Nevertheless, the ultimate value of the contribution which these organisations can make depends in the last analysis on the degree of liberty which they enjoy. Freedom of association as defined in international labour standards, therefore, is of particular importance for all these countries.

The value of the contribution made by occupational organisations, as well as the degree of freedom which they may continue to enjoy, depends also on the capacity of their leaders and their members, their maturity and their sense of responsibility. That is why the programmes of assistance and education afforded by the I.L.O. and certain international organisations of workers and employers will be necessary in order to supplement the application of the international labour standards relating to freedom of association examined in the present chapter.

Having regard to the importance of the problem of freedom of association, it might have been desirable to make a comprehensive study of the relevant legislation and practice in the different countries the situation in which is considered in this review. Nevertheless, as this question has already been examined recently by the Committee in conclusions relating to 160 countries, including 86 non-metropolitan territories, it has not been deemed necessary to reproduce here the detailed information already given earlier and to which it is possible to make reference.¹

Brief Description of the Principal International Standards.

The basic standards respecting freedom of association are laid down in the Freedom of Association and Protection of the Right to Organise Convention, 1948.

¹ I.L.O.: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III, Part IV, International Labour Conference, 43rd Session, Geneva, 1959 (Geneva, 1959), pp. 99-137.

Firstly, individuals¹ shall have the right to establish organisations in freedom²; these organisations³ shall enjoy certain rights⁴ and certain guarantees intended to ensure their freedom of action⁵; these rights and guarantees shall also be accorded to federations and confederations⁶; further, the law of the land⁷ "shall not be such as to impair, nor shall it be so applied as to impair" the rights and guarantees prescribed; finally, member States shall ensure that workers and employers "may exercise freely the right to organise".⁸ The conditions governing the free exercise of this right in the industrial relations field within the strict meaning of the term are defined in the Right to Organise and Collective Bargaining Convention, 1949, which provides for the adequate protection of workers⁹ against acts of anti-union discrimination¹⁰, protection of organisations against acts of interference¹¹ and the encouragement of collective bargaining.¹²

In 1947 the International Labour Conference had already adopted minimum standards concerning industrial relations with regard especially to non-metropolitan territories. This Convention provided for the guarantee of the right of association of employers and employed¹³; the right of organisations to conclude collective agreements¹⁴; consultation and collaboration of these organisations¹⁵; procedures for the simple and expeditious investigation of disputes¹⁶; conciliation of disputes¹⁷ and creation of machinery for the settlement of disputes.¹⁸ Finally, a Convention adopted in 1921 provided that "all those engaged in agriculture"¹⁹ shall have "the same rights of association and combination" as industrial workers.

Earlier Measures concerning Freedom of Association.

The need to adopt measures for the purpose of guaranteeing freedom of association did not become apparent at one and the same time in all the countries which are

¹ "Workers and employers without distinction whatsoever" (Article 2); only members of the armed forces and the police may be excluded (Article 9).

² That is to say, "without previous authorisation" and also "organisations of their own choosing" (Article 2).

³ That is to say, organisations "for furthering and defending the interests" of their members (Article 10).

⁴ Drawing up of constitutions and rules, choice of representatives, administration, activities, programmes, establishment of federations and confederations, affiliation with international organisations, legal personality (Articles 3, 5, 6 and 7).

⁵ No interference by the public authorities (Article 3 (2)), prohibition of dissolution and suspension by administrative authority (Article 4).

⁶ Article 6: see above, notes 4 and 5.

⁷ That is to say, general legislation relating to associations, meetings, etc. (Article 8).

⁸ Article 11.

⁹ Non-salaried workers are not covered by this Convention, which permits also the exclusion from the application of these provisions of public officials (Article 6).

¹⁰ Articles 1 and 3.

¹¹ Articles 2 and 3.

¹² Article 4.

¹³ "For all lawful purposes" (Article 2).

¹⁴ Article 3.

¹⁵ In the "establishment" and "working of arrangements for the protection of workers and the application of labour legislation" (Article 4).

¹⁶ Article 5.

¹⁷ Article 6.

¹⁸ Article 7.

¹⁹ That is to say, both employed workers and independent and semi-independent workers, such as farmers, sharecroppers, etc.

considered in this review. The question has arisen only gradually as the market economy has developed and the number of wage earners in the different countries considered has increased. In this field, moreover, as was the case for instance in Europe in the first half of the nineteenth century with respect to England and France, practice has been the forerunner of legislation and organisations of workers were set up even when the legislation in force did not specifically provide for the establishment of trade unions.

Thus, for example, in the Caribbean, the first "British Guiana and West Indian Trade Union Congress" was set up in 1926, before trade union legislation had been adopted in all the territories concerned.¹ However, the legislation relating to companies permitted of the establishment of associations more or less of an occupational character. Thus, in 1890, the Trinidad Working Men's Association was established, two sections of which—those of the stevedores and of the railwaymen—registered under the Companies Ordinance in 1907 and operated as trade unions.²

In certain French territories legislative provisions for the purpose of guaranteeing freedom of association were adopted at a very early date. Thus, the French Act of 1884 respecting trade unions (which subsequently became Book III of the Labour Code) was declared "applicable to the colonies" (article 20). In fact, its promulgation was effected first in New Caledonia (1901), in Algeria, Guiana, Oceania and St. Pierre and Miquelon (1905), in Martinique and Guadeloupe (1913), in Réunion (1917); then in Madagascar and French West Africa (1937). But it was only in 1944 that it was extended to all French African territories. Finally, the Labour Code of 1952 generalised the legislative situation with respect to freedom of association for all the French overseas territories.

With a few exceptions such as Gambia, Trinidad, Tanganyika (1932), St. Vincent (1933), the first provisions relating to trade unions were adopted in a number of British territories in the period immediately before the Second World War: Jamaica, Kenya, Mauritius, Nigeria (1938), Sierra Leone, Leeward Islands (1939); generally, these legislative provisions were inspired by the United Kingdom Trade Unions Acts. But it was especially after 1940 that trade union legislation was enacted in most of the British territories. Under the provisions of the Colonial Development and Welfare Act, 1940, the Secretary of State for the Colonies was required to satisfy himself, in particular, that the legislation of any colony whose development programme was financed, in whole or in part, pursuant to the Act provided "reasonable facilities for the establishment and activities of trade unions". For example, legislative provisions relating to trade unions were adopted in 1940 in Dominica, St. Lucia, Malaya and Singapore, in 1941 in Cyprus, Gold Coast (Ghana) and Zanzibar, in 1942 in Bechuanaland and Swaziland, in 1943 in the Bahamas, Basutoland, Grenada, Seychelles, Uganda, etc.

In one New Zealand territory, the Cook Islands, a Trade Union Regulation was promulgated in 1947.

In the Trust Territory of Somaliland, the right of association was the subject of ordinances in 1951 and 1954 and decrees in 1951 and 1952.

Finally, in the Belgian Congo and Ruanda-Urundi, legislation which came into force in 1946 laid down different standards in respect of indigenous workers' organisations and non-indigenous workers' organisations respectively.

Developments Since 1955.

Having regard to the economic and social development of these different countries and of the state of the trade union movements, the Committee, in 1955, noted

¹ See I.L.O.: *Labour Policies in the West Indies* (Geneva, 1952), p. 133.

² *Ibid.*, p. 156.

with satisfaction that, subject to revisions which might still be necessary in certain cases, it appeared that in a substantial number of territories effect was given to international standards relating to freedom of association.

In the course of the last six years further progress has been made. In some cases, this progress has consisted in a strengthening of the guarantees enjoyed by the workers and in the prohibition of acts of discrimination against workers by reason of their trade union membership.

This has been the case in almost all the French non-metropolitan territories, in respect of which the French Act of 1956 for reinforcing the protection of the right to organise was promulgated and came into force.

Likewise, new legislative provisions intended to prohibit acts of anti-union discrimination have been enacted in certain territories of the United Kingdom, for example, British Honduras (1959), St. Lucia and Tanganyika (1960).

In certain territories in which refusal or cancellation of the registration of a trade union could not be the subject of an appeal to the courts, or could not be appealed against to the courts except in certain cases, the legislation has been amended or supplemented in order to provide specifically for the right of appeal to the courts. This was done in St. Vincent (1955) and Jamaica (1959).

In the Congo (Leopoldville) and Ruanda-Urundi, some progress has been accomplished in the sense that new legislative measures were made applicable in principle to all workers without distinction. However, as the Committee has noted, these measures led to the right to organise being refused in practice to a large number of workers.¹

Area of Application of the Relevant Conventions and Assessment of Their Application.

The extent of the international obligations assumed by the States Members with respect to the implementation of the Conventions relating to freedom of association has continued to increase in the course of the last six years. Of 86 declarations communicated pursuant to article 35 with respect to the applicability of the Conventions under review, 70 have resulted in making the Convention referred to in the declaration applicable without modification to a territory and 16 have made the Convention applicable with modifications.

The Freedom of Association and Protection of the Right to Organise Convention, 1948, which has been ratified by six member States² responsible altogether for 81 non-metropolitan territories, has been declared applicable to 54 territories.³ The legislation⁴ relating to trade unions in force in 49 territories, that is, in more than 90 per cent. of the number of territories considered, appears to ensure complete application of the Convention.

The evaluation of the degree of application of the Right to Organise and Collective Bargaining Convention, 1949, gives rise to more delicate problems because the Convention does not necessitate the enactment of legislation but may be implemented

¹ See above, Part Two of this report, Chapter II, B, Conventions Nos. 11 and 84.

² Belgium, Denmark, France, Italy, Netherlands, United Kingdom.

³ The Convention is applicable *without modification* to: Faroe Islands, Greenland; Cameroons, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Guiana, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, New Caledonia, Niger, Réunion, St. Pierre and Miquelon, Senegal, Sudan, Togoland, Ubangi Shari, Upper Volta; Netherlands Antilles, Surinam, Netherlands New Guinea; Aden, Dominica, Guernsey, Jamaica, Jersey, Malta, Isle of Man, Nigeria, St. Lucia, Trinidad and Tobago. *With modifications*: Basutoland, Bechuanaland, British Guiana, British Honduras, Gibraltar, Grenada, Mauritius, North Borneo, Nyasaland, St. Vincent, Sarawak, Sierra Leone, Swaziland, Uganda, Zanzibar.

⁴ That is, only the common law legislation.

by established practice. This Convention has been ratified by five member States¹ responsible altogether for 78 territories; it has been declared applicable to 31 territories.² In fact, the available information would seem to show that this Convention is completely or at least very substantially applied in 44 territories.

The Right of Association (Non-Metropolitan Territories) Convention, 1947, has been ratified by four member States³ responsible altogether for 78 territories; it has been declared applicable to 64 territories.⁴ Moreover, Italy accepted the obligations of this Convention in respect of the Trust Territory of Somaliland. According to the reports, it would seem that this Convention is completely or at least very substantially applied in 74 territories.

The Right of Association (Agriculture) Convention, 1921, has been ratified by nine member States⁵ responsible altogether for 90 territories; it has been declared applicable to 37 territories.⁶ Nevertheless, the legislation in force in 77 territories, that is approximately 90 per cent. of the territories, makes no distinction with respect to the right to organise between persons engaged in agriculture, on the one hand, and industrial workers, on the other, and thus ensures the complete application of the Convention.

Characteristics of the Legislation in Force.

A fairly detailed description of the characteristic features of the legislation in force was given by the Committee in 1959 in its general remarks relating to most of the Conventions under review.⁷

In the large majority of the countries considered, the registration of trade unions is compulsory and enables them to enjoy certain immunities. In most of these countries, however, registration is effected by an official who is more or less independent of the public authorities and whose decisions are subject to judicial control. Generally, this official is responsible for supervising the activity of trade unions and

¹ Belgium, Denmark, France, Italy, United Kingdom.

² The Convention is applicable *without modification*: Faroe Islands; Guadeloupe, French Guiana, Martinique, Réunion; Aden, British Guiana, British Honduras, Dominica, Gibraltar, Grenada, Guernsey, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Nigeria, North Borneo, Nyasaland, St. Lucia, St. Vincent, Sarawak, Sierra Leone, Singapore, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar. *With modifications*: Northern Rhodesia.

³ Belgium, France, New Zealand, United Kingdom.

⁴ The Convention is applicable *without modification* to: Congo (Leopoldville), Ruanda-Urundi; Cameroons, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Polynesia, French Somaliland, Gabon, Guinea, Ivory Coast, Madagascar, Mauritania, New Caledonia, Niger, St. Pierre and Miquelon, Senegal, Sudan, Togoland, Ubangi Shari, Upper Volta; Trust Territory of Somaliland; Cook Islands and Niue; Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, Bermuda, British Guiana, British Honduras, British Virgin Islands, Cyprus, Dominica, Falkland Islands, Fiji, Gambia, Gibraltar, Grenada, Hong Kong, Jamaica, Kenya, Malta, Mauritius, Montserrat, Nigeria, North Borneo, Northern Rhodesia, Nyasaland, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Southern Rhodesia, Swaziland, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar.

⁵ Australia, Belgium, Denmark, France, Italy, Netherlands, New Zealand, Spain, United Kingdom.

⁶ The Convention is applicable *without modification* to: Australian New Guinea, Norfolk Islands, Papua; Congo (Leopoldville), Ruanda-Urundi; Faroe Islands, Greenland; Algeria, Cameroons, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, New Caledonia, Niger, Réunion, St. Pierre and Miquelon, Senegal, Sudan, Togoland, Ubangi Shari, Upper Volta; Netherlands Antilles, Surinam; Cook Islands and Niue; Guernsey, Jersey, Isle of Man.

⁷ See above, p. 262, footnote 1.

for satisfying himself that trade union funds are administered in a proper manner. In certain cases, nevertheless, all the guarantees which might be desirable are not prescribed by the legislation. This is the case, for example, where the official responsible for registration may refuse registration on grounds which are not purely formal—for example, if a trade union already exists for the occupation concerned—or where the official in question is within the administrative hierarchy in respect of his activities in connection with trade unions or, again, where his decisions are not subject to judicial control.

In a substantial number of the countries which are the subject of the present survey, trade union organisations may be established by means of a mere declaration or even in some cases without any formality at all. Further, they are not subject to any control except that exercised by their own members, who naturally are able to make application to the courts if they consider that the legislation in force is not respected. It is evident that in countries in which trade unionism is no longer in its early stages this situation is the one which affords the best guarantees of freedom of association.

With regard to the important question of the utilisation of collective agreements as a means of determining conditions of employment, the information available does not make it possible to form a very clear appreciation of the position in every case. However, it would seem that, in certain countries in which very detailed legislation has been enacted, insufficient scope is left to collective agreements to permit them to develop as fully as one might expect, having regard to the stage of development of the trade union movement.

Principal Outstanding Problems.

As the Committee has already pointed out, the ultimate value of the contribution which occupational organisations can make to the economic and social development of a country depends directly on the degree of freedom of association enjoyed by such organisations and on their maturity and their sense of responsibility. It would therefore seem that in the legislative field the responsible authorities should endeavour to amend or repeal provisions which still restrict the freedom of these organisations.

In the first place, formalities relating to the establishment of organisations should, so far as possible, be reduced to the indispensable minimum. In all cases in which compulsory registration is still a necessary formality, the powers of the official responsible for effecting registration should be limited to ensuring that the rules of an organisation, from the point of view of form, are compatible with the law; moreover, and above all, the activities of the official should be subject to judicial control.

The legislation should also enable workers and employers to establish freely organisations of their own choosing. In this connection, in some countries the multiplicity of small competing organisations—particularly workers' organisations—has caused concern to the governments. The proliferation of rival unions, each having a small number of members, does not in fact permit the trade union movement in these countries to play as great a role as it should both as regards collaboration with the public authorities and as regards relations with employers. This problem, which does not of course arise in all the countries which have been considered in the present survey, should therefore be the subject of careful examination for the purpose of seeking, in the light of the experience gained in certain countries, the solutions which may effectively dispose of the problem while at the same time respecting the "free choice" of workers and employers. In some of the countries considered, an attempt has been made to prevent a multiplicity of small rival trade unions by inserting in the legislation provisions which enable the registration of a new organ-

isation—that is to say, in fact, its existence as a trade union—to be refused when there already exists an organisation representative of the interests of the occupation concerned. As the Committee has already noted, there may be reasons for having recourse to the provisions of this kind in underdeveloped territories in which a trade union movement is in its first stage of development. It is nevertheless true that such provisions, which restrict the free choice of individuals, give rise to considerable problems. In this connection, it is to be observed that, in the majority of the countries in which provisions of such a nature are in force, it would seem that, according to the information given by the governments in their reports, such provisions have never been invoked in the last few years. It is also to be observed that in certain countries whose stage of economic and social development is similar to that of the countries already mentioned, and in which the legislation has never contained provisions of this kind, a relatively strong trade union movement has managed to evolve. The matter should therefore be followed with attention, as was requested, moreover, at the African Regional Conference in December 1960.¹

Moreover, it would also appear desirable to amend the legislative provisions relating to amalgamation and federation which, in some countries, prescribe rather strict requirements as to majority votes on these questions and may, therefore, hinder the achievement of trade union unity. Likewise, federations and confederations should be able—and this does not appear always to be the case—to enjoy all the immunities enjoyed by primary organisations and to represent the organisations and their members in collective bargaining.

The second point to which governments might give attention is the need to reduce progressively to a minimum the external measures of control to which trade unions are subject in proportion as the trade union movement develops.

Thirdly, it would appear desirable that, in so far as possible, where minimum basic legislation exists, questions relating to the protection of labour should not all be determined by regulations but that sufficient scope should be left for negotiations between workers and employers with a view to ensuring the application—and where possible the raising—of the minimum standards laid down in legislation by means of collective agreements.

The determination of conditions of employment by means of collective bargaining presents numerous advantages, not the least of which is the fact that this strengthens the occupational organisations and, especially, the organisations of workers. Further recourse to collective agreements often makes it possible to adapt minimum general rules laid down in legislation more satisfactorily to the particular conditions in the region, occupation or undertaking. It enables the parties, and especially the workers who have directly or indirectly participated in the drawing up of agreements, to understand better the extent of their obligations and of their rights, whereas this object is often very difficult to achieve when all the relevant questions are dealt with by way of regulations. Finally, as the supervision of the application of a collective agreement is normally a matter for the parties, the utilisation of collective agreements makes it possible to relieve the labour inspectorate of certain of its duties, which are often very heavy by reason of the small number of officials available, these being limited by the human and financial resources available.

In the processes of economic and social development occupational organisations are called upon to play a threefold role—in relation to the public authorities, in relations between employers and workers and in relations with their own members. Often, it would seem, the maintenance in force for their benefit of the guarantees

¹ See, especially in this connection, I.L.O.: First African Regional Conference (Lagos, December 1960), *Provisional Record* No. 11, Report of the Committee on Relations between Employers and Workers.

respecting freedom of association may depend on the manner in which they carry out their tasks and on the attitude which they adopt.

With regard to collaboration of organisations with public authorities, it would seem that three principles should guide their activity:

First, as was emphasised by the International Labour Conference in the resolution concerning the independence of the trade union movement which it adopted in 1952, when trade unions decide to establish relations with a political party or to undertake political action as a means towards the advancement of their economic and social objectives, "such political relations or action should not be of such a nature as to compromise the continuance of the trade union movement or its social and economic functions irrespective of political changes in the country".

Secondly, as the Committee pointed out in 1959, "neither the manner in which collaboration between the public authorities and employers' and workers' organisations is effected, nor the rules drawn up in this connection, should be such as to impair the principle of freedom of association . . .".¹ This principle was subsequently embodied by the Conference in the Consultation (Industrial and National Levels) Recommendation which it adopted in 1960.

Thirdly, organisations should not consent either to exercise themselves certain functions of the public authorities which normally fall within the competence of the State or to exercise in a general way an excessive number of functions which may cause their leaders to lose sight of the fact that the essential aim of such organisations is to further and defend the interests of their members.

As regards the relations between the two parties in collective bargaining, if organisations enter into negotiations with a real desire to "negotiate" and in a spirit of mutual understanding, they should most usually find it possible to settle their problems by common agreement without having recourse to the public authorities.

Finally, with regard to their members, organisations may perform a twofold role: for workers newly engaged in the different sectors of the market economy, they may without doubt replace to a certain degree the traditional social structures; for their members as a whole they have an educational function to perform, and not only an occupational one; this educational function is of a more general nature and covers both education in the proper sense of the term and the civic training of individuals.

Chapter III. Remuneration

Introduction

The only aspect of the problem of workers' remuneration dealt with in the present chapter is that relating to wage-earning workers—independent or semi-independent workers being excluded.²

Remuneration of wage earners is considered here from four points of view:
 minimum wage fixing;
 the use of special clauses for this purpose in public contracts;
 protection of wages;
 equal remuneration.

¹ Report of the Committee of Experts, 1959, Part III, p. 127, para. 151.

² As regards independent or semi-independent workers, see below, Chapter VII: Social Policy in General.

Brief Description of Principal International Standards

The principles of just and favourable remuneration are laid down in five Conventions.¹ Two of these deal with minimum wage-fixing machinery.² Thus the 1928 Convention requires the creation or maintenance of machinery whereby minimum wage rates can be fixed for trades (including manufacturing and commerce) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low; it also contains provisions as to the form and operation of such machinery and as to measures to ensure that the minimum wage rates shall be respected. The 1951 Convention requires the creation or maintenance of adequate machinery whereby minimum wage rates can be fixed for workers in agricultural undertakings and related occupations; it also contains provisions as to the form of operation of such machinery and measures to ensure that the minimum wage rates shall be respected.

The Labour Clauses Convention³ requires the inclusion in contracts of public authorities for public works, goods or services of clauses ensuring to the contractor's workers wages, hours of work and other conditions not less favourable than those established for work of the same character by collective agreements, arbitration, awards or national laws or regulations. It also provides for sanctions and other measures to ensure observance of these labour clauses.

The Protection of Wages Convention⁴ lays down principles for the protection of workers' wages; the main provisions concern the payment of money wages in legal tender, the limitation of payment of wages in kind, of deductions from wages and of adjustment and assignment of wages, the direct payment of wages and workers' freedom to dispose of their wages, the regularity of wage payments, and priority for wage claims on bankruptcy.

The Equal Remuneration Convention⁵ requires the promotion of the principle of equal remuneration for men and women for work of equal value and its application whenever the methods in operation for fixing wages enable a government to do so.

Earlier Measures Respecting Remuneration

The majority of States responsible for the international relations of non-metropolitan territories have ratified the various remuneration Conventions and have declared them applicable to their territories. Thus, a wide body of legislation now exists providing for minimum wage-fixing machinery, labour clauses in public contracts protection of wages and to a lesser extent for equal pay for work of equal value. The scope, contents and application of this legislation naturally varies with the social and economic conditions in the individual territories.

Minimum wage-fixing machinery. There appears to have been little legislation on the subject before the adoption of the 1928 Convention. In Portuguese non-metropolitan territories, the Native Labour Code of 1928 laid down detailed rules for

¹ The Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), deals also with these questions. It contains provisions on minimum wage-fixing (Article 14), the protection of wages (Articles 15 and 16) and equal pay for work of equal value (Article 18).

² Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), and Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99). See also Article 14 of the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82).

³ The Labour Clauses (Public Contracts) Convention, 1949 (No. 94).

⁴ Protection of Wages Convention, 1949 (No. 95). See also Articles 15 and 16 of the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82).

⁵ Equal Remuneration Convention, 1951 (No. 100). See also Article 18 of the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82).

calculating minimum wages of indigenous workers. In United Kingdom territories, consideration was given to the fixing of wages in 1931.¹ In the next few years permissive legislation was adopted in many British territories², empowering the Governor or other appropriate authority: (a) to fix minimum wages for any occupation in which he was satisfied that the wages paid were unreasonably low, and (b) to make rules for the appointment of advisory boards to make recommendations for the fixing of such wages.

In 1937 an inquiry to ascertain what use had been made of the machinery provided by the colonial minimum wage laws showed that orders prescribing minimum wage rates had only been made in five territories.³ It was only after 1940⁴ that legislation along the lines of the 1928 Convention was introduced, based on the United Kingdom legislation, which was applied to various occupations.⁵ A decree of 1936 applicable to Algeria provided for the setting up of a joint commission, and the provisions of the French Labour Code dealing with wage fixing was extended to this territory by a decree of 1941. In Morocco a Dahir of 1936 laid down minimum wage rates applicable to the whole territory. Provisions for the fixing of minimum wages were also introduced in Madagascar, by decree of 1938, and in French Equatorial Africa by order of 1946. In the New Zealand non-metropolitan territory of Cook Islands and Niue minimum wage tribunals were set up in 1946. An ordinance of 1946 introduced minimum wage machinery in the Belgian Congo and Ruanda-Urundi. Finally, in Puerto Rico, the Insular Minimum Wage Act of 1941 set up wage-fixing machinery and also provided that it should not fix minimum wages lower than those existing in the same occupation in the United States. In conjunction with the Fair Labor Standards Act of 1938, it constituted a complete minimum wage-fixing system.

Labour clauses in public contracts. In the course of a debate on the Palestine and East African Loan Bill in the British House of Commons in 1926, amendments were moved that the Bill should contain a fair wages clause or principle. After debate, the House accepted an amendment that "the Secretary of State for the Colonies shall satisfy himself that fair conditions of labour are observed in the execution of all works carried out under loans raised in pursuance of this Act".⁶ Governments of United Kingdom non-metropolitan territories established model "fair wages clauses" for inclusion in government contracts during the period between 1945 and 1950. These clauses closely follow the fair wages clauses agreed between the Government, employers and workers in the United Kingdom.⁷ French legislation on labour clauses was applied by decree of 10 April 1937 to Algeria, Guadeloupe, French Guiana, Martinique and Réunion. An order of 1946 provided for labour clauses in

¹ Tripartite boards were set up in Ceylon in 1931 to fix wages for day workers on plantations.

² Minimum wage ordinances were adopted in 1932 and 1933 in Gambia, Ghana, Gilbert and Ellice Islands, the Falkland Islands, Gibraltar, North Borneo, Northern Rhodesia, Solomon Islands and Seychelles; in 1934 in Grenada, Mauritius, Sierra Leone and Uganda; in 1935 in St. Lucia, St. Vincent, Trinidad and Tobago and Zanzibar; in 1936 in Malta, and in 1937 and 1938 in Barbados, Leeward Islands and British Somaliland.

³ Bahamas, Ceylon, Grenada, St. Lucia and St. Vincent.

⁴ The Colonial Development and Welfare Act, 1940, to which reference has been made in Chapter II of this review, contained provisions to the effect that "fair conditions of labour will be observed" in the execution of works and in particular as regards wage rates.

⁵ Orders fixing minimum wage rates in various occupations were made in: Bahamas (dockers, 1946), British Guiana (bakers and dockers, 1946), British Honduras (mahogany workers, 1945), Jamaica (printers, 1945; foodstuff workers, 1946); Mauritius (cane sugar workers, 1946), St. Vincent (agricultural workers, 1945) and Sierra Leone (mines, 1946), etc.

⁶ As already mentioned, the Colonial Development and Welfare Act, 1940, contained a similar provision.

⁷ Cf. Sierra Leone government circular, 1946.

public contracts in French West Africa. Similar ordinances of 1946, 1948 and 1949 introduced labour clauses in public contracts in the Netherlands Antilles.

Protection of wages. Legislation laying down the payment of wages in money was first introduced during the nineteenth century on the abolition of the truck system. In Puerto Rico, for example, this legislation culminated in the Act of 1908, which was amended in 1917 to provide a special procedure for the recovery of wages due. In Tunisia, a decree of 10 July 1910 laid down the same principle and also provided for a record to be kept of the date of payment of wages. In the territories for whose international relations the United Kingdom was responsible, legislation for protection of wages was introduced during the 1920s. For example, the Kenya Native Labour Ordinance of 1926 contains a provision requiring the payment of wages in money, though here again legislation meeting other requirements of the Convention dates from after 1940. In some territories it was not considered necessary to introduce specific legislation because this protection was provided at common law. In the non-metropolitan territories for whose international relations France was responsible, various provisions for the protection of wages were introduced over a number of years in Algeria (Acts of 1922-1953), French Polynesia (order of 1944, making obligatory wage slips), Morocco (Dahirs, 1936, payment in money; 1941, limiting deductions), New Caledonia (order of 1953; pay slips and keeping of registers); subsequently the enacting of the Labour Code of 1952 introduced a comprehensive series of provisions on the subject in all French Overseas Territories.

Equal pay for work of equal value. In French Overseas Territories this principle was set out in article 91 of the French Labour Code of 1952; minimum wage rates (S.M.I.G.) were fixed without discrimination based on sex.

Developments Since 1955

Legislation providing for the setting up of minimum wage machinery existed in most non-metropolitan territories before 1955. However, an Act was passed in 1955 applying the 1928 Convention to the Congo (Leopoldville) and Ruanda-Urundi. In the New Zealand non-metropolitan territory of Western Samoa a Wage Councils Ordinance was adopted in 1957. In Tanganyika the minimum wage legislation was applied for the first time in 1958, minimum wages being fixed for all workers in the capital. Minimum wage rates of general application (including agriculture) were fixed in 1957 in Nyasaland and Seychelles. In Fiji wage councils were set up by an ordinance of 1957 and in North Borneo legislation was passed in 1960 providing for the setting up of comprehensive minimum wage-fixing machinery. In a number of territories for whose international relations the United Kingdom is responsible, where permissive legislation¹ existed but minimum wage-fixing machinery had not been set up, minimum wages are determined by collective agreement negotiated between employers' and employees' organisations, as for example, in most of the West Indies. A decree of 1961 extends the system of collective agreements in force in Portugal to Portuguese overseas provinces.

In the Congo (ex-Belgian) and Ruanda-Urundi, legislation providing for the insertion of labour clauses in public contracts was adopted in 1959. Measures to provide for labour clauses in public contracts were taken in Aden, Bermuda, Brunei, Grenada, Nigeria and Zanzibar. In Guernsey the Convention is applied to sub-contractors and assignees. In many cases "model contract forms" were adopted, as for example in the Fiji Islands, Mauritius and Tanganyika.

¹ That is, legislation empowering the Government to take certain measures when necessary.

As regards protection of wages, the main provisions of the 1949 Convention were incorporated in the Labour Code of the Trust Territory of Somaliland. In Swaziland legislation was adopted providing for priority of wage claims on bankruptcy, and general legislation protecting wages was enacted in Uganda in 1956 and in St. Lucia in 1959. Numerous amendments have been made to the legislation to cover particular safeguards, as for example the decree of 1955 fixing deductions from and assignment of wages in the Comoro Islands, Madagascar and Togo. In Netherlands New Guinea, the Civil Code was amended in 1955 to include wage protection provisions.

The principle of equal pay for work of equal value is contained in the new Labour Code of 1958 in the Trust Territory of Somaliland. In New Caledonia and St. Pierre and Miquelon the principle is applied by means of collective agreements, and in other territories by inter-professional minimum wage rates (S.M.I.G.).

Area of Application of the Relevant Conventions and Assessment of Their Application

There has been continual progress during the past six years as regards the number of territories to which the Conventions have been declared applicable. The number of positive declarations on the five Conventions communicated during the period was 112.

Wage-fixing machinery. The 1928 Convention has been ratified by ten States ¹ responsible for a total of 97 territories, and have been declared applicable to 25 ² non-metropolitan territories.³ The Convention appears to be fully or very substantially applied in 74 territories.

The 1951 Convention has been ratified by four States ⁴ responsible for 79 territories, and declared applicable to 11 territories ⁵; the Convention appears to be fully or very substantially applied in 41 territories.

Labour clauses. The 1949 Convention has been ratified by six States ⁶ responsible for 81 non-metropolitan territories and has been declared applicable to 43 of these territories.⁷ It seems from the reports that the Convention is fully or very substantially applied in 52 territories and it is partially applied in nine further territories.

Protection of wages. The 1949 Convention has been ratified by five States ⁸ responsible for a total of 99 non-metropolitan territories and has been declared

¹ Australia, Belgium, France, Italy, Netherlands, New Zealand, Portugal, Spain, Union of South Africa and the United Kingdom.

² Applicable without modification to: Congo (Leopoldville), Ruanda-Urundi; Cameroun, Chad, Comoro Islands, Congo (Brazaville), Dahomey, French Polynesia, French Somaliland, Gabon, Guinea, Ivory Coast, Madagascar, Mauritania, New Caledonia, Niger, St. Pierre and Miquelon, Senegal, Sudan, Togo, Ubangi Shari, Upper Volta; Guernsey, Jersey and the Isle of Man.

³ Further, the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), which deals in Article 14 with minimum wage-fixing, has been ratified by four States responsible for a total of 78 territories. It was in force in 66 territories.

⁴ France, Netherlands, New Zealand, United Kingdom.

⁵ Applicable without modification to: French Guiana, Guadeloupe, Martinique, Réunion; Cook Islands and Niue; Guernsey, Jersey, Isle of Man, Mauritius, Nyasaland, Sierra Leone.

⁶ Belgium, Denmark, France, Italy, Netherlands, United Kingdom.

⁷ Applicable without modification to: Congo (Leopoldville), Ruanda-Urundi, Guadeloupe, Guinea, Martinique, Réunion, Netherlands Antilles, Surinam, Aden, Antigua, Bahamas, Barbados, Bermuda, British Guiana, British Somaliland, Brunei, Cyprus, Dominica, Gibraltar, Gilbert and Ellice Islands, Grenada, Jamaica, Kenya, Mauritius, Nigeria, North Borneo, St. Lucia, St. Vincent, Sarawak, Solomon Islands, Singapore, Tanganyika, Uganda, Virgin Islands; Guernsey, Jersey and Isle of Man where it is applicable *ipso jure*; with modification: British Honduras, Fiji, Malta, Sierre Leone, Trinidad and Tobago, and Zanzibar.

⁸ Netherlands, Italy, France, Spain and the United Kingdom.

applicable to 55¹ territories. It seems from the reports that the Convention is fully or very substantially applied in 39 territories and that it is partially applied in 21 further territories.

Equal remuneration. The 1951 Convention has been ratified by four States² responsible for 30 non-metropolitan territories and has been declared applicable without modification to four³ non-metropolitan territories.⁴ It seems from the reports that the Convention is fully or very substantially applied in 23 territories.

Characteristics of Existing Systems

Machinery for fixing minimum wages in the various non-metropolitan territories differs considerably.

In Congo (Leopoldville) and Ruanda-Urundi minimum wage rates for indigenous workers were fixed by the Government on an area basis for each trade and industry (and within each industry for each post) after consultation of boards on which sit persons nominated by it to represent the employers and workers.

In territories for whose international relations the United Kingdom is or was responsible there is no uniformity in the wage determination. In some, as in the West Indies, for example, where collective bargaining is possible, agreements covering all conditions of service are made directly between organisations of employers and of workers in a particular industry (although statutory wage-fixing machinery exists and is sometimes used). In other territories there is joint standing machinery of workers and employers for wage negotiations on the basis of joint industrial councils, while a few territories have statutory wage councils or labour advisory boards. In a very few territories, a minimum wage may be fixed *ad hoc* by the competent authority when it is considered that wages in a particular industry or area are too low.

In territories for whose international relations France is or was responsible increasing reliance appears to be now placed on the system of voluntary collective agreements, but the basis remains the powers of the government to fix a statutory minimum wage based on the *minimum vital*. Collective agreements, which in certain conditions may be extended to cover compulsorily not only the parties to the agreement but the whole industry concerned, may prescribe wages and other conditions of work of all grades in the occupation.

In Portuguese and Spanish territories minimum wages are fixed by the Government. Minimum wage-fixing machinery appears to exist in the Netherlands Antilles where the governor is empowered to fix a minimum wage level, on the advice of a special commission, for one or more groups of workers for a period of one year.

In South West Africa, minimum wages may be fixed for the workers of all races by the Minister of Labour on the recommendation of the wage boards. While

¹ Applicable without modification to: Cameroun, Chad, Comoro Islands, Ivory Coast, French Somaliland, Dahomey, Gabon, Guadeloupe, Guinea, French Guiana, Upper Volta, Madagascar, Martinique, Mauritania, Niger, New Caledonia, Ubangi-Shari, French Polynesia, Réunion, St. Pierre and Miquelon, Senegal, Sudan, Togo; Netherlands Antilles, Surinam; Jersey, Isle of Man, Aden, Bahamas, Barbados, North Borneo, Brunei, Cyprus, Dominica, Gibraltar, Grenada, British Guiana, Malta, Mauritius, Montserrat, Nigeria, St. Lucia, St. Vincent, Sarawak, Tanganyika, Uganda, Zanzibar, British Somaliland, British Honduras; with modification: Netherlands New Guinea; Kenya, Sierra Leone, Solomon Islands, Trinidad and Tobago.

² Belgium, Denmark, France and Italy.

³ Guadeloupe, French Guiana, Martinique and Réunion.

⁴ Further, the Social Policy Convention, 1947 (No. 82), which deals in its Articles 15 and 16 with protection of wages and Article 18 with the question of equal pay for work of equal value, has been ratified by four States responsible for 78 territories. It was in force in 68 territories.

legislation on collective bargaining does not apply to Africans, collective bargaining—either freely negotiated collective agreements or through industrial councils—is the normal method of wage fixing for non-African workers. Agreements negotiated by industrial councils may be given the force of law.

It will be seen that, for all their difference of detail, these methods of wage fixing may be broadly classified according to two basic systems (which are both used in certain cases); wages which are fixed by the authorities, i.e. by regulation, the government acting in accordance with its statutory powers; wages which are fixed by agreement between the parties, i.e. by collective negotiation. A third possibility may occasionally arise, i.e. in cases of disagreement between parties in negotiation, that of wage fixing by arbitration.

Labour clauses in public contracts are in most cases prescribed by legislation; in some cases by administrative regulations. In a large majority of the non-metropolitan territories there exist model labour clauses conforming very closely to the provisions of the 1949 Convention.

Protection of wages provisions are laid down in the legislation of most non-metropolitan territories. They cover most safeguards laid down in the 1949 Convention. However, in some territories for whose international relations the United Kingdom is responsible no specific safeguards have been introduced because the governments of the territories concerned consider that the protection exists at common law.

The principle of equal remuneration for work of equal value exists in the legislation of all non-metropolitan territories for whose international relations France is, or was, responsible and the Trust Territory of Somaliland. The fixing of non-discriminatory statutory wages rates (i.e. minimum rates) appears to give effect to this principle in these territories: for example, the inter-occupational minimum wage (S.M.I.G.) in non-metropolitan territories for whose international relations France is, or was, responsible.

Principal Outstanding Problems

The different machinery used for fixing minimum wages raises a certain number of questions for which there would appear to be no general solution. The most pressing problem is a technical one, the need for careful studies of the economic and social conditions existing in each country (i.e. knowledge of manpower shortages, unemployment, etc.). This problem is aggravated in many cases by the lack of sufficient qualified personnel in the competent services.

On the basis of the information available for the various territories it would appear that a certain number of considerations may be mentioned.

Where minimum wages have been fixed for each occupation in each trade or industry, it appears that the minimum wages fixed have tended to form statutory scales, leaving no room for collective bargaining. Further, such a system is often too complicated for workers to understand, as well as being very difficult to administer and enforce.

Where permissive provisions¹ have been introduced for using minimum wage-fixing machinery, cases where minimum wage boards or councils have not been set up would appear to be mainly of two kinds. On the one hand there is the group of territories in which, in view of the widespread use of collective bargaining and suitable employment conditions, the government considers it unnecessary to have recourse to special minimum wage-fixing machinery. In contrast, there are a number of territories where the absence of a minimum wage system is attributed to the lack of

¹ See footnote 1, p. 272.

organisation of certain sectors (in particular agriculture) and among workers, as well as general economic conditions.

It is, however, in industries and among workers which are not organised that the fixing of minimum wages is important.

Moreover, it would appear that in certain cases the establishment of wage boards or councils has played a considerable role in the subsequent formation of trade unions and training of trade union leaders for negotiating.

It would appear therefore that difficulties in application could be gradually overcome if more flexible use was made of the various systems in relation to the particular conditions existing in the industry or occupation concerned.

As regards labour clauses in public contracts, there would appear to be no alternative to legislation requiring the inclusion of provisions to this effect in all public contracts, or the drafting of a model contract form for such contracts.

As regards protection of wages, while the principal safeguards require legal provision, the difficulty is sometimes enforcement in present-day circumstances. This is especially the case where workers are employed in small undertakings which are often difficult to supervise and badly organised and frequently of a family character, where it is sometimes difficult to distinguish employees properly so called from members of the family. Enforcement difficulties also arise in cases where squatters or resident labourers are installed on another person's land or called upon to perform casual labour services, or where remuneration consists wholly or partly of the crop produced. In this connection the Committee of Experts on Social Policy in Non-Metropolitan Territories at its Fourth Session in 1955 recommended that particular consideration should be given to the application of the provisions of Articles 8, 10 and 11 of the Convention of 1949 which deal with deductions from wages, the extent to which wages may be attached or assigned and the priority of wages over other privileged debts.

As regards the principle of equal remuneration for work of equal value the problems facing non-metropolitan territories are similar to those facing many member States. In this connection it should be noted that the 1951 Convention does not require a government to guarantee its implementation to all women workers of the territory, but limits such a requirement to those areas of the economy where the government is in a position to exert direct or indirect influences on the level of wages. The Convention recognises that a solution to the equal pay problem must be sought through economic as well as legislative measures and that a gradual step-by-step approach is the most likely to achieve ultimate success. In the more developed territories, where terms and conditions of employment are primarily determined by voluntary collective agreements between employers and workers, without outside influence, many governments consider that it would not be appropriate for them to intervene in these negotiations in order to ensure the application of the principle of equal remuneration. If, under the existing system the government remains outside the wage-fixing process, it can confine itself under Article 2 of the Convention to promoting the application of the principle. This may be done by drawing the attention of the employers and workers to the desirability of taking the principle into account in their wage negotiations, by establishing or encouraging the establishment of objective job appraisal methods.

Chapter IV. Conditions of Work

Introduction

This chapter is devoted not only to conditions of work properly so called but also to protection of women and young workers and to occupational safety and health. It is therefore divided in three sections:

Section I. Hours of Work, Rest Periods and Holidays.

Section II. Protection of Women and Young Workers.

Section III. Occupational Safety and Health.

Section I. Hours of Work, Rest Periods and Holidays

Brief Description of Principal International Standards.

The International Labour Conference has over the years, and particularly during the 1920s and 1930s, adopted a series of Conventions fixing holidays and maximum hours of work in industry, commerce and, to a limited extent, agriculture. These Conventions fall into three groups. The first of these is made up of instruments limiting daily and weekly hours of work.¹ Thus the 1919 Convention concerning hours of work in industry provides that the working hours of persons employed in industrial undertakings must not exceed eight per day and 48 per week; a limited extension of these hours is permitted in the case of accidents, necessarily continuous processes, preparatory or intermittent work, etc. Similar provisions are set out in the 1930 Convention concerning hours of work in commerce and offices; and shorter hours are provided for in the 1935 Convention which lays down the principle of a 40-hour week to be applied in such a manner that the standard of living is not reduced in consequence. Other Conventions prescribing hours of work are of little interest in non-metropolitan territories, because of the special nature of their scope; they apply to automatic sheet-glass and glass bottle works.

The second group contains Conventions providing for weekly rest.² These are the 1921 Convention applying to industry and the 1957 Convention applying to commerce and offices; both provide for the granting of a weekly rest of at least 24 consecutive hours, but permit certain exceptions subject to appropriate safeguards and compensation.

The third group is made up of Conventions prescribing annual holidays with pay.³ Thus, as regards industry and commerce, the 1936 Convention specifies that all workers shall enjoy an annual holiday with pay of at least six working days, or 12 working days in the case of young persons. As regards agriculture, the 1952 Convention provides that annual holidays with pay shall be granted to all workers, but leaves States free to decide the manner in which provision is to be made for holidays and their duration.

Any review of the extent to which I.L.O. standards on hours of work have found implementation in non-metropolitan territories must take into account two factors: firstly, the special circumstances surrounding the adoption and acceptance of these standards, particularly those regarding industrial work. Secondly, the methods followed in fixing hours of work in many territories.

The history of the I.L.O.'s efforts to set standards in this field goes back to the Washington Conference in 1919 which adopted as its first instrument, and almost unanimously, the 48-hour week Convention, so insistently asked for by the labour movement. Unfortunately this general consensus as regards the desirability of such a Convention did not prevail when the time came for its ratification and implementa-

¹ Hours of Work (Industry) Convention, 1919 (No. 1); Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); Forty-hour Week Convention, 1935 (No. 47); Sheet-Glass Works Convention, 1934 (No. 43), and Reduction of Hours of Work (Glass Bottle Works) Convention, 1935 (No. 49); Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67).

² Weekly Rest (Industry) Convention, 1921 (No. 14), and Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

³ Holidays with Pay Convention, 1936 (No. 52), and Holidays with Pay (Agriculture) Convention, 1952 (No. 101).

tion. In fact there existed perhaps no more controversial and thorny problem during the early years of the Organisation and despite persistent efforts to reach agreement among the major industrial countries no real progress could be made towards more widespread ratification. As a consequence Belgium, New Zealand, Portugal and Spain are the only States responsible for non-metropolitan territories which are bound by the Washington Convention, the conditions specified in the French ratification not having been fulfilled thus far. None of the above States has declared the Convention applicable to any of their territories.

Attempts during the 1930s to treat standards on hours of work in industry on a more piecemeal basis, by dealing successively with such branches as coal mines, glassworks, textiles, road transport and public works, ran into heavy opposition and the instruments adopted evoked a very limited response. The formulation in 1935 of a Convention approving the principle of the 40-hour week had similarly limited effects.

The whole question was, of course, taken up again during the post-war period but it was only in 1960 that the position had crystallised sufficiently to consider the adoption of a new instrument, the final discussion of which will take place this year. This general historical background must thus be kept in mind when the complex question of hours of work standards is viewed within a non-metropolitan context.

Another equally important factor which has a bearing on this question centres on the methods followed in many countries in regulating working hours. In certain overseas areas the same policy was adopted as in the relevant metropolitan States (United Kingdom in particular), i.e. to foster the regulation of hours of work by means of collective bargaining rather than through legislation. In the territories for which France is or was responsible, on the other hand, quite a different course was chosen; while the Labour Code of 1952 contained general provisions on the subject, their specific adaptation to the conditions prevailing in the various territories and occupations has been governed by a vast number of local orders issued for this purpose. Due to the multiplicity and variety of these local provisions, it sometimes also is difficult to assess the degree of implementation of the basic legislation.

The extent of implementation of hours of work Conventions must therefore be evaluated in the light of the above factors which must be borne in mind in reviewing the purely legislative position described in the paragraphs below.

Earlier Measures respecting Conditions of Work.

A relatively small number of States responsible for the international relations of non-metropolitan territories have ratified the various Conventions respecting hours of work, weekly rest and holidays with pay; and of these only a small proportion have declared the Conventions applicable to territories for whose international relations they are responsible. Nevertheless, in spite of the restricted number of obligations assumed in respect of these Conventions, the information available shows that in nearly all territories with a body of regular wage earners there are restrictions in the form of legislative provisions, or of voluntary or traditional methods, on working hours, as well as measures providing for weekly rest and annual holidays. Inevitably the scope, contents and degree of implementation of these measures vary greatly according to the level of social and economic advancement in the individual territories.

Hours of work. There are some rare cases in which provisions restricting hours of work in non-metropolitan territories existed prior to the adoption of the first I.L.O. Convention on the subject in 1919. For example, in Tunisia, a decree of 10 June 1910 prescribed a ten-hour working day, including a rest period of one hour. More numerous examples of restrictions on hours of work in non-metropo-

litan territories are to be found amongst the texts adopted during the inter-war period, although the standards rarely correspond to those laid down in the I.L.O. Conventions. Thus for example in Western Samoa, an ordinance of 25 March 1927 fixed maximum working hours for Melanesians at $9\frac{1}{2}$ per day; in 1938 provision was made for fixing maximum hours in shops in Malta. As regards the Portuguese territories, the Native Labour Code prescribed a nine-hour day and 54-hour week in 1928 and a number of other texts were adopted in the individual territories providing for shorter working hours in respect of certain categories of workers, for example, the Mozambique Decree of 1931 laid down an eight-hour day and 48-hour week for salaried employees in commerce. In 1936 the French Act respecting the 40-hour week was rendered applicable to a number of territories including Tunisia, French Guiana, Guadeloupe, Réunion, Martinique and New Caledonia. In the French overseas territories the 1952 Labour Code provided for a 40-hour normal week and was followed by a large number of orders in each territory. Finally, although little concrete information is available on the subject, it should be borne in mind that in many other territories restrictions were imposed on working hours during the period under review by means of collective agreements or other voluntary methods.

Weekly rest. The Conventions prescribing the right to weekly rest, the first of which was adopted in 1921, merely confirm an age-old principle, and prescriptions on this subject existed long before the setting up of the I.L.O. Frequently the right to rest on Sundays was merely part of the traditions, but in other cases it was considered appropriate to adopt legislative measures on the subject—thus reports from governments mention texts going back more than 150 years, such as the Consular Order of 29 Germinal Year X (19 April 1802) which ensured the granting of weekly rest and was applied in French colonies. It should not, however, be assumed that the well-established custom of Sunday rest and the existence of basic legislative texts were always enough to ensure that all workers in fact benefited from one day's rest in the week. In fact, the many measures taken in this field since the adoption of the 1921 Convention show a constant need to adapt the relevant provisions to the changing needs of modern industry. Thus, the principle of weekly rest was prescribed for all Portuguese territories by decree of 17 December 1910 but this text has been supplemented by a whole series of measures, including for example, the Native Labour Code of 1928, the various Police Codes of these territories and a series of more detailed legislative texts adopted during the subsequent 30 years. Another example is that of Algeria, where an Act of 1906, providing for weekly rest and rendered applicable to the territory in 1909, has been supplemented by decrees issued in 1911, 1930, 1935 and 1955. Numerous other cases exist in which it was found necessary to prohibit specifically work on Sundays; these include, for example, the 1923 ordinance in the Faroe Islands; measures adopted in 1938 for Malta; and a large number of texts adopted in the French territories, particularly during the years following 1936.

Holidays with pay. In most non-metropolitan territories the provisions respecting annual holidays with pay are much more recent than those concerning weekly rest. For example, in the Dutch territory of the Netherlands Antilles provision was first made for holidays with pay in a decree of 1949, and in the Faroe Islands such measures were adopted in 1951. Similarly there are many French territories where holiday regulations were first introduced within the past ten years, as for example in the Camerouns, French Equatorial Africa, French Polynesia, French Somaliland and St. Pierre and Miquelon—although in practice the right to holidays had often been recognised already by the courts; other French territories have legislation going back to the years immediately following 1936. A few cases of yet earlier texts providing

for holidays are to be found in some of the United Kingdom territories such as Gibraltar (1922), Grenada (1921) and Kenya (1925), but these are limited to shops or certain categories of shops.

Developments Since 1955.

The information available respecting hours of work and weekly rest shows that there have been few important developments in the relevant legislation since 1955. However, useful measures have been adopted in the Congo (Leopoldville) and Ruanda-Urundi where a decree of 1957 laid down the principle of the eight-hour day and 48-hour week, and in the Trust Territory of Somaliland where the Labour Code of 1958 prescribed maximum hours and weekly rest for all workers. Numerous measures have also been taken during the past six years in the various territories for whose international relations France is or was responsible, but these generally consist in regulations prescribing special standards or exemptions respecting working hours and weekly rest in given fields of activity. In several Portuguese territories decrees were issued in 1957 prescribing an eight-hour day and 48-hour week, and a day of weekly rest, for non-indigenous workers. In the case of holidays with pay, recent years have seen the adoption of legislation establishing the right to annual holidays (varying between five and 14 days per annum) in St. Lucia (1956), St. Vincent (1957), Tanganyika (1955) and Uganda (1955). In territories where the right to annual holidays with pay was already established by law, progress has taken the form of an extension of the duration of holidays; this was the case, for example, in the Faroe Islands (1957) and in practically all the territories for whose international relations France was responsible (1956, 1957, 1958), etc. In the Trust Territory of Somaliland, the 1958 Labour Code provides that workers in all sectors shall normally be entitled to ten days' holiday in the year.

Area of Application of the Relevant Conventions and Assessment of Their Application.

There has been little or no change during the past six years as regards the number of territories to which the various Conventions respecting hours of work and rest periods have been declared applicable. In fact, for over 20 years, no country responsible for the international relations of non-metropolitan territories has ratified any of the Conventions respecting working hours, and those which had ratified them before the Second World War have not declared them applicable to any territory. Similarly, in the case of weekly rest and holidays with pay, only a small number of declarations of application have been made in recent years and the present total for the four Conventions in question amounts only to 36.

Hours of work. The 1919 Convention respecting hours of work in industry has been ratified by four States¹ responsible for a total of 15 territories, and the 1930 Convention concerning working hours in commerce and offices has been ratified by two States² responsible for five territories, but neither of these Conventions has been declared applicable to any non-metropolitan territory; the same may be said of the 1935 Convention respecting the 40-hour week, ratified by one State³ responsible for three non-metropolitan territories.

However, the actual situation regarding hours of work is more favourable than would appear from the absence of declarations of application on the various Conventions. For example, the legislation in the Congo (Leopoldville) and Ruanda-

¹ Belgium, New Zealand, Portugal, Spain.

² New Zealand, Spain.

³ New Zealand.

Urundi is in conformity with the principal provisions of the Conventions regarding working hours in industry and commerce, though a number of divergencies exist. In the Portuguese territories, restrictions are prescribed as regards maximum working hours but, particularly in the case of indigenous workers, these standards are often lower than those provided for in the Conventions. Finally, in the New Zealand territories, few regulations exist, except as regards government servants, but collective agreements and other arrangements show a steady trend towards the establishment of a 40-hour week.

Weekly rest. The weekly rest Convention applying to industry, which goes back to 1921, has been ratified by seven States ¹ responsible for a total of 43 non-metropolitan territories and has been declared applicable without modification to 31 of these territories.² The Convention concerning weekly rest in commerce, adopted only four years ago has been ratified by two States ³, responsible for ten non-metropolitan territories and declared applicable without modification in two of these territories.⁴ Again the actual position is more favourable than would seem from the lack of declarations communicated by governments; thus the reports show that the first of these Conventions appears to be fully or substantially applied in 39 territories, i.e. more than 90 per cent. of the territories for which the ratifying States are responsible; as regards the Convention respecting commerce and offices, no information is as yet available on the effect given to its provisions in non-metropolitan territories.

Holidays with pay. The 1936 Convention concerning holidays with pay, which covers industry and commerce, has been ratified by four States ⁵ responsible for 31 non-metropolitan territories; it has not been declared applicable to any of these territories, but reports show that the legislation is in general conformity with the terms of the Convention in 26 territories, i.e. more than 80 per cent. of these territories. The Convention providing for holidays with pay in agriculture, adopted in 1952, has been ratified by six States ⁶ responsible for a total of 82 territories, and has been declared applicable without modification in ten territories⁷; it seems from reports that the Convention is fully or very substantially applied in 33 territories.

Characteristics of Existing Systems.

The non-metropolitan territories on which information has been supplied in respect of hours of work and rest periods show the usual difference as to the methods considered most appropriate for ensuring the observance of certain minimum standards. Thus in the case of hours of work, legislation has frequently been adopted fixing maximum working hours (e.g. most Portuguese territories); this maximum is not necessarily the same for all categories of workers in a given territory and provision is normally made for exceptions in more or less restricted cases. In other non-

¹ Belgium, Denmark, France, Italy, New Zealand, Portugal, Spain.

² Congo (Leopoldville), Ruanda-Urundi; Faroe Islands, Greenland; Algeria, Cameroun, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Guiana, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, New Caledonia, Niger, Réunion, St. Pierre and Miquelon, Senegal, Sudan, Togo, Ubangi Shari, Upper Volta; Cook Islands and Niue, Western Samoa.

³ Denmark, Portugal.

⁴ Faroe Islands, Greenland.

⁵ Denmark, France, Italy, New Zealand.

⁶ Belgium, France, Italy, Netherlands, New Zealand, United Kingdom.

⁷ Guadeloupe, French Guiana, Martinique, Réunion; Barbados, Isle of Man, St. Lucia, St. Vincent, St. Christopher-Nevis-Anguilla, Tanganyika.

metropolitan territories, the basic instrument for determining the hours of work is the collective agreement (e.g. New Zealand territories); this agreement affects not only the contracting parties, but also indirectly, persons employed in similar occupations or industries.

The same distinctions are found in the field of weekly rest and it is interesting to note in this connection that the system of providing for weekly rest by means other than legislation is recognised both in the Convention concerning industry and in that relating to commerce and offices. Examples of systems whereby weekly rest is prescribed by law may be found in the territories for whose international relations France was responsible where a basic text lays down the principle of such rest and is supplemented, where necessary, by orders affecting certain branches of activity. The New Zealand territories again furnish an example of standards implemented by voluntary methods; in the case of weekly rest the main factor in ensuring the granting of such rest appears to be custom and religious traditions rather than collective agreements.

An attenuation of the differences in the two parallel systems noted above as regards working hours and weekly rest may be found in the case of holidays with pay. No change of method is to be found in the countries where conditions of work are traditionally fixed by legislation (e.g. Belgian and French former and present territories) but recent measures taken in other territories (e.g. certain United Kingdom former and present territories) show a tendency away from the traditional voluntary methods and towards the adoption of legislation providing directly for annual holidays, or providing for the granting of such holidays through wage boards or similar bodies.

Principal Outstanding Problems.

It appears from the information available respecting working hours, weekly rest and annual holidays, that many of the obstacles to the full implementation of international standards are due to conditions which either are particular to non-metropolitan territories or, more generally, affect all undeveloped countries. For example there are still certain cases where separate legislative texts regulate working hours and rest periods for Natives and non-Natives and where the standards prescribed for the former do not meet the requirements of the relevant Conventions; it seems, however, that the distinction thus established by law is frequently ignored in practice and it is therefore likely that the system of dual legislative standards will be abolished in due course, as the Committee suggested in 1955.¹

There are also cases where the underdeveloped state of the local economy makes any regulations respecting working hours and rest periods seem superfluous; whilst the lack of suitable provisions may not be felt for some time, it leads to difficulties when the degree of economic development is suddenly accelerated because of some new, external factors. Here the solution would seem to lie in the adoption of general standards respecting working hours and rest periods which, apart from serving an immediate if limited purpose, would prove useful as the basis for the elaboration of more detailed provisions when the need for these arises, or would ensure the implementation of minimum standards during the initial period of economic development and until such time as the standards can be prescribed through collective bargaining.

Another problem which acts as a barrier in ensuring higher standards respecting hours of work and rest periods is the difficulty of establishing and applying such standards to casual workers. The large number of workers in irregular employment is often a characteristic of the economy of underdeveloped countries and may be found both on the industrial and the agricultural level. Thus, for example, it is often difficult to apply normal working hours provisions in an industry engaged in the

¹ See Report of the Committee, 1955, p. 7, para. 32.

first processing of agricultural products, such as sugar cane, which operate only at certain seasons and is, therefore, subject to intense pressure of work. Another case is that of certain large-scale monoculture plantations where there is no need for a year-round labour force and where, for example, provisions respecting annual holidays for agricultural workers must be established in the light of these special conditions if they are to serve any practical purpose. In many of the smaller territories the great majority of wage earners may fall into one or other of these two groups of casual workers and it is possibly the difficulty of fixing upon suitable measures and of ensuring their practical application which, more than any other single factor, retards the adoption of general standards regarding hours of work and rest periods.

Another difficulty, which is found mainly in the less developed countries and which shows that the establishment of standards can only be considered as a first step, is that of ensuring the practical application of these standards. Thus the governmental reports show frequent cases where legislative provisions are in close conformity with the Convention (for example as regards weekly rest or holidays with pay) but where these provisions are often ignored by both employers and workers. The solution to this problem is largely a matter of labour inspection, a question which is dealt with in another chapter of this survey.

Finally, there are a number of problems which may be found equally in non-metropolitan territories and in States Members, but which should nevertheless be mentioned in this brief review. For example, full conformity between the hours of work provisions in the United Kingdom and its territories, on the one hand, and the Conventions concerning hours of work, on the other hand, would not easily be attained since the former are characterised by their voluntary and flexible nature, whereas the Conventions establish more rigid rules whose implementation normally necessitates appropriate legislative provisions. Similarly, basic difficulties may arise in the case of countries such as France and its former and present non-metropolitan territories where, for example, the principle of limiting working hours is laid down in a general text, but where considerable latitude is allowed as regards overtime, or for fixing different hours of work in various branches of activity.

Section II. Protection of Women and Young Workers

Brief Description of Principal International Standards.

Protection of women. There are three Conventions¹ which deal with the prohibition of the night work of women, with certain exceptions as regards family work, cases of *force majeure* and work connected with perishable raw materials. The 1934 and 1948 Conventions add certain other exceptions (*inter alia*, for women who occupy responsible positions, etc.). One Convention² prohibits the employment of women on underground work in mines, but authorises certain similar exceptions.

Protection of young persons. Among the Conventions relating to the protection of the employment of young persons there are those which fix a minimum age for admission to employment, those which forbid night work and those which prescribe a compulsory medical examination for admission to employment.

The standards laid down by the Conventions in the first group (minimum age) fix the age of admission to employment in industry at 14 years³ or 15 years⁴; for

¹ Night Work (Women) Convention, 1919 (No. 4); Night Work (Women) Convention (Revised), 1934 (No. 41), and Night Work (Women) Convention (Revised), 1948 (No. 89).

² Underground Work (Women) Convention, 1935 (No. 45).

³ Minimum Age (Industry) Convention, 1919 (No. 5).

⁴ Minimum Age (Industry) Convention (Revised), 1937 (No. 59).

employment at sea at 14 years¹ or at 15 years²; for employment as trimmers or stokers at 18 years³; for agriculture at 14 years⁴ and for non-industrial employment at 14 years⁵ and 15 years.⁶ All these Conventions authorise exceptions as regards work carried out in undertakings in which only members of the same family are employed (with the exception of the Convention relating to agriculture) and work performed in technical schools, provided that the work is approved and supervised by the public authorities. On the other hand the agricultural Convention of 1921 only prohibits work carried out by young persons during school hours or work which may prejudice their attendance at school. The minimum age Conventions on non-industrial employment allow for certain exceptions with regard to light work (from 12 to 13 years upwards respectively) and work in the interests of science and education, but provides for certain safeguards in both cases. Furthermore, these two Conventions, as well as the 1936 Convention on minimum age in industry, impose an obligation to fix a higher age or ages for work which is dangerous to the life, health or morals of the persons employed in it. Most of these Conventions lay down certain standards for the supervision of their application (obligation to keep a register of young persons under a certain age and, in certain cases, provision of an adequate system of inspection).

With regard to the night work of young persons, there are three Conventions, two of which relate to employment in industry⁷ and one relating to non-industrial employment.⁸ The first of these Conventions defines night as a period of 11 hours, and the other two as a period of 12 hours. All three Conventions prohibit night work of young persons under 18 years of age, but allow certain exceptions for family undertakings, climatic conditions, etc.

Finally, there are three Conventions which lay down compulsory medical examination for admission to employment at sea⁹, in industry¹⁰, and in non-industrial occupations.¹¹ These three Conventions make medical examination compulsory for young persons under 18 years of age, prior to admission to the respective occupations. The Convention relating to employment at sea and the Convention relating to non-industrial occupations allow exceptions to be made for undertakings where only members of the same family are employed.

Earlier Measures for the Protection of Women and Young Workers.

It would appear that two periods may be distinguished in the legislative activity in non-metropolitan territories as regards the protection of women and young workers: firstly, the period between the foundation of the International Labour Organisation and the Second World War, which is characterised by quite intensive legislative activity, chiefly during the thirties relating mainly to the adoption of the basic

¹ Minimum Age (Sea) Convention, 1920 (No. 7).

² Minimum Age (Sea) Convention (Revised), 1936 (No. 58).

³ Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15).

⁴ Minimum Age (Agriculture) Convention, 1921 (No. 10).

⁵ Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33).

⁶ Minimum Age (Industry) Convention (Revised), 1937 (No. 59).

⁷ Night Work of Young Persons (Industry) Convention, 1919 (No. 6), and Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90).

⁸ Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79).

⁹ Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16).

¹⁰ Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77).

¹¹ Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78).

principles of the first Conventions adopted by the I.L.O. for the protection of women and young persons.

After the Second World War the period of greatest activity may be situated during the ten years between 1946 and 1955. In this second period the legislative activity was extended to territories which had previously no legislation on this subject, and perfected the provisions in force in other territories; in certain cases the new texts embodied the standards contained in the revised Conventions on night work and minimum age and in the Conventions concerning medical examination.

As regards the employment of women and children, an ordinance respecting the night work of women and children was adopted in 1925 in the Netherlands East Indies. Between the years 1928 and 1938 ordinances were issued in most British non-metropolitan territories forbidding underground or night work and fixing the age for admission to industrial employment in general at 12 or 13 years and in some cases at 14 years. The prohibition of night work was generally extended to 18 years (girls) or 16 years (boys) in industry. In the Netherlands Antilles an ordinance of 1939 forbade the employment in industry of children under 13 years of age.

As for the Conventions concerning minimum age for employment at sea and as trimmers and stokers and concerning the medical examination of young persons working at sea, provision was made as far back as 1924 to fix a minimum age for admission to employment at sea in the Gold Coast (Ghana), Ceylon and elsewhere; in 1927 various Orders-in-Council were promulgated applying the provisions relating to minimum age for trimmers and stokers and medical examination for employment at sea in a number of British territories. The legislative activity continued during the following years and in 1935 there were regulations dealing with these matters in practically all the British territories having an outlet to the sea. Provisions relating to minimum age (sea) were prescribed in the Belgian Congo (1928) and Formosa (a territory at that time administered by Japan) in 1931.

During the Second World War, although for obvious reasons the legislative activity diminished considerably in the territories, it did not disappear altogether, since in the various British territories provisions were adopted to protect women and young persons.

After the war legislative activity increased and in many British territories provisions amending previous standards were adopted; the minimum age was for example fixed in many British territories at 14 years¹ and in some at 15 years², and the night period during which work is prohibited was extended. In the Netherlands East Indies also, an order of 1949 raised the minimum age of admission to employment from 12 to 14 years. Measures in the Portuguese territories forbade the night work of women³, or of young persons under 18 years of age.⁴ In the Belgian Congo and Ruanda-Urundi provisions were also adopted in 1948 and 1949 forbidding night work and fixing a minimum age for admission to employment. The activity in the French territories gathered momentum from 1947 onwards; in that year the Metropolitan Labour Code was made applicable to the four Overseas Departments and to New Caledonia, and in 1952 an Overseas Labour Code was adopted for the French overseas territories and in the following years, from 1953 to 1955, was implemented through orders issued in each territory. This Overseas Code refers explicitly in its text to the international labour Conventions on night work of women and young workers. The orders issued for its application contain provisions relating to the

¹ British Guiana (1947), Malta (1947).

² Aden (1948), Solomon Islands (1947), Gibraltar (1950), etc.

³ Cape Verde (1952).

⁴ Angola (1946), Mozambique (1940) and S. Tomé (1947).

employment of women and the minimum age (unhealthy work is forbidden for women and young persons; young persons are not allowed to be employed as trimmers and stokers, etc.). The special characteristic of these provisions is that a general minimum age (14 years) is fixed for all types of work, industrial, agricultural, commercial, etc., thus affecting all the Conventions under consideration; they authorise exceptions in certain cases (light work of an agricultural and non-industrial nature). Finally, in 1953 provisions were adopted in the Trust Territory of Somaliland concerning the protection of women and the minimum age for admission to employment.

Developments Since 1955.

In a number of territories measures of application relating to the protection of women and young persons and the age of admission to employment have been taken since 1955.

As regards the prohibition of the night work of women, orders have been issued in the Comoro Islands, French Somaliland and Togo (1955) to forbid the night work of women. Similar orders have also been made in some Portuguese overseas provinces—Angola (1957), Cape Verde (1957), Mozambique (1956), S. Tomé (1958). Finally, this problem has equally been the subject of certain provisions in the 1958 Labour Code of the Trust Territory of Somaliland.

In British Honduras (1959), Brunei (1954) and Solomon Islands (1960), provisions have been adopted respecting the minimum age in industry, and in St. Pierre and Miquelon certain possibilities to make exceptions have been restricted.

With regard to the Conventions concerning the night work of young persons in industry, provisions have been adopted in Togo (1955) and French Polynesia (1956) which define the period at night during which work is prohibited. Provisions have been adopted to limit the exceptions to the prohibition of night work of young persons in French Polynesia and in Madagascar. Provisions have been adopted forbidding or limiting the exceptions allowed for the night work of young persons in Ubangi-Shari, Congo (Brazzaville), French Polynesia and Madagascar; in French Polynesia the scope of these provisions has been extended to all young persons. Provisions limiting or prohibiting the night work of young persons have also been adopted in four Portuguese overseas provinces: Angola (1957), Cape Verde (1957), Mozambique (1956), S. Tomé and Príncipe (1958).

The age of admission to employment at sea was recently fixed at 15 years in Australian New Guinea; and for employment as trimmers or stokers at 18 years in French Polynesia (1956) and at 15 years in Tanganyika (1955). In the last-mentioned country the same provision forbids the employment of young persons on board ship without presentation of a medical certificate. The Maritime Labour Code of the Trust Territory of Somaliland has also embodied a large number of the provisions of the Conventions on minimum age for employment at sea and as trimmers and stokers and on medical examination at sea.

As for the medical examination of young persons in industry, and in non-industrial occupations, orders have been made in French Somaliland (1955), French Polynesia (1956), Comoro Islands (1955), establishing compulsory medical examination for the employment of young persons under 18 years of age; the French provisions respecting the organisation of the labour medical services have been extended to Algeria. This matter has also been regulated in the Labour Code of the Trust Territory of Somaliland.

Area of Application of the Relevant Conventions and Assessment of Their Application.

The extent of the international obligations accepted by the member States as concerns the application of the Conventions on the protection of women and young

persons in non-metropolitan territories has increased further in the past six years. This increase has mainly taken place in the field of minimum age in agriculture, in respect to which eight new declarations have been received¹, and in that of the night work of women, in respect to which seven declarations were received.² The Conventions on minimum age for trimmers and stokers and medical examination of young persons in maritime employment have been declared applicable with modification in one territory.³ The Conventions on minimum age in non-industrial occupations of 1932; on underground work by women of 1935; on the night work of young persons in industry of 1948; have been declared applicable without modification in the Netherlands Antilles. Finally, seven new declarations have been made in respect of the revised Convention on minimum age for maritime employment of 1936.⁴

Moreover, during the same period, changes have been made in some territories in the legislative provisions and practice relating to this group of Conventions. In certain cases the scope of these standards is in fact more extensive than that of the obligations following from the declarations registered under article 35 of the Constitution.

At present eight countries⁵ responsible for the international relations of 44 non-metropolitan territories are bound by at least one of the Conventions providing for the prohibition of night work by women. In 32 of these territories, at least one of these Conventions is in force.⁶ According to information supplied in reports, one or other of these Conventions is completely or very substantially applied in 35 territories.

The Conventions of 1919 and 1937 on minimum age in industry have been ratified respectively by six member States⁷ responsible for the international relations of 82 non-metropolitan territories, and by two member States⁸ responsible for the international relations of four non-metropolitan territories. The first of these Conventions has been declared applicable to 29 territories.⁹ The revised Convention of 1937 has been declared applicable to 43 territories.¹⁰ It appears from the information supplied

¹ Australian New Guinea, Norfolk Island, Papua, French Guiana, Guadeloupe, Martinique Réunion, Netherlands Antilles.

² French Guiana, Guadeloupe, Martinique, Réunion, Netherlands Antilles, Netherlands New Guinea (with modification) and South West Africa.

³ Barbados.

⁴ Without modification: French Guiana, Guadeloupe, Martinique, Réunion, Netherlands Antilles, Gibraltar; with modifications: Brunei.

⁵ Belgium, France, Italy, Netherlands, New Zealand, Portugal, Spain, Union of South Africa.

⁶ Cameroun, Comoro Islands, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, French Guiana, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, Niger, New Caledonia, Ubangi-Shari, Réunion, Ruanda-Urundi, St. Pierre and Miquelon, Senegal, Sudan, Togo, Upper Volta, Trust Territory of Somaliland, Netherlands Antilles, Surinam, Netherlands New Guinea, South West Africa.

⁷ Belgium, Denmark, France, Netherlands, Spain, United Kingdom.

⁸ Italy, New Zealand.

⁹ Without modification: Faroe Islands, Cameroun, Comoro Islands, Congo, Chad, Dahomey, French Guiana, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, Niger, New Caledonia, Ubangi-Shari, Réunion, St. Pierre and Miquelon, Senegal, Soudan, Togo, Upper Volta, Guernsey, Jersey and the Isle of Man. With modifications: Greenland.

¹⁰ Without modification: Aden, Bechuanaland, Fiji, Gambia, Kenya, Mauritius, Solomon Islands, Tanganyika, Zanzibar; with modifications: Antigua, Bahamas, Barbados, Basutoland, Bermuda, British Guiana, British Honduras, British Virgin Islands, Cyprus, Dominica, Falkland Islands, Gibraltar, Gilbert and Ellice Islands, Grenada, Hong Kong, Jamaica, Malta, Montserrat, Nigeria, North Borneo, Northern Rhodesia, Nyasaland, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Southern Rhodesia, Swaziland, Trinidad and Tobago, Uganda.

in the reports that the 1919 Convention on minimum age in industry is fully or substantially applied in 64 territories.

The two Conventions of 1932 and 1937 on minimum age in non-industrial occupations have received respectively four¹ and two² ratifications from States responsible for the international relations of 32 and four non-metropolitan territories respectively. The first of these Conventions is at present in force without modification in 21 territories.³ No declaration has yet been made in respect of the later Convention. According to information contained in the reports, it appears that the 1932 Convention is fully or very substantially applied in 26 territories.

The 1921 Convention on minimum age in agriculture, which has been ratified by seven⁴ member States responsible for the international relations of 40 non-metropolitan territories, has been declared applicable to nine territories.⁵ It appears from the reports that the Convention is fully or very substantially applied in 29 territories.

As regards maritime employment, the minimum age Convention of 1920 has been ratified by eight member States⁶ responsible for the international relations of 70 non-metropolitan territories; the 1936 Convention has been ratified by seven member States⁷ responsible for 44 non-metropolitan territories. This last Convention has been declared applicable to 49 territories.⁸ The 1920 Convention on minimum age has been declared applicable to eight territories.⁹ Finally, the 1921 Convention concerning the minimum age of trimmers and stokers, which has been ratified by nine member States¹⁰ responsible for the international relations of 90 non-metropolitan territories, has been declared applicable to 37 territories.¹¹ It should be noted that the legislation of almost all non-metropolitan territories with access to the sea in respect of which information is available contains provisions giving effect to these standards.

The 1919 and 1948 Conventions on the night work of young persons in industry have been ratified respectively by seven member States¹² responsible for the interna-

¹ Belgium, France, Netherlands, Spain.

² Italy, New Zealand.

³ Cameroun, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Polynesia, French Somaliland, Gabon, Guinea, Ivory Coast, Madagascar, Mauritania, Niger, New Caledonia, Ubangi-Shari, St. Pierre and Miquelon, Senegal, Sudan, Togo, Upper Volta, Netherlands Antilles.

⁴ Australia, Belgium, France, Italy, Netherlands, New Zealand, Spain.

⁵ Without modification: Australian New Guinea, Norfolk Island, Papua, French Guiana, Guadeloupe, Martinique, Réunion, Netherlands Antilles; with modifications: Trust Territory of Somaliland.

⁶ Australia, Belgium, Denmark, Italy, Netherlands, Portugal, Spain, United Kingdom.

⁷ Belgium, Denmark, France, Italy, Netherlands, New Zealand, United States.

⁸ Without modification: Alaska, Guam, Hawaii, Puerto Rico, Western Samoa, American Virgin Islands, French Guiana, Guadeloupe, Martinique, Réunion, Netherlands Antilles, Aden, Dominica, Fiji, Gambia, Gibraltar, Grenada, Jamaica, Kenya, Mauritius, St. Helena, Seychelles, Sierra Leone, Solomon Islands, Uganda, Zanzibar; with modification: Antigua, Bahamas, Barbados, British Guiana, British Honduras, British Virgin Islands, Brunei, Cyprus, Falkland Islands, Gilbert and Ellice Islands, Hong Kong, Malta, Montserrat, Nigeria, North Borneo, Nyasaland, St. Christopher-Nevis-Anguilla, St. Lucia, St. Vincent, Sarawak, Singapore, Tanganyika, Trinidad and Tobago.

⁹ Without modification: Australian New Guinea, Papua, Faroe Islands, Guernsey, Jersey, Isle of Man; with modification: Greenland, Trust Territory of Somaliland.

¹⁰ Australia, Belgium, Denmark, France, Italy, Netherlands, New Zealand, Spain, United Kingdom.

¹¹ Without modification: Faroe Islands, Greenland, Guernsey, Jersey, Isle of Man, Aden, Bermuda, British Guiana, Brunei, Cyprus, Dominica, Gambia, Gibraltar, Grenada, Hong Kong, Jamaica, Kenya, Malta, Mauritius, Nigeria, North Borneo, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar; with modifications: Trust Territory of Somaliland, Barbados, Fiji, Nyasaland, Solomon Islands.

¹² Belgium, Denmark, France, Italy, Netherlands, Portugal, Spain.

tional relations of 43 non-metropolitan territories and two States¹ responsible for four territories. The 1919 Convention has been declared applicable to 30 territories² and the later Convention has been declared applicable only to the Netherlands Antilles. The 1919 Convention is fully or very substantially applied in 31 territories.

The Convention concerning night work in non-industrial occupations has been ratified by only one State³ responsible for one non-metropolitan territory.

Finally, the Conventions on medical examination of young persons (sea) of 1921 (industry) of 1946, and (non-industrial occupations) of 1946 have been ratified by eight member States⁴ responsible for the international relations of 87 non-metropolitan territories as regards the first of these Conventions and by two States⁵ responsible for 26 territories as regards each of the other two Conventions. The Convention concerning seamen has been declared applicable to 34 territories.⁶ According to the information available, it appears to be fully or very substantially applied in 52 territories. The two Conventions of 1946 concerning industry and non-industrial occupations have not been declared applicable to any territory. According to the information available, these Conventions appear to be partially applied in 22 territories.

Characteristics of the Systems in Force.

At present, in the majority of present or former non-metropolitan territories there are provisions prohibiting night and underground work of women and admission to employment or to certain categories of work under a given age. The employment of women appears to be very limited in most of the countries under review. In certain present or former territories, the provisions on the subject are similar to those existing in member States. As concerns minimum age a distinction may be made between territories which fix a minimum age of admission for all types of employment⁷, while permitting exceptions for light work and fixing higher ages for unhealthy work, and those in which a series of prohibitions are laid down for various sectors, industries or trades.⁸ It is fairly common to find that the power to grant certain exceptions is vested in labour inspectors; while this enables inspectors to act with a certain degree of flexibility having regard to local conditions, it leaves them a discretion in the matter which exceeds that allowed by international standards. The 1921 Convention on minimum age in agriculture is sometimes applied indirectly in virtue of provisions on compulsory education.⁹ The organisation of an effectively supervised system of compulsory education tends to ensure the application of this Convention, even if it only forbids work by children during school hours; it is also an impor-

¹ Italy, Netherlands.

² Without modification: Faroe Islands, Greenland, Algeria, Cameroun, Comoro Islands, Chad, Congo (Brazzaville), Dahomey, French Guiana, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, Niger, New Caledonia, Ubangi-Shari, Réunion, St. Pierre and Miquelon, Senegal, Sudan, Togo, Upper Volta, Guernsey, Jersey, Isle of Man.

³ Italy.

⁴ Australia, Belgium, Denmark, France, Italy, Netherlands, Spain, United Kingdom.

⁵ France, Italy.

⁶ Without modification: Faroe Islands, Greenland, Trust Territory of Somaliland, Aden, Bermuda, Cyprus, Dominica, Gambia, Gibraltar, Grenada, Guernsey, Hong Kong, Jamaica, Jersey, Malta, Isle of Man, Mauritius, Nigeria, North Borneo, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Singapore, Solomon Islands, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar; with modifications: Barbados, Fiji, Kenya.

⁷ This is generally true in respect of the present and former French non-metropolitan territories.

⁸ This is the case in most of the present and former British territories.

⁹ French Guiana, Guadeloupe, Martinique and Réunion.

tant factor in the application of the other Conventions dealing with minimum age. As regards medical examination, which is frequently a difficult problem to solve due to lack of medical personnel, there exist two systems, that of examination before admission to employment and that of periodical examination, both of which are provided for in the Conventions. The existing and former French territories generally provide for medical examination both in industrial and in other occupations, while in other territories, provision is generally made for medical examination only in respect of industrial occupations.

Principal Outstanding Problems

From the information available it may be concluded that the problems of female and child labour in non-metropolitan territories are closely bound up with local social and economic conditions. As indicated above, the employment of women as wage earners, except in agriculture, is not extensive. In recent times a certain development has been noticeable in this respect, and women are beginning to be employed in towns as nurses, clerical workers, etc. However, in the few industries which exist, subject to a few exceptions, the employment of women is practically non-existent in the majority of territories.

As regards the work of young persons, the implementation of minimum age for admission to employment is sometimes made difficult owing to the need of children to find means of subsistence when their parents are not able to support them. Further, compulsory education is not widespread. Another difficulty is often the absence of a birth certificate, making necessary recourse to a medical certificate stating the presumed age of the person concerned.

As regards medical examination, the difficulties are even greater due to the shortage in most cases of the necessary medical staff.

However, the protection of female and child labour should be one of the main aims of future social policy. The fact that in many instances these objectives are closely related to other social measures and call for educational and medical facilities reinforces the importance of this question.

Section III. Occupational Safety and Health

Brief Description of Principal International Standards.

Leaving aside the occupational diseases Conventions which have been dealt with in the chapter on social security, only five Conventions concern occupational safety and health.¹

The White Lead (Painting) Convention, 1921 (No. 13), forbids the use of white lead and sulphate of lead in the internal painting of buildings. In certain kinds of painting (artistic painting or fine lining) the use of white lead and sulphate of lead is permitted, subject to regulations conforming to certain principles set out in the Convention itself.

The Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27), makes obligatory the marking of weight of any package or object of 1,000 kilogrammes or more gross weight consigned for transport by sea or inland waterway. Two other Conventions also concern the protection of dockers: the Protection against Accidents (Dockers) Convention, 1929 (No. 28), and the Convention of 1932 (No. 32) revising it. These two instruments contain very detailed provisions laying down safeguards for dockers in the course of loading and unloading vessels.

¹ Account is not taken of the Protection against Radiations Convention adopted by the Conference in 1960.

Finally, the Safety Provisions (Building) Convention, 1937 (No. 62), contains a large number of provisions on safety measures with regard to scaffolds and hoisting appliances, safety equipment, and first aid in case of accident in the course of work.

Earlier Measures respecting Occupational Safety and Health.

Provisions dealing with occupational safety and health in a general way were adopted in certain non-metropolitan territories in the course of the period between the two World Wars. Some of these provisions date even from before the First World War. Thus, for example, a decree of 10 June 1910 published in Tunisia, laid down that employers were required to "observe the principal rules of health and safety concerning machines in workshops". Similarly, the provisions of the French Labour Code concerning, *inter alia*, the safety and health of workers were applied to Martinique and Guadeloupe in 1912 and 1913 respectively, and to Réunion and French Guiana in 1917 and 1924. In the Belgian Congo a decree of 4 June 1913 provided regulations for the supervision of dangerous or unhealthy premises. Later, an ordinance of 31 May 1929 included painting among the dangerous or unhealthy occupations subject to a prior authorisation and to supervision by the authorities.

In certain British non-metropolitan territories general legislation on occupational safety and health had also been adopted prior to the last war. However, in most cases, such provisions were made in the Public Health Ordinances and were not the subject of special legislation. Further, in some territories regulations dealing with dangerous and unhealthy occupations had been adopted.

General measures of this kind could only cover partially and frequently indirectly the subjects dealt with in the Conventions under consideration. Nevertheless they marked the beginning of the intervention by public authorities in non-metropolitan territories in the field of the workers' safety and health.

As regards the use of white lead, the decree of 21 March 1913 prohibited the use of white lead in painting of buildings in Algeria. The same prohibition was provided for in Morocco by the Dahir of 13 July 1926. A decree of 28 December 1937 applying the White Lead (Painting) Convention in French colonies was promulgated in 1938 in French West Africa, French Equatorial Africa, the Camerouns, Madagascar, the French Settlements in Oceania and New Caledonia. Finally, a decree of 2 March 1939 applied the provisions of the French Labour Code, which prohibited the use of white lead, to French Guiana and New Caledonia. In the Netherlands Indies, Ordinance No. 509 of 1931 laid down safeguards against the use of white lead as a raw material.

The marking of weight on packages transported by vessels was provided for in an ordinance of 1930 applicable to all the former Japanese territories. Similar measures were adopted by an ordinance of 31 August 1932 in two Australian territories, Norfolk Island and New Guinea. Finally, decrees on the same subject were published in 1933 in the Italian possessions.

As regards the protection of dockers against accidents, a series of ordinances was adopted in several British territories beginning in 1936: Gold Coast (1936); Falkland Islands, Gambia, Kenya, Mauritius, Nigeria, Uganda and Zanzibar (1937); British Guiana (1938); and Cyprus (1939).

Finally, safety provisions in the building industry were prescribed in Tunisia, under the decree of 4 August 1936 and in Madagascar by decree of 7 April 1938.

Developments Since 1955.

In the course of the last six years, measures have been taken in certain territories to give fuller effect to the provisions of the Conventions under consideration. Thus, orders prohibiting and regulating the use of white lead were brought into force in

several French African territories: French West Africa and Togo (1955); Madagascar, Cameroons and French Somaliland (1956); French Equatorial Africa and Togo (1957). In the Netherlands Antilles a safety decree of 1955 prohibited the use of white lead in painting.

The provisions for the protection of dockers have also been more fully applied, owing to the bringing into force of new regulations concerning occupational safety, *inter alia*, in Hong Kong and New Caledonia (1955) and in Gibraltar and Barbados (1956).

Safety provisions in the building industry have been the subject of numerous laws and regulations in various territories. Some of these provisions are of a general character as for example the orders made in French Equatorial Africa, the Cameroons, and Madagascar in 1954. In other cases, on the other hand, such as the Congo (Leopoldville) and French West Africa (1955), special safety measures applicable to building sites were prescribed.

Area of Application of the Relevant Conventions and Assessment of Their Application.

Since 1955 there have been seven new declarations of application to non-metropolitan territories in respect of the Conventions in question.

The White Lead (Painting) Convention, 1921, has been ratified by five States¹ responsible for altogether 33 territories. It has been declared applicable to 26 of these territories.² It appears from the available information that the Convention is fully or very substantially applied in 25 territories.

The Marking of Weight (Packages Transported by Vessels) Convention, 1927, has been ratified by nine States³ responsible altogether for 48 territories. It has been declared applicable to seven of these territories.⁴ It appears to be completely applied in 14 territories.

The standards contained in the Conventions of 1929 and 1932 concerning the protection of dockers are in force in six States⁵ responsible for altogether 81 territories. The Convention of 1932 is applicable to three territories.⁶ The standards laid down in these Conventions appear to be completely or substantially applied in 16 territories.

The Safety Provisions (Building) Convention, 1937 has been ratified by four States⁷ responsible altogether for 32 territories. It has been declared applicable to seven territories.⁸ It appears to be substantially applied in 11 territories.

Principal Outstanding Problems

The foregoing indications only give a very incomplete picture of the situation in existing and former non-metropolitan territories as regards occupational safety and health.

¹ Belgium, France, Italy, Netherlands, Spain.

² *France* : Algeria, Cameroun, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Guiana, French Polynesia, French Somaliland, Gabon, Guadeloupe, Guinea, Ivory Coast, Madagascar, Martinique, Mauritania, New Caledonia, Niger, Ubangi-Shari, Réunion, St. Pierre and Miquelon, Senegal, Sudan, Togoland, Upper Volta; *Netherlands* : Surinam.

³ Australia, Belgium, Denmark, (conditional ratification), France, Italy, Netherlands, Portugal, Spain, Union of South Africa (conditional ratification).

⁴ *Australia* : New Guinea, Norfolk Island, Papua; *Belgium* : Congo, Ruanda-Urundi; *Denmark* : Faroe Islands; *Netherlands* : Surinam.

⁵ Belgium, France, Italy, New Zealand, Spain, United Kingdom.

⁶ *United Kingdom* : Guernsey, Jersey, Isle of Man.

⁷ Belgium, France, Netherlands, Spain.

⁸ *Belgium* : Congo, Ruanda-Urundi; *France* : French Guiana, Guadeloupe, Martinique, Réunion; *Netherlands* : Surinam.

This is due to the fact that hitherto occupational safety and health have been dealt with in a very small number of Conventions and that, moreover, these Conventions concern only certain protective measures for special categories of workers such as building workers, dockers, and painters of buildings.

In this connection the Committee has noted with interest that the International Labour Conference has recently devoted a part of its standard-setting activities to questions of occupational safety and health. In 1960 it adopted a Convention and a Recommendation on protection against radiations, and the question of the guards with which certain machinery should be provided has been placed on the agenda of a future session of the Conference.

As agriculture and craft industries become mechanised and new industries are created and developed in the various existing and former non-metropolitan territories, problems of occupational safety and health will take on increased importance for the workers of these countries. This has already become apparent as regards diseases caused by dust, and it is becoming necessary to provide for protection against certain diseases and accidents in agriculture and in food-processing plants. This is an important field which should not be neglected by international, national or territorial action.

Chapter V. Social Security

Introduction

The way in which the various social security Conventions are applied in each territory varies considerably according to their degree of economic and social development. On the whole particularly detailed information has been supplied by governments with regard to law and practice ensuring appropriate compensation for persons suffering employment injuries (occupational accidents and diseases). This need perhaps cause no surprise, since in many countries the social security systems originated in schemes providing protection in the event of an employment injury. With regard to the other social contingencies—whether more or less long-term ones calling for the adoption of pension schemes (old-age, survivors, or invalidity) or short-term ones such as maternity or sickness—against which international social security standards are intended to protect the worker, it is particularly encouraging to note that in an already considerable number of territories positive action has been taken to protect workers or some of them.

This chapter will therefore be divided into two sections; the first will relate to compensation for employment injuries and the second to protection against the other contingencies covered by international social security standards.

Section I. Compensation for Employment Injuries

Brief Description of the Main International Standards.

Some of the Conventions dealing with this subject relate only to compensation for either industrial accidents or occupational diseases¹, while others deal with both accidents and diseases arising out of employment, without distinction.²

¹ Industrial accidents are dealt with in the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) and the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19); occupational diseases are dealt with in the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42).

² Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), and Social Security (Minimum Standards) Convention, 1952 (No. 102), Part VI.

These various instruments provide directly or indirectly that a worker injured in an occupational accident shall be entitled to appropriate medical care and to a cash benefit throughout the duration of his incapacity for work; in addition, cash benefits are to be granted to the injured person if disabled and to his dependants if he dies.

The categories of persons protected under the various instruments can be briefly summed up as follows: the workmen's compensation scheme provided for by the Workmen's Compensation (Accidents) Convention, 1925, must apply to all persons who suffer personal injury due to an industrial accident, except seamen, fishermen and agricultural workers. The 1921 Convention is intended to provide the same protection for agricultural wage earners as for industrial workers. The Equality of Treatment (Accident Compensation) Convention, 1925, is intended to secure for foreign workers and their dependants, without any residence condition, the same compensation as for the nationals of countries bound by that Convention. The two Conventions relating to occupational diseases, of 1925 and 1934, each include a schedule in which are listed the diseases that must be deemed to be occupational diseases and the corresponding trades, industries or processes for which there must be a right to compensation similar to that granted in the event of occupational accidents. Under the 1936 Convention the shipowner is responsible for compensation for all his seamen, irrespective of their nationality, place of residence or race, against accidents or diseases between the beginning and the termination of their engagement. The Social Security (Minimum Standards) Convention, 1952, provides in Part VI that the persons protected shall comprise prescribed classes of employees, constituting not less than 50 per cent. of all employees in the country, or, as a transitional measure, not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

Earlier Measures regarding Workmen's Compensation.

The enactment in certain non-metropolitan territories of legislation which constituted a first step towards providing compensation for employment injuries often dates back to times prior to the ratification of the corresponding Conventions by the member States responsible for those territories, and in some cases even to times prior to the establishment of the International Labour Organisation itself. For example, legislation providing either for the liability of employers in respect of certain accidents occurring in the course of employment or for the establishment of a workmen's compensation scheme came into force at the end of the nineteenth century in certain British territories—St. Vincent (Workmen's Compensation Ordinance, No. 7 of 1884); Grenada (Workmen's Compensation Ordinance, No. 2 of 1885); Barbados (Employers' Liability Act, 1896); Trinidad and Tobago (Employers' Liability Ordinance, No. 78 of 1896).

The adoption of such legislation continued in the early years of the twentieth century and was accelerated in the years following the First World War and after the foundation of the International Labour Organisation in 1919. Mention may be made, for example, of the Employers' Liability Act (No. 35 of 1919) in Jamaica and the Workmen's Compensation Ordinances (Nos. 15 and 20 of 1922) in Southern Rhodesia. Section 34 of the French Workmen's Compensation Act of 9 April 1898 had provided that regulations should be issued to determine how the Act should apply to territories under French administration. Such an extension, which was already under consideration in 1903, was effected in Martinique and Guadeloupe in 1913, in Réunion and French Guiana in 1917, in Algeria by a decree dated 5 January 1919 and in Tunisia by a decree of 15 March 1921.

Such workmen's compensation schemes originally covered only workers employed in industrial undertakings, but their scope was soon extended to cover

agricultural workers: in Tunisia under a decree issued by the Bey in 1924, and in French Guiana, Guadeloupe, Martinique and Réunion by regulations dated 19 July 1925.

As regards the protection of alien workers, in a number of cases workmen's compensation laws made no distinctions on the basis of nationality from the outset. This was true, for example, of the Workmen's Compensation Proclamation (No. 28 of 1936) of Bechuanaland and the Regulations of 1929 concerning compensation in respect of occupational diseases contracted in mines, which Japan had made applicable to Korea and Formosa.

As regards compensation for occupational diseases, it is interesting to note that in a certain number of cases legislation made the provisions of the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), applicable to certain territories as part of their law. This was the case as regards certain United Kingdom territories such as the Federated Malay States (Act No. 1 of 1929), and certain territories under French administration such as those of former French West Africa (Dahomey, Guinea, Ivory Coast, Mauritania, Niger, Senegal, Sudan and Upper Volta (Governor-General's Order of 22 January 1933)).

As regards compensation for accidents affecting seamen the information available shows that the maritime legislation of the United States was also applicable to practically all United States territories at the time of ratification in 1938 of the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55). In other territories, such as New Caledonia and St. Pierre and Miquelon, the workmen's compensation legislation was extended to seamen in 1926. In the French Protectorate of Morocco the Dahir of 1927 concerning occupational accidents was extended to seamen in 1945. As the Committee noted in 1955, the main laws applying the international labour Conventions relating to compensation for employment injuries had already come into force before 1949 in almost all the non-metropolitan territories for which States Members having ratified those Conventions were responsible.

Developments Since 1955.

Many new laws and regulations have been adopted with regard to workmen's compensation in non-metropolitan territories since 1955, when the Committee made its last general review.

First, there are territories where general provisions have been adopted to organise or recast the existing workmen's compensation schemes. This applies to the former territories of French Equatorial Africa and French West Africa, the Comoro Islands, Madagascar and New Caledonia, under a decree of 1957 and local regulations issued under it. United Kingdom territories where the situation underwent similar changes include Antigua (1956), British Guiana (1952-55), British Honduras (1959), Brunei (1957), Gambia (1956), Malta (1956), Montserrat (1956), North Borneo (1955), Northern Rhodesia (1956), St. Christopher-Nevis-Anguilla (1955), Sarawak (1956), Sierra Leone (1954-55) and Zanzibar (1957). Similar steps were taken in the Portuguese Overseas Provinces of Angola, Cape Verde and Mozambique in 1957.

In certain cases the new schemes are based on social insurance, as in Malta under an Act of 1956, or the legislation introduced compulsory insurance for all employers, as in the case of all the territories or former territories for whose international relations France was responsible during this period, or for employers in certain industries, as in British Honduras. In the Trust Territory of Somaliland compulsory insurance, which previously applied only to accidents, was extended to occupational diseases.

The scope of earlier legislation has been extended to cover further classes of workers—agricultural workers (Singapore, 1954-55), or specified agricultural workers

(Hong Kong, 1958; Jamaica, 1954; Swaziland, 1955), domestic servants (British Guiana, 1957; Congo (Leopoldville), 1959; Jamaica, 1954; Ruanda-Urundi, 1959) or certain non-manual workers (Fiji, 1957).

In a large number of territories the scope of the schemes has also been extended by revising the schedules of compensatable occupational diseases and of the corresponding trades or occupations, or by adopting new schedules. This has occurred in Belgian territories (in 1955 and 1959), almost all French territories (in 1955, 1957, 1958 and 1959, etc.), in the Portuguese provinces of Mozambique (1957) and S. Tomé and Príncipe (1958), as well as in many United Kingdom territories such as British Guiana (1955), Uganda and Northern Rhodesia (1955 and 1959) and Kenya (1958).

Workmen's compensation schemes have also often been improved by measures of a more limited character such as provision for a free supply of the necessary drugs and appliances together with free medical care (Algeria, 1957), an increase in annuities and benefits (Algeria, 1954), an increase in the pension payable to the surviving spouse, bringing the amount up to 50 per cent. of the wage in certain cases (1957), an increase in the allowances payable to persons needing the constant attendance of another person and the adoption of a higher figure for the wage on which benefit rates are based (1957); temporary disability benefit raised from half to two-thirds of the wage (Trust Territory of Somaliland, 1955); 25 per cent. increase in compensation rates (Malta, 1957); increase in compensation rates (Fiji and Tanganyika, 1957); introduction of additional allowances payable to persons needing the constant attendance of another person (Aden); abolition of certain waiting periods, etc. (Gibraltar, Congo (Leopoldville), Ruanda-Urundi, 1959).

Area of Application of the Relevant Conventions and Assessment of Their Application.

The scope of the international obligations accepted by States Members with regard to the application to their territories of Conventions relating to compensation for employment injuries has continued to grow during the last six years. Of the 40 declarations communicated under article 35 with regard to the applicability to territories of the Conventions under review, 36 made the Convention concerned applicable without modification and two made it applicable with modifications. Moreover, during this same period, governments increased even further the efforts they were making to ensure a more complete application of international standards by amending and supplementing their law and practice. As a result there is sometimes a considerable difference between the area of formal obligations arising out of declarations communicated under article 35 of the I.L.O. Constitution, on the one hand, and the actual situation as revealed in the reports, on the other.

For example, the Workmen's Compensation (Agriculture) Convention, 1921, which has been ratified by ten States Members¹ responsible for a total of 98 non-metropolitan territories, has been declared applicable to only seven such territories.² However, the legislation in force in 63 territories—or about two-thirds of those under review—does not make any distinction between agricultural and industrial workers in respect of occupational accidents and therefore ensures complete application of the Convention.

The Workmen's Compensation (Accidents) Convention, 1925, which has been ratified by seven States Members³ responsible for a total of 91 non-metropolitan

¹ Australia, Belgium, Denmark, France, Italy, Netherlands, New Zealand, Portugal, Spain and United Kingdom.

² Congo (Leopoldville), Ruanda-Urundi; Faroe Islands; Netherlands Antilles; Guernsey, Jersey, Isle of Man.

³ Belgium, France, Netherlands, New Zealand, Portugal, Spain and United Kingdom.

territories, has been declared applicable to 50 territories.¹ In fact the reports show that the Convention is almost completely applied in some 60 territories; apart from the many cases in which the Convention seems to be fully applied by the legislation in force, the law and practice in a large number of territories apply the Convention fully except on one or two more or less minor points.

With regard to the protection of aliens in respect of compensation for occupational accidents, it seems that the legislation in force in almost all non-metropolitan territories does not discriminate against aliens and provides for the nationals of all countries that have ratified the Equality of Treatment (Accident Compensation) Convention, 1925, the same compensation as is payable to workers belonging to the territories. This Convention, which has been ratified by ten States Members² responsible for the total of 96 non-metropolitan territories, has been declared applicable to 59 territories.³

There are two special Conventions on compensation for occupational diseases: the first is the Workmen's Compensation (Occupational Diseases) Convention, 1925, which is designed to ensure the payment of compensation for one infectious disease and for two classes of poisonings⁴ affecting specified workers; the Convention of 1934 reproduces this minimum schedule with the addition of seven further classes of poisonings or diseases⁵ in respect of which compensation is to be provided. The minimum standards set by the 1925 Convention should therefore be regarded as binding not only the States that have ratified that Convention and the territories where it has come into force but also the States or territories where the 1934 Convention is in force.

The minimum standard set with regard to occupational diseases by the 1925 Convention is therefore in force in 11 States⁶ responsible for a total of 99 non-

¹ Including the Trust Territory of Somaliland, on behalf of which Italy accepted the provisions of the Convention although it had not itself ratified this instrument. The various declarations were as follows: applicable without modification: 18 territories: Congo (Leopoldville), Ruanda-Urundi, French Guiana, Guadeloupe, Martinique, Réunion; Trust Territory of Somaliland; Netherlands Antilles, Surinam; Gibraltar, Guernsey, Jersey, Isle of Man, Kenya, Mauritius, Northern Rhodesia, Sierra Leone, Tanganyika; applicable with modifications: 32 territories: Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Honduras, British Virgin Islands, Cyprus, Dominica, Falkland Islands, Fiji, Gambia, Grenada, Jamaica, Malta, Montserrat, Nigeria, North Borneo, Nyasaland, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Singapore, Solomon Islands, Southern Rhodesia, Swaziland, Trinidad and Tobago, Uganda.

² Australia, Belgium, Denmark, France, Italy, Netherlands, Portugal, Spain, Union of South Africa and United Kingdom.

³ Declarations of application without modification in respect of 57 territories: Nauru, Australian New Guinea, Papua; Congo (Leopoldville), Ruanda-Urundi; Faroe Islands, Greenland; Algeria, French Guinea, Guadeloupe, Martinique, Réunion; Surinam; Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Honduras, British Virgin Islands, Brunei, Cyprus, Dominica, Falkland Islands, Fiji, Gambia, Gibraltar, Grenada, Guernsey, Hong Kong, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Montserrat, Nigeria, Northern Rhodesia, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Sarawak, Sierra Leone, Singapore, Solomon Islands, Southern Rhodesia, Swaziland, Tanganyika, Trinidad and Tobago, Uganda, Zanzibar; South West Africa; application with modifications: North Borneo, Nyasaland.

⁴ Anthrax infection and poisoning by lead or mercury (and their compounds, etc.)

⁵ Poisoning by phosphorus, arsenic, benzene or the halogen derivatives of hydrocarbons of the aliphatic series, etc., silicosis, pathological manifestations due to certain kinds of radiation, and primary epitheliomatous cancer of the skin.

⁶ Australia, Belgium, Denmark, France, Italy, Netherlands, *New Zealand* (42), *Portugal* (18), Spain, *Union of South Africa* (42), and United Kingdom (the names in *italics* are those of States which have ratified only one of these Conventions, the number of the Convention in each case being given in brackets).

metropolitan territories, and this standard is formally applicable to 26 such territories.¹

According to the information available it seems that in about 50—or about half—of the territories in question the legislation in force applies to a very considerable extent the standards prescribed by the 1925 Convention. In fact it is even very common, in territories where the schedule of diseases that are presumed to be of occupational origin and of the corresponding trades or occupations do not coincide exactly with the schedule to the 1925 Convention, for the regulations in force to introduce such a presumption of occupational origin in respect of other diseases.

The Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934, has been ratified by ten States² responsible for 91 non-metropolitan territories, to 16 of which it has been declared applicable.³ In fact, however, the reports examined show that this Convention is very fully applied in some 40—that is, roughly half—of the territories under review. Here again it often happens that in territories where the schedule of occupational diseases does not include all the diseases (or trades or occupations) listed in the 1934 Convention the legislation in force covers other diseases (or trades or occupations) which are not covered by the Convention.

The fact that certain diseases covered by international standards are not included among the diseases presumed to be of occupational origin in a particular territory may in certain circumstances be of little practical importance, having regard to the nature of the industries established in the territory. On the other hand, it is very interesting to note that the legislation does more than merely cover the occupational diseases listed in the international instruments. In many territories this matter is reviewed at regular intervals by the appropriate authorities and the list of diseases deemed to be of occupational origin is periodically revised in conformity with the Recommendation adopted by the International Labour Conference in 1925.

The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936, has been ratified by four States Members⁴ responsible for a total of 36 non-metropolitan territories, of which six have no access to the sea. This Convention has been declared applicable to ten territories.⁵

The information provided in the reports shows that the provisions of this Convention are applied in 22—or over two-thirds—of those of the territories under review that have access to the sea.

Part VI of the Social Security (Minimum Standards) Convention, 1952, which deals with employment injuries, was included in the ratification by two States which are responsible for a total of four territories. This Part has not as yet been declared applicable to any of those four.

There is not enough information available to allow the extent to which the law and practice of these territories gives effect to this Part of the Convention to be evaluated.

On the whole, however, it seems from the information supplied with regard to the various Conventions considered above that in several territories Part VI of the

¹ Nauru, Australian New Guinea, Papua; Congo (Leopoldville), Ruanda-Urundi; Faroe Islands; Algeria, Dahomey, French Guiana, Guinea, Sudan, Guadeloupe, Ivory Coast, Martinique, Mauritania, Niger, Réunion, Senegal, Upper Volta; Trust Territory of Somaliland; Netherlands Antilles, Surinam; Guernsey, Jersey, Isle of Man; South West Africa.

² Australia, Belgium, Denmark, France, Italy, Netherlands, New Zealand, Spain, Union of South Africa and United Kingdom.

³ Nauru, Australian New Guinea, Papua; Congo (Leopoldville), Ruanda-Urundi; French Guiana, Guadeloupe, Martinique, Réunion; Trust Territory of Somaliland; Netherlands Antilles, Surinam; Guernsey, Jersey, Isle of Man; South West Africa.

⁴ Belgium, France, Italy and United States.

⁵ French Guiana, Guadeloupe, Martinique, Réunion; Alaska, Guam, Hawaii, Puerto Rico, American Samoa, Virgin Islands.

Social Security (Minimum Standards) Convention, 1952, is substantially applied. This seems to be the case in some of the territories where the medical care and cash benefits prescribed are provided either under a compulsory social insurance scheme or when the employers' liability insurance is compulsory (when the system complies with prescribed rules and is supervised by the public authorities).

Characteristics of Existing Schemes.

Almost all the workmen's compensation schemes in force in the territories are based on the principle of employers' liability. The extent to which such liability is presumed varies according to the legislation. On the whole in territories for whose international relations the United Kingdom is responsible such a presumption is made only with regards to accidents arising out of *and* in the course of employment, so that certain contingencies such as accidents on the way to and from work are excluded, although when an accident occurs in the course of travel by transport facilities provided by the employer the injured person or his dependants may sue the employer for damages if they can prove negligence. In other territories, including those for whose international relations France is or was responsible, the presumption relates to accidents arising either out of *or* in the course of employment, including accidents in which a worker is involved while travelling to or from work.

As a rule the legislation in force establishes a presumption of occupational origin for diseases in respect of which compensation is payable, through a double list system similar to that used in the Conventions of 1925 and 1934. Provision is generally made for the review of such lists or schedules at regular intervals, so that new diseases and the corresponding occupations and processes may be included as new industries are established and as the results of scientific research on the probable origin of certain occupational diseases become available.

The compensation provided for in the legislation is paid in the form of periodical payments in the case of permanent incapacity and death, in territories for whose international relations Belgium, France and Italy are or were responsible. The same holds good for a few United Kingdom territories such as Northern and Southern Rhodesia, but in most United Kingdom territories compensation is generally paid in the form of a lump sum.

In territories for whose international relations Belgium, France and Italy are or were responsible, as well as in a few United Kingdom territories, the employer must insure himself either with approved private companies or with a public social insurance fund. In addition, in certain territories such as the Belgian ones, a special guarantee fund was set up to pay the compensation if the debtor defaulted, irrespective of whether the debtor was an employer or an insurance company.

Principal Outstanding Problems

The information available seems to show that the main improvements still to be made to workmen's compensation schemes in non-metropolitan territories where suitable provisions are not yet in force would consist in ensuring that the legislation provides sufficient safeguards to ensure the payment of compensation if the employer defaults on his obligations, considering whether it would not be possible to substitute periodical payments for lump-sum compensation, and providing with regard to occupational diseases that when a disease is not statutorily presumed to be of occupational origin by virtue of its inclusion in the double list, compensation in respect of it may nevertheless be payable if its occupational origin is proved. In addition, in territories where compensation schemes have not yet been extended to cover all workers, including agricultural workers, this should be done as soon as possible.

The most commonly used system for guaranteeing the worker against the employer's insolvency is, as already stated, to compel the employer to insure himself. In this connection it should of course be understood that there are many cases in which numerous employers prefer to protect themselves in this respect by insuring themselves even when they are not statutorily obliged to do so. In countries where this practice is sufficiently widespread there should be no insuperable difficulty to prevent the adoption of legislation making insurance compulsory. In other countries it would perhaps be possible as a transitional measure to set up as an initial step a guarantee fund that would pay benefit if the employer defaults.

There are sometimes objections to paying benefits in the form of periodical payments: for example it is sometimes claimed that in times of inflation it is to the advantage of an injured worker or his dependants to receive a lump sum. It seems, however, that under systems whereby, as recommended by the Social Security (Minimum Standards) Convention, 1952, the rates of benefit are reviewed at regular intervals, particularly in the light of increases in the cost of living, this objection is not as valid as is sometimes suggested. In addition, particularly when the beneficiaries are persons who have no habits of thrift, it may be much more dangerous to pay a lump sum if there is no guarantee that the beneficiary will use it properly.

Finally, with regard to occupational diseases, it is hardly conceivable that even when the injured worker or his dependants have proved the occupational origin of a disease, they should be denied all compensation on the ground that the disease in question is not included in the list of those statutorily presumed to be of occupational origin.

Statements in many reports show that such problems are being given active consideration by the local administrations of many non-metropolitan territories. The Committee hopes that this work will rapidly lead them to adopt provisions ensuring fuller social protection for persons suffering employment injuries and their families.

Section II. Protection against Other Contingencies

Brief Description of the Principal International Standards.

The first Conventions adopted each concern a particular contingency: maternity, sickness, old age, invalidity, survival, unemployment.¹ They imply a preference for the introduction of contributory social security schemes, except as regards maternity. Some of them concern employees on agricultural undertakings, others employees in industrial and commercial undertakings, including homeworkers and domestic workers, and, for the Old-Age, Invalidity and Survivors' Insurance Conventions, employees in the liberal professions. However, the 1934 Convention on unemployment provisions applies without distinction to workers in industry and commerce and agriculture, whereas maternity protection is provided in the 1919 Convention only for women employed in industrial and commercial undertakings.

The 1952 Convention concerning minimum standards of social security covers protection against the whole range of social contingencies, and particularly medical care (Part II), sickness benefit (Part III), unemployment benefit (Part IV), old-age benefit (Part V), family benefit (Part VII), maternity benefit (Part VIII), invalidity

¹ Maternity Protection Convention, 1919 (No. 3); Maternity Protection (Revised) Convention, 1952 (No. 103); Sickness Insurance (Industry) Convention, 1927 (No. 24); Sickness Insurance (Agriculture) Convention, 1927 (No. 25); Old-Age Insurance (Industry etc.) Convention, 1933 (No. 35); Old-Age Insurance (Agriculture) Convention, 1933 (No. 36); Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37); Invalidity Insurance (Agriculture) Convention, 1933 (No. 38); Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39); Survivors' Insurance (Agriculture) Convention, 1933 (No. 40); Unemployment Provision Convention, 1934 (No. 44).

benefit (Part IX), survivors' benefit (Part X); States Members need accept certain parts only in their ratification. Protected persons shall comprise either a minimum percentage of employees or active persons (including their family) or—with the exception of medical care—all residents if the benefits are only granted to persons whose means at the time of the contingency do not exceed prescribed limits. The Convention makes no distinction as to whether protected persons belong to agricultural occupations or not; it leaves it open to the ratifying State to decide whether to set up contributory or non-contributory schemes.

None of these Conventions applies to seafarers who are covered by the 1936 Convention on shipowners' liability in the case of sick and injured seafarers¹, and the 1936 Convention on seafarers' sickness insurance. Conventions No. 70 on seafarers' social security, 1946, and No. 71 on seafarers' pensions, 1946, have not yet come into force.

International standards permit different benefits for the different contingencies. In the case of sickness, the insured person shall receive medical attention and pharmaceutical supplies and, if he is incapable of working, of compensation in money for a prescribed period; in addition, as regards seafarers repatriation costs in the case of illness and funeral expenses, in the event of death are prescribed.

Old-age pensions must be paid to protected persons, who reach an age which may not, as a general rule, be more than 65.

Unemployment benefits must be paid to protected persons in cases of involuntary loss of employment, and in particular to seafarers to meet unemployment as the result of the loss of their vessel. The 1952 Convention concerning minimum standards of social security lays down rules for calculating the minimum benefits in money in relation to the wage level of the country.

These Conventions guarantee equality of treatment of non-nationals with nationals. This is also the object of the 1935 Convention on the maintenance of migrants' pension rights (with certain reservations) and the 1949 Convention on migration for employment.

Earlier Measures of Social Security.

The first measures adopted in this field concerned only the protection of certain social categories against certain contingencies. In most of the territories public assistance services entrusted with dispensing medical care were set up quite soon. Seamen seem to have been the first to benefit from sickness insurance schemes: in French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon and in New Caledonia (1938), in Nigeria and Tanganyika (1948), and in the Seychelles (1951). Measures of protection for old age, and in some cases for survivors, were adopted in Barbados (1937), Trinidad and Tobago (1939), Mauritius (1945 and 1950), Malta (1948, aged people, widows and orphans), New Caledonia (1951), and in the Falkland Islands (1952). Unemployment benefit was placed at the expense either of the public authorities, as in the Trust Territory of Somaliland (1950), or of shipowners in cases of shipwreck as regards seamen: in the Belgian Congo (1928), Algeria (1929), Sarawak (1933), Hong Kong (1936), in Australian New Guinea and Papua (1937, not applicable to Natives), Ceylon (1937), in the Netherlands East Indies (1938), in Brunei and Cyprus (1939), in Tanganyika (1940), in Gibraltar, Grenada, Nigeria, St. Lucia, St. Vincent (1940), in Aden, the Falkland Islands, Sierra Leone, Dominica, the Leeward Islands, and British Guiana (1941). The movement in favour of family benefit made itself felt in the territories for which France and Belgium are or were responsible: French Guiana, Guadeloupe, Martinique and Réunion (1932), Algeria (1941), Belgian Congo (1951 and 1954).

¹ See above, section 1 of the present chapter.

Finally, since this period, social security schemes covering a whole range of contingencies have made their appearance in non-metropolitan territories: Algeria in 1949 and 1956 for wage earners in commerce and industry (sickness, maternity, invalidity, survivors), French Guiana, Guadeloupe, Martinique and Réunion in 1954 (sickness, maternity, invalidity, old age, death; these contingencies were governed by the departmental funds created in 1947, which were also competent as regards industrial accidents and family allowances).

Developments Since 1955.

Legislation and regulations have been adopted in many non-metropolitan territories since 1955.

In the Congo (Leopoldville) and Ruanda-Urundi old-age insurance and invalidity insurance was introduced for indigenous workers in 1956 and 1957 respectively.

In the territories for whose international relations France¹ is or was responsible during the period under consideration, orders have been made since 1955 applying the Labour Code of 1952 as regards medical care and compensation in case of sickness and maternity and for the introduction of a family benefits scheme. In Algeria, a social security scheme was introduced for agricultural workers in 1956, as well as a pensions scheme for independent workers in commerce and industry and the liberal professions in 1957. A further allowance was granted to old-age pensions holders in 1956.

United States federal legislation concerning old age was extended to Guam and American Samoa in 1960 and unemployment insurance introduced in Hawaii in 1957.

The Maritime Code of the Trust Territory of Somaliland imposed certain obligations on shipowners in case of sickness of seafarers in 1959.

A non-contributory old-age pensions scheme was introduced in the Netherlands Antilles in 1955.

In Angola the Labour Code of 1957 contained certain provisions on family allowances and maternity protection; sickness insurance was introduced in Mozambique for indigenous workers belonging to trade unions in 1955.

In territories for which the United Kingdom is or was responsible, social security schemes covering a whole range of contingencies were introduced in 1955 in Gibraltar and in 1957 in Malta and Cyprus; maternity insurance in British Honduras in 1959 and a non-contributory old-age pension scheme in Malaya in 1955.

In most of the territories for whose international relations the United Kingdom is or was responsible, employers voluntarily grant benefits in case of sickness or old age. Private old-age compensation schemes were also introduced, either by mutual agreement as in Madagascar (1957), or by means of collective agreements as in the former territories of French Equatorial and West Africa (*Institut de prévoyance et de retraite de l'Afrique occidentale française*, 1958).

Area of Application of the Relevant Conventions and Assessment of Their Application.

The extent of the obligations of the States responsible for the international relations of the various territories has been considerably enlarged in recent years. Of the 50 declarations communicated since 1955 under article 35, 25 have been made by the United Kingdom² and in respect of the Migration for Employment Convention,

¹ Cameroun, Chad, Comoro Islands, Congo (Brazzaville), Dahomey, French Polynesia, French Somaliland, Gabon, Guinea, Ivory Coast, Madagascar, Mauritania, New Caledonia, Niger, Ubangi-Shari, St. Pierre and Miquelon, Senegal, Sudan.

² Applicable without modification: Bahamas, Barbados, British Guiana, Cyprus, Dominica, Gambia, Grenada, Guernsey, Jersey and Isle of Man, Jamaica, Nigeria, North Borneo, St. Lucia, St. Vincent, Trinidad and Tobago, Zanzibar; with modifications: Antigua, British Virgin Islands, Kenya, Montserrat, St. Christopher-Nevis-Anguilla, Tanganyika, Uganda.

1949, one of the Articles of which provides for equality of treatment of foreigners with nationals as regards social security. Of the 25 other declarations of applicability 19 are declarations of application without modification: 18 of these declarations concern Conventions on seafarers' social security, of which nine are in respect of Conventions Nos. 70 and 71, which have not yet come into force.

The other declarations concern the 1919 Convention on maternity protection (four), the 1920 Convention on unemployment indemnity due to shipwreck (one) and the 1952 Convention concerning minimum standards of social security (one).

The total number therefore now amounts to 69 declarations without modification and 39 declarations with modifications which are divided as follows:

- (a) the 1919 Convention on maternity protection has been declared applicable to 30 territories ¹;
- (b) the 1927 Convention on sickness insurance, the 1933 Conventions on old age, invalidity and survivors' insurance, the 1934 Convention on unemployment provision, are applicable *ipso jure* to Guernsey, Jersey and the Isle of Man;
- (c) the maritime Conventions of 1920 and 1936 have been declared applicable to 25 territories ²;
- (d) the 1952 Convention is only applicable to one territory ³;
- (e) the 1949 Convention dealing with equality of treatment has been applied to 25 territories ⁴, as already mentioned.

If these details are compared with those concerning the legislation of the territories a considerable difference is apparent between the limited geographical extent of international obligations undertaken by the States and the actual degree of protection afforded to the populations of the territories, as shown in the reports supplied.

The development of the legislation of the territories during the course of the last few years may enable some States to consider, in certain cases, the possibility of communicating new declarations, or, for States which have become independent, new ratifications. In other cases, however, despite the substantial progress achieved, there still remains a difference between the range and character of international standards and those of the legislation.

Characteristics of Existing Schemes.

The period since 1955 is characterised both by a development and an improvement in techniques, and by an extension of the field of application of compensation schemes for social contingencies.

Public assistance remains the most widespread means of protecting health in traditional sectors ⁵ and supporting old people. However, it is being replaced more and more by schemes giving a right of compensation to protected persons. As

¹ Applicable with modification: Guadeloupe, French Guiana, Martinique, Réunion; Ivory Coast, Dahomey, Guinea, Upper Volta, Mauritania, Niger, Senegal, Sudan, Gabon, Congo (Brazzaville), Ubangi-Shari, Chad, Cameroun, Comoro Islands, French Somaliland, Madagascar, New Caledonia, French Polynesia, St. Pierre and Miquelon, Togo; Trust Territory of Somaliland; Fiji, Nigeria, Southern Rhodesia, Solomon Islands, Singapore.

² Convention (No. 8) 1920 applicable without modification: New Guinea, Papua; Faroe Islands, Netherlands Antilles; Guernsey, Jersey and Isle of Man; 1936 Convention (No. 55) applicable without modification: Alaska, American Samoa, Guam, Hawaii, Puerto Rico, and American Virgin Islands; Guadeloupe, French Guiana, Martinique, Réunion; 1936 Convention (No. 56) applicable without modification: Guadeloupe, French Guiana, Martinique, Réunion; Malta; Guernsey, Jersey and Isle of Man.

³ Isle of Man.

⁴ See above, note 1.

⁵ Congo (Leopoldville), circular of 8 Jan. 1956.

regards sickness benefits, legislation making the employer himself liable to pay compensation in money or in kind has been very widely adopted. These schemes have not been confined to maritime labour¹ which is still their chosen field, but have been used to a large extent in employment on land, where in metropolitan territories they only played a slight role. In all the countries where the Labour Code of 1952 is in force (present and former French territories) the institution in each undertaking of a labour medical service comprising a doctor or a nurse, as appropriate was imposed. These services were not only preventive, but also had to provide for the medical care of employees and their families at the employer's expense. The employer also had to pay wage compensation in case of incapacity for work during a period up to a maximum of six months. These schemes are only practicable for the payment of short term benefits, where they help overcome obstacles which the administrative insufficiencies of certain countries place in the way of the growth of insurance institutions. However, they impose a substantial burden and risks on small undertakings. Thus, in certain cases the employers have been given the means of spreading the weight of this burden by setting up medical services covering several undertakings.² Employers may also get reimbursed of a part of wage compensation from public funds in certain countries.³ These measures constitute a transition between schemes based on payments by employers and other more advanced systems (insurance, etc.)

Most of the insurance schemes set up in the last few years are financed by means of a double contribution, by employers and workers, often with state participation as well.⁴ However, as regards old age there are certain non-contributory schemes.⁵

Since 1955, the personal, occupational and material fields of application of the different legislation have been considerably enlarged.

One of the early tendencies of the legislation was to limit protection to European workers. This tendency is still to be found in the Angola Labour Code which provides for the partial payment of wages to women on maternity leave, and Mozambique⁶ the sickness insurance scheme which apply to Europeans and "assimilated persons". In other cases sometimes special legislation exists like that on old-age and invalidity insurance in the Congo (Leopoldville) and Ruanda-Urundi⁷ which applies to "stable" indigenous workers, i.e. those who have certain professional qualifications or have completed a certain period of residence in a particular employment outside the traditional environment. Other legislation⁸ applies to all workers, without distinction of race or ethnic origin.

The legislation applies in general to employees. Agricultural employees are excluded in certain cases⁹; in others they benefit from a special protection scheme.¹⁰ Independent workers are not insured, except for old age, where a contributory

¹ Trust Territory of Somaliland, section 104 of the Maritime Labour Code, legislative decree of 21 February 1959.

² Decrees fixing the condition of creation of such services were made in the greater part of the French Overseas Territories in 1955-56.

³ Comoro Islands, Order No. 58-130 IGT of 6 June 1958 and Order No. 58/24 of 29 June 1958; French Polynesia: similar regulations.

⁴ Angola: 1955; Algeria: 1957; Cyprus: 1956; Congo (Leopoldville) and Ruanda-Urundi: 1956; Gibraltar: 1955; French Overseas Territories: orders made in 1955 and 1956.

⁵ Netherlands Antilles, Malaya and Gibraltar (1955).

⁶ Decree Law 2827 of 5 June 1957 (Angola), Order No. 9183 of 28 December 1955 (Mozambique).

⁷ Decree of 6 June 1956 (Old Age); decree of 19 February 1957 (Invalidity).

⁸ Insurance schemes in Cyprus, Malta, Gibraltar; family compensation scheme instituted in application of the Labour Code of 1952 (present and former French territories).

⁹ Cyprus: Social Insurance Act of 1956, section 4, with exceptions.

¹⁰ Algeria: decree of 28 May 1957.

scheme exists.¹; in Algeria for those employed in industry, commerce and the liberal professions.

The different systems of protection are intended to cover the widest category of social contingencies which have generally been developed in an order of priority corresponding to the needs of each territory. In some of them even social security schemes have been introduced for a whole series of contingencies. Health protection still remains the common denominator of the needs of all territories. In addition to the above-mentioned liabilities imposed on shipowners in Somaliland and employers in Angola and in the territories for whose international relations France was responsible during the period under consideration; maternity insurance schemes have been introduced in the latter territories which give a woman employee or an employee's wife the right to free medical care and payment of benefits equal to half her wages which are paid by the Family Allowances and Benefits Fund since 1955.² British Honduras instituted a maternity protection scheme which guarantees the payment of compensation of a third of wages during the 12 weeks maternity leave to every woman who has been employed by the same employer for 150 days during the last 12 months.

Measures for the support of children have also been considerably developed. Family allowances are provided in Angola for European workers and "assimilated" persons.³ In the territories for which France was responsible from 1956 to 1960 a whole series of family benefits paid by compensation funds were introduced (pre-natal allowances, maternity allowances, wage allowances and family allowances properly so-called).

Special measures of old-age protection were introduced under the form of non-contributory pensions in the Netherlands Antilles and Malaya in 1955, and contributory pension schemes were set up or developed in Singapore in 1955 and 1957, and in the Falkland Islands in 1956. Federal legislation of the United States was extended in 1960 to Guam and American Samoa. A pension scheme designed at ensuring a pension of 60 to 65 per cent. of their former wages after 45 years' work, was introduced in the Congo (Leopoldville) for indigenous workers over the age of 65. In Algeria a pension scheme was set up for certain independent workers.

Similarly an invalidity insurance scheme was provided for indigenous workers in the Congo (Leopoldville).⁴

In Hawaii agricultural workers were allowed to benefit from unemployment insurance⁵ because of insecurity of employment on plantations.

Finally, in several territories in the Mediterranean social security schemes have been introduced covering the whole series of contingencies. Agricultural employees in Algeria can avail themselves of a scheme managed by jointly administered Mutual Funds and insuring sickness, invalidity and old-age contingencies.⁶ Gibraltar, Malta and Cyprus have, despite the smallness of their territory and the very limited character of industrialisation, complete inter-occupational social security schemes.⁷ These

¹ Netherlands Antilles: ordinance of 18 May 1955; Malaya: since 1955; Gibraltar: Non-Contributory Insurance Benefits Ordinance, 1955.

² Decree No. 55/567 of 20 May 1955.

³ Decree of 5 June 1957, sections 36 and 44.

⁴ Decree of 19 February 1957.

⁵ Act No. 74 of 1957.

⁶ Decrees of 28 May 1957 and 29 June 1957 confirming the Governor-General's decisions of 24 April 1957 and 17 June 1957.

⁷ Gibraltar: Social Insurance Ordinance No. 14, 1955, as amended by Ordinance No. 7 of 1959; Non-Contributory and Social Insurance Benefits Ordinance No. 15 of 1955; Malta: National Insurance Act of 1956 as amended in 1957; Cyprus: Social Insurance Act No. 4 of 1956.

different schemes, which also cover workmen's compensation and are largely inspired by the British system, ensure the payment of benefits in case of sickness (except Gibraltar), unemployment, old age, survival, widowhood and the upkeep of children. They are financed by contributions, except for Gibraltar where two schemes co-exist (contributory and non-contributory).

Principal Outstanding Problems.

It is certain that the needs to be met are becoming more and more pressing because of the acceleration of economic and social development and the political evolution of the different countries concerned. With a few exceptions, these needs have not all been met so far. In so far as workers lose the mutual aid provided by the traditional society which they have had to leave and will require consideration to be given as soon as possible to instituting or developing schemes of social security and the concomitant services. In this way a contribution may be made to stabilising the labour supply. Certain achievements which have been mentioned, particularly as regards sickness, maternity and old age, open the way to new developments. The creation of such schemes and their extension raises numerous technical, administrative and financial problems which will need quite a long time yet before all workers and members of their families will be able to benefit from an adequate protection of their needs. However, whatever techniques are used—whether social insurance or other schemes—the very fact that the first steps have been taken in a large number of these countries constitutes a favourable sign whose importance cannot be underestimated.

Chapter VI. Labour Administration

Introduction

Labour administration services are entrusted with a wide range of functions including in particular the supervision of the application of labour legislation, the collection of information regarding wages, hours of work, etc., and the supervision of employment services in order to ensure the best possible organisation of the employment market. It is clear that labour administration has an especially significant task to perform in developing countries where changing economic and social conditions necessitate the adoption sometimes of new and often complex legislative and other measures designed to cope with labour problems as they emerge. Efficient labour administration services also fill a vital need in these countries because the general level of education and trade union development often makes it difficult for the workers themselves to play a major role in ensuring the adoption and implementation of protective measures.

A review of progress made in the application of international labour standards in the various non-metropolitan territories must therefore take account of the developments which have occurred in the field of labour administration. Some yardstick of such progress is provided in turn through the effect given to the Conventions on labour inspection, on employment services and to some extent, on statistics of wages and hours of work. The present chapter attempts therefore to survey briefly, under each of these headings, the requirements of the standards concerned, the establishment of the relevant services, developments since 1955 in declaring the standards applicable to non-metropolitan territories and in ensuring their application, and the problems which are yet to be overcome in the respective fields.

I. Labour Inspection

Brief Description of Principal International Standards.

Already in 1923 the International Labour Conference adopted a "Recommendation concerning the General Principles for the Organisation of Inspection to Secure the Enforcement of the Laws and Regulations for the Protection of Workers". Two Conventions on the subject were adopted in 1947. The Labour Inspection Convention, 1947 (No. 81), lays down that the labour inspectorate shall secure the enforcement of the legal provisions relating to the conditions of work and the protection of workers while engaged in their work, shall supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions and shall bring to the notice of the competent authority defects and abuses not specifically covered by existing legal provisions. The Convention deals in some detail with the administrative organisation of the inspection system and of the staff, the conditions of their service, the functions and powers of inspectors, the frequency of inspections and the procedure to be followed in case of infringement of the legal provisions. The Convention also requires the preparation and publication of an Annual General Report on the work of the inspection services. The Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85), takes over some of the provisions in Convention No. 81 dealing with adequate training for inspectors, the right of workers to communicate freely with inspectors, the frequency of inspections and the functions and powers of inspectors.

Earlier Measures in the Field of Inspection.

In certain territories the need was felt many years ago, and in some cases even before the First World War, to set up machinery for the enforcement of labour legislation. The reasons for this are to be found in the emergence of a sizeable wage-earning population and in the adoption of laws for its protection. Thus in Southern Rhodesia, measures to ensure the protection of African workers in mines go back to the turn of the century (1901) and labour inspection was initiated in Algeria and Tunisia in 1909 and 1910 respectively. But the main impetus in this field occurred in the 1920s when labour inspectors were first appointed in a number of British territories (e.g. Mauritius in 1927, Sierra Leone and Uganda in 1928, Malaya and Tanganyika in 1929) and when similar measures were taken or extended in certain French territories (e.g. Madagascar in 1925, Morocco in 1926, Indo-China in 1928, Cameroun and Togoland in 1929). During the same decade inspection had also begun to function in Australian New Guinea.

In British territories inspection services were originally established and subsequently gradually developed, particularly in the years immediately following the Second World War, with a view to ensuring the enforcement of certain special laws: Factories Acts, Dockworkers Acts, Mines Acts, Employment of Women and Children Acts, Minimum Wage Acts, etc. In some of these territories however provision was made for the creation of inspectorates by legislation of wider scope, such as the Nigerian Labour Code Ordinance (1945) or the Gold Coast Labour Ordinance (1948). Labour inspectorates were established more recently in the Congo (Leopoldville) (1950) and the Trust Territory of Somaliland (1951). A decree of 17 August 1944 provided for the creation of labour inspectorates in Cameroun, French Equatorial Africa, French Somaliland, French Polynesia, French West Africa, New Caledonia and Togo. The Labour Code of 1952 defined the powers of these inspectorates and specified the undertakings subject to supervision by them (normally all undertakings employing wage earners).

Developments Since 1955.

Few new legislative developments have occurred in the past six years. Generally the basic legislative provisions were adopted prior to this period. Mention may however be made, by way of example, of the Factories Ordinances of Hong Kong, Nigeria (1955), Cyprus, Tanganyika (1956) and the Employment Ordinance of Singapore (1955), of new labour inspection regulations for all existing and former French overseas territories (1955) and of the new Labour Code in the Trust Territory of Somaliland (1958).

Finally, it seems that in certain cases the staff of the inspection services has been increased and the frequency of inspection visits somewhat improved.

Area of Application of the Relevant Conventions and Assessment of Their Application.

The two Conventions concerning labour inspection have since 1955 been the subject of 61 declarations. Particularly striking progress has been made in relation to Labour Inspection Convention (No. 81), which became applicable without modification to some 20 territories during this period. These declarations without modification superseded the corresponding declarations previously made in respect of the Labour Inspectorates (Non-Metropolitan Territories) Convention (No. 85). On the other hand, when a declaration of application of Convention No. 81 was subject to modification, the earlier declaration concerning the special standards for non-metropolitan territories remained in force. This has evident advantages, as the higher standards apply only to inspection in industry and commerce (their application to the latter being moreover frequently excluded), whereas the special non-metropolitan territories standards frequently cover other sectors and sometimes even agriculture, depending on the scope of the legislation of the territory concerned. In these cases the Committee accordingly obtains information going beyond the scope of the Labour Inspection Convention (No. 81).

The 1947 Convention on labour inspectorates in non-metropolitan territories has been ratified by four States¹ responsible for a total of 78 territories. It was also accepted by Italy on behalf of the Trust Territory of Somaliland. It has been declared applicable to 61 territories.² It seems from the reports available that the Convention is fully or very substantially applied in 56 territories. It should also be recalled here that all the former non-metropolitan territories where Convention No. 85 was applicable undertook, on becoming Members of the I.L.O., to continue to apply this instrument pending formal ratification of Convention No. 81. The maximum continuity is thus assured in this field during the transitional period required to bring the inspection services up to the more exacting standards of this latter Convention.

The Labour Inspection Convention, 1947, which lays down higher standards for industry and commerce has been ratified by eight States³ responsible for a total

¹ Australia, Belgium, France, United Kingdom.

² Applicable without modification: Congo (Leopoldville), Ruanda-Urundi; Cameroun, Comoro Islands, Congo (Brazzaville), Dahomey, French Polynesia, French Somaliland, Gabon, Guinea, Chad, Ivory Coast, Madagascar, Mauritania, New Caledonia, Niger, Ubangi-Shari, St. Pierre and Miquelon, Senegal, Sudan, Togo, Upper Volta; Trust Territory of Somaliland; Aden, Antigua, Bahamas, British Guiana, British Honduras, British Virgin Islands, Cyprus, Dominica, Gambia, Gibraltar, Grenada, Hong Kong, Jamaica, Kenya, Malta, Mauritius, Montserrat, Northern Rhodesia, St. Christopher-Nevis-Anguilla, St. Helena, St. Lucia, St. Vincent, Seychelles, Sierra Leone, Singapore, Southern Rhodesia, Tanganyika, Trinidad and Tobago, Zanzibar. Applicable with modification: Barbados, Brunei, Fiji, Nigeria, North Borneo, Nyasaland, Uganda; Australian New Guinea, Papua.

³ Belgium, Denmark, France, Italy, Netherlands, New Zealand, Spain, United Kingdom.

of 86 territories and has been declared applicable to 31 territories.¹ It seems from the reports available that it is fully or very substantially applied in 39 territories.

Characteristics of Existing Schemes.

The measures originally taken in non-metropolitan territories to protect recruited workers (issue of licences, attestation of contracts, etc.) made necessary intervention by the public authorities at an early date, even if this did not involve inspection services as such. In many instances, the early inspection services were created—as also frequently in Europe in the nineteenth century—to enforce observance of certain safety and health requirements in unhealthy or dangerous undertakings. These functions were frequently assigned at first to police officers, a practice which has left some vestiges in a few territories where inspection duties are still discharged by members of the police.

With the increasing adoption of special legislation, the scope of inspection work widened. Although it was at first confined to certain industries, it now frequently covers commercial undertakings also and even certain forms of agriculture. As has been seen, in certain cases all undertakings employing wage earners are already subject to inspection, a situation which would normally require a very considerable increase in qualified inspection staff.

Principal Outstanding Problems.

A large variety of technical problems, whose magnitude should not be underestimated, is to be found in the various territories: they include the definition of inspectors' powers in insufficiently precise terms (Netherlands Antilles and Surinam), the need to give inspectors the power to take samples (Aden, Malta, Southern Rhodesia, Tanganyika, Uganda), the need to place upon inspectors a legal duty to treat the source of any complaint as confidential, provision for the giving of notice of occupational diseases, etc.

However, the main technical difficulties arise in connection with the preparation and publication of an annual inspection report containing sufficiently detailed information on the work of the inspectorate. This problem exists, for example, in practically all existing and former French territories.

The principal outstanding problems undoubtedly concern the size of inspectorate, the training of inspectors, and the provision of adequate financial resources for these purposes. In the absence of an adequate number of inspectors, inspection services, even if they possess all necessary powers, can hardly supervise the observance of the various measures existing for the protection of workers with a sufficient degree of thoroughness or frequency. However, with the creation of new forms of employment and particularly new industries, the tasks of labour inspectorates are bound to grow. For this reason it is essential that the authorities concerned should already now attempt to assess future needs and to make provision for both general and specialised training of an adequate number of prospective labour inspectors. In this respect international action clearly has a part to play, particularly through the provision of grants to enable existing inspectors to improve their qualifications and inspectors-to-be to obtain the necessary technical training.

¹ Applicable without modification: French Guiana, Guadeloupe, Martinique, Réunion; Netherlands Antilles, Surinam; Antigua, Barbados, British Guiana, Brunei, Cyprus, Gibraltar, Grenada, Guernsey, Jamaica, Jersey, Kenya, Malta, Isle of Man, Mauritius, Nigeria, North Borneo, St. Vincent, Sarawak, Singapore, Tanganyika, Uganda. Applicable with modification: British Honduras, Hong Kong, Southern Rhodesia.

II. *Employment Service*

Brief Description of Principal International Standards.

Reference has already been made in Chapter I of this study to the problems which arose in connection with recruitment of labour in a large number of territories, the action taken both in the territories concerned and on the international level to regulate such recruitment, and its gradual disappearance in extensive areas of the world. As indicated there, the ultimate aim in all cases should be the complete elimination of private recruitment and its replacement by appropriate public employment services.

Two Conventions deal specifically with the establishment of free public employment agencies: the Unemployment Convention, 1919 (No. 2), and the Employment Service Convention, 1948 (No. 88). Both require these agencies to be set up under the control of a central authority and to be advised by joint consultative committees including employers' and workers' representatives. Convention No. 88 is much more specific however since it calls for a network of employment offices, enumerates the duties which the service shall carry out, including certain special action (e.g. in respect of disabled persons, young workers, etc.) and defines standards for the recruitment and for the conditions of work of the staff of the employment service.

Another Convention which is closely connected with the above instrument is the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). Under its terms, private agencies conducted with a view to profit should be abolished or regulated depending on whether Part II or III is accepted, while those not conducted with a view to profit should be subject to close supervision.¹

Beginnings of Employment Services.

Leaving aside the measures taken in a number of territories already at an earlier date in relation to the special problem of recruitment, which was predominantly a matter of private activity of employers or recruiting agents (even if at times more or less direct official assistance was provided) governmental action aimed at one and the same time at helping workers to find employment and employers to fill their manpower needs dates back to the end of the First World War. For example, legislation providing for free public employment agencies was enacted in Trinidad in 1919; about the same time provision was made in Tunisia for the establishment of a placement office. Legislation was also enacted in Morocco about this time. Various orders of 1926 provided for employment offices in certain parts of French West Africa and in 1927 for a network of regional employment offices in Madagascar. In 1939 and 1940 respectively the first free employment agencies were established in British Honduras and Jamaica.

The relative lateness in the development of employment services was in many territories directly related to the limited extent of wage-earning employment. As one government pointed out, there was difficulty in providing a general employment service in territories where the overwhelming majority of the population were peasants engaged in agricultural pursuits on their own tribal lands and where even what wage-earning employment existed was largely supplemented by such occupations. In this respect, the Second World War brought considerable changes. It, *inter alia*, gave impulsion to the creation of many new industries with increasing requirements for manpower. In these circumstances, it became essential in many territories to provide appropriate public placement services. Measures to this end were adopted in a considerable number of territories towards the end of and immediately following

¹ This Convention has been ratified by Belgium, France, Italy, and the Netherlands but is in force in only one territory, Surinam.

the war, for example, in British Guiana in 1944, in Nigeria, Cyprus, Kenya and Singapore in 1945, in the Netherlands Antilles in 1946, in Sierra Leone in 1947, in the Gold Coast in 1948, in French West Africa and Uganda in 1949, and in the Trust Territory of Somaliland in 1951.

Developments Since 1955.

During 1958 and 1959 Convention No. 88 was declared applicable without modification to Cyprus, Gibraltar, Kenya, Malta, Sierra Leone, Singapore and Tanganyika and with modifications to British Guiana, Mauritius, Nigeria and Uganda. The Convention had already previously become applicable to five other territories.¹ Convention No. 2 was also applicable to three territories without modification² and to two territories with modifications.³

A review of the actual progress made in the past few years reveals considerable activity in setting up employment offices. Thus legislation or further legislation to this effect was adopted in 1955 for such territories as Algeria, French West Africa, Barbados, Malta, Sudan (Khartoum) and Tanganyika; in 1956 for New Caledonia and Réunion; in 1957 for Chad, Gabon, French Polynesia and Togo. In 1958 exchanges were set up in Southern Rhodesia. The Committee's evaluation of the degree of application takes account of these developments as well as of fuller information which has been provided in recent years, especially as regards the United Kingdom territories. This shows that in several of the territories concerned Convention No. 88 has at least begun to be applied (e.g. Malta, Mauritius, Sierra Leone, Singapore, Tanganyika, Uganda) and in some cases (e.g. Gibraltar, Kenya) application is deemed to have reached a more advanced stage. This confirms the steady trend since the Second World War of setting up employment offices in most British territories, especially in Africa, and of expanding the existing networks of exchanges.

Principal Outstanding Problems.

As has already been mentioned in Chapter I of this study, one of the basic problems which remains to be solved in certain territories where recruitment of labour is still a significant phenomenon is in what manner to provide for the gradual replacement of such recruiting by placement through general public services. Measures of this kind would not merely enhance the protection at present available to workers under the legislation regulating recruitment, but would also make possible a study of the more rational use of the available manpower, of its needs in the way of vocational training and guidance, and of measures of social stabilisation.

Developments of this kind would of course require a considerable expansion of existing public services—in certain cases even, their creation—in the territories concerned, and would thus be capable of realisation only to the extent that additional financial resources and qualified staff could be made available. In general, the problem of increasing the means placed at the disposal of employment services—as in the case of all forms of labour administration—is no doubt at the centre of the considerations which will determine the future evolution in this field.

The creation of an adequate network of employment offices is essentially the result of continued effort to achieve gradual widening of the scope of the service in terms both of its geographical coverage and the facilities provided. In many territories offices were initially created only in one or two industrial centres. Even now, in several of the territories to which the employment service Convention has been

¹ Without modification: Surinam; Guernsey, Jersey and Isle of Man; with modifications: Netherlands Antilles.

² Guernsey, Jersey, Isle of Man.

³ Netherlands Antilles, Surinam.

declared applicable, it still appears necessary to extend the network of offices to cover the country generally (for example, in Sierra Leone and Tanganyika) or to make the service available to all categories of workers (as in Malta and Mauritius).

Finally it may be noted that provision still remains to be made for the joint consultative committees provided for in the Convention in several territories to which the 1948 Convention is applicable (for example, Netherlands Antilles, Surinam, British Guiana, Sierra Leone and Uganda). As the establishment of such committees should not give rise to any undue technical difficulties, and as their existence can provide a valuable guarantee both of the taking into account of the real needs of employers and workers and of the service having the support of these elements, it is to be hoped that the problems existing in this respect will be overcome soon.

III. *Wages and Hours Statistics*

Brief Descriptions of Principal International Standards.

Effective planning, implementation and supervision of labour policy depends on a knowledge of basic statistical data and the Statistics of Wages and Hours of Work Convention, 1938 (No. 63), must therefore be mentioned in conjunction with labour administration although its requirements are as a rule too exacting for full implementation in developing countries. The Convention calls for the compilation and publication of the following three groups of statistics: (1) average earnings and hours actually worked in mining and manufacturing; (2) time rates of wages and of normal hours of work in these two fields; (3) wages and hours of work in agriculture. Ratification may be in respect of all or any of these groups.

Principal Outstanding Problems.

Although it has been ratified by seven States with responsibilities for non-metropolitan territories, Convention No. 63 is currently applicable only in Guernsey, Jersey and the Isle of Man. Nonetheless it would be misleading to assume that its actual application is similarly limited. The Committee's evaluation has in fact shown that in the great majority of territories some statistics are at least already being compiled.

In certain cases the Convention is found to be given substantial effect to (e.g. Antigua, British Guiana, Cyprus, Grenada, Singapore, Tanganyika). This finding is confirmed by the statistical data included in many of the annual reports published by Labour Departments. In some territories specific legislation giving power to collect statistics has been adopted (e.g. Jamaica, Kenya, Nigeria, Trinidad and Tobago, etc.).

However, in reporting on the extent of application of the Convention stress is often laid on the financial considerations which prevent the appointment of the staff necessary for the compilation and maintenance of regular and complete labour statistics.

Chapter VII. Social Policy in General

Introduction

The various measures for the protection of workers which have been reviewed in the preceding chapters have obviously to be seen against the wider background of guarantees of fundamental human rights, on the one hand, and each country's general economic and social policies, on the other.

In a number of instances, specific examples have been cited in the conclusions to the various chapters of the close links which exist between certain measures of

protection and wider aspects of economic and social policy. For example, in relation to measures for the protection of young persons (minimum age or medical examination) or with regard to the institution or extension of social security schemes, the effectiveness of the measures proposed and the possibilities of implementing them encounter at every step problems of a more general nature: the existence of educational, medical and administrative facilities and adequate human and financial resources.

General social policy is the subject of a Convention adopted by the Conference in 1947 and which is primarily concerned with social policy in non-metropolitan territories.

Because of its wide scope and of the very general character of certain of its provisions, this Convention presents substantial difficulty in respect of precise assessment of the nature of the substantial obligations incurred under it and the extent to which they are being fulfilled. In 1958, the Committee thus decided, at the time when it examined the first reports on the application of the Convention that, while it would examine in the usual way those provisions of the Convention which could be given effect by legislation, it would review periodically, the more general provisions defining objectives of social policy on the basis of the information received from reporting Members and thereby try to throw into relief the nature of the changes taking place and the progress being made in the fields of general social policy.

In these circumstances and with a view to avoiding a too discursive treatment of the vast general, social and economic issues which form the subject matter of the Convention, it appeared necessary to concentrate on drawing attention to the main significant policy trends in the countries that were non-metropolitan territories during the period under review, without seeking to illustrate these trends extensively by reference to detailed developments in particular countries. Further, in respect of those Parts of the Convention the subject matter of which will be examined by the Committee in connection with the application of other Conventions, no separate analysis is here given.¹

Brief Description of International Standards.

The provisions of the Convention can, for the purposes of analysis, be regarded as falling into two main groups. The first of these, relating to the means through which economic and social progress should be sought, includes the provisions concerning the association of the peoples of the territories in the framing and the implementation of policy, as well as the provisions relating to financial and technical assistance and development planning. The second, relating to the objectives of social and economic policy, defines some of these objectives in the broadest terms and others in less general terms.

I. Means of Furthering Economic and Social Progress

A. General Policy.

The objective of associating the peoples of the territories concerned with decisions affecting them and of seeking to ensure that policies applied to the territories gave primary consideration to the interests of these people are defined in the Convention.² Actual developments in this connection are illustrated by some of the events referred to in the general introduction to the report and by certain indications in the general conclusions.

¹ This is the case in regard to Part IV of the Convention—Provisions concerning Migrant Workers, and Part V—Remuneration of Workers and Related Questions.

² Articles 2 and 3.

The reports which have been submitted on the application of the Convention during the period under consideration have not only illustrated these trends in detail, but have also indicated the stages through which the present situation has been reached as well as the organs of government, other than the central authorities, through which the association of the peoples of the territories was developed.

B. Financial and Technical Assistance.

The need for financial and technical assistance to further the economic development of non-metropolitan territories with the objective of raising living standards is pointed out by the Convention.¹

Attention is also drawn to the need for control and co-operation by the local authorities, the provision of funds on terms that are not too onerous for the territories and of action to establish conditions of trade which would encourage production.

While it would be difficult to attempt to determine whether the financial and technical assistance made available to any particular non-metropolitan territory during the period under consideration was adequate in quantity and appropriate in nature, it can unequivocally be stated that, for non-metropolitan territories generally, as for underdeveloped countries as a whole, the scale and variety of financial and technical assistance available has so greatly increased since 1945 as to indicate virtually a revolution in the thinking of the world community on this matter. As far as the areas which were non-metropolitan territories during the period are concerned, a primary source of financial and technical assistance has been and continues to be the respective metropolitan countries concerned. In addition, the major Powers, on a bilateral basis, have been providing financial and technical assistance on an increasing scale and in a variety of ways to underdeveloped countries, including the non-metropolitan territories. The Expanded Programme of Technical Assistance as well as the regular programmes of the United Nations and the Specialised Agencies became available during the period and have been utilised to an increasing extent in the areas which were non-metropolitan territories during the period under examination. The Colombo Plan and the Foundation for Mutual Assistance in Africa South of the Sahara have provided means of developing bilateral technical and financial assistance projects in respect of the areas they cover. The regional commissions—the Caribbean Commission, the South Pacific Commission and the Commission for Technical Co-operation in Africa South of the Sahara have also played an important part in the promotion of international co-operation in technical matters on a regional basis in regions in which there were a substantial number of non-metropolitan territories. Private bodies and foundations have also provided assistance which in particular instances has been on a significant scale.

It needs to be emphasised, however, that the external assistance received by non-metropolitan territories represented, and represents, only a small part of total public expenditure and that technical assistance sought for under programmes of the United Nations and the Specialised Agencies, for example, has been on a modest scale. Subject to these qualifications, it may be useful to give illustrations in regard to financial and technical assistance to non-metropolitan territories as a means of providing some indication of the lines along which progress in this regard has been made.

1. Financial Assistance.

In respect of financial assistance, the following data supplied by governments respecting areas which were British, Belgian, French and New Zealand non-metro-

¹ Article 3.

politan territories during the period may help to illustrate the situation even if all the figures do not relate precisely to the five-year period under consideration. Between 1946 and 1956, the United Kingdom spent £750 million for development in British non-metropolitan territories. Of this sum, 350 million represented grants, advances or loans on the part of Government and 400 million from private investment and public loans. Examples which may be cited in regard to particular territories are: Kenya (6,544,000 inhabitants), £29.5 million for the period 1952-56; Nigeria (32,433,000), £10.7 million from Development and Welfare Funds between 1955 and 1960; Uganda (5,680,000), which received £5 million during the same period and the former British Somaliland (640,000) which received a government grant of £122,572 for 1955-56.

Under the 1948-57 Ten-Year Plan, 51,000 million Belgian francs approximately were invested in the former Belgian Congo and in Ruanda-Urundi (population 17,250,000) as follows: 25,300 million in projects for economic development; 13,100 million for social development projects; 2,900 million for agricultural improvement and 9,600 million in the improvement of public services.

In former French Equatorial Africa (population 4,820,000), F.I.D.E.S. (Fonds d'investissement pour le développement économique et social) invested 20 milliard C.F.A. francs for the development of the area between 1947 and 1953; in 1955, such investment involved 3,200 million C.F.A. francs for agricultural improvement, 540 million for meteorological, navigational and allied services and 500 million for the subsidising of production and export. In former French West Africa (population 18,890,000), F.I.D.E.S. invested some 300 milliard C.F.A. francs during the period between 1947 and 1956.¹ In Madagascar (population 4,905,000) between 1947 and 1956, 28 milliard C.F.A. francs in development credits were provided from metropolitan funds, 40 per cent. of which was devoted to promoting production, 40 per cent. to the development of basic community services and 20 per cent. to social betterment projects. During the period 1953-57, 1,966 million C.F.A. francs were invested by F.I.D.E.S. for the development of the former Trust Territory of Togo (population 1,088,000).

The Government of New Zealand in its reports has also referred to the financial assistance being given territories for which it is responsible, in particular Cook Islands and Niue.

2. *Technical Assistance.*

Reference has already been made to the wide variety of sources from which technical assistance is at present available for underdeveloped countries; in the case of non-metropolitan territories, in various ways and in varying degrees at different stages, the main source of such assistance has been the metropolitan country concerned. International technical assistance on a multilateral basis, mainly through the United Nations and Specialised Agencies, has also been an expanding source of such assistance during the period and it is possible that the resources available for this form of assistance may soon be increased. In this task, the I.L.O. has been playing a part on an increasing if modest scale; the following list of projects undertaken may be cited in this regard:

- (a) *General labour legislation, draft labour codes* : Barbados, 1956; Trinidad, 1959.
- (b) *Apprenticeship and vocational training* : Singapore and Gambia 1956; Hong Kong, 1958; Trinidad, 1959; Malta and Nigeria, 1960.
- (c) *Artisan training, small-scale industries and co-operation* : Sarawak, 1954 and 1956; Jamaica, 1958; Puerto Rico, 1959; Togo and North Borneo, 1960.

¹ Evaluation given in the government report in 1958, account being taken of various devaluations.

- (d) *Social security and employment* : British Guiana, 1956; Jamaica, 1956; Nigeria, 1959 and 1960; Singapore, 1957 and 1959; British Somaliland, 1959; Isle of Man, 1960.
- (e) *Productivity and cost of living* : British Guiana, 1956-57; British Honduras, 1958-59; Hong Kong, 1958; Mauritius and Sierra Leone, 1960.

C. *Development Planning.*

The improvement of standards of living should be regarded as the principal objective in the planning of economic development.¹ In the reports submitted, governments have emphasised the importance they attach to this objective. This is the case of the United Kingdom Government, for example, which drew the attention of Colonial Governments to this question by a circular despatch of 12 November 1945.²

It would be difficult, if not impossible, to estimate in most cases how far in practice development planning has had as its principal objective the improvement of standards of living in the non-metropolitan territories during the period under consideration and in the absence of the necessary detailed information it is also difficult to estimate the extent to which such development had repercussions on the standard of living of the community as a whole or only of relatively small sections of it.

Whatever the difficulties of assessing the impact of development plans, an important feature of the period in the territories under consideration was the extension of development planning. The reports provided contain detailed and substantial information on the development plans over recent years of a very high proportion of the territories concerned. Ten-year development plans were established for the former Belgian Congo in 1949 and for Ruanda-Urundi in 1952; in the former, 50 per cent. was allocated to the improvement of transport and communications, while another group of services on which emphasis was placed was the expansion of public utilities connected with urbanisation, notably housing, water supply and electrification. In the latter, an important part of the resources available was allocated to agricultural research and the resettlement of Africans from congested areas. In respect of the present and former British non-metropolitan territories, the general framework of development planning was found in the Colonial Development and Welfare Acts, even though the funds provided thereunder constituted only a small part of the cost of the development plans of the territories and although the plan for each territory was a separate entity evolved from discussion of projects between the local government and the metropolitan authorities. In respect of the areas which were French non-metropolitan territories during the period, F.I.D.E.S. represented the equivalent of the provision made under the British Colonial Development and Welfare Acts. The ten-year plan established under it in 1946 envisaged that the first stage (1947-53) would be devoted primarily to the building up of basic facilities and services, for example, communications, while in the second period (1953-57) more attention was to be given to revenue-earning activities and social services.

II. *Objectives of Economic and Social Progress*

A. *General Objectives.*

The provisions of Article 4 of the Convention call for international, regional, national and territorial action to promote improvements in a wide variety of social fields which are enumerated in the Convention; some of these fields are given more detailed treatment in subsequent Articles of the Convention, others cover fields in

¹ Article 6 of the Convention.

² Extracts of this circular are quoted below in the general conclusions.

respect of which other specialised agencies in the United Nations family have primary responsibility.

In the absence of any possibility of reviewing systematically progress in former and present non-metropolitan territories in the wide variety of fields enumerated in this Article ¹, a few examples are given of developments of particular interest noted in the reports submitted during the period.

In respect of *public health*, some of the significant developments mentioned in the reports include the following. In former French Equatorial Africa there has been a very marked diminution in the incidence of sleeping sickness; the number of cases fell from 5,000 in 1952 to 700 in 1957. In this territory a major effort was also undertaken in regard to ascertaining the number of cases of leprosy; until 1956 around 30,000 cases were known, while at the end of 1957 the number of such cases was 143,000, some 12,000 of which had been cured during the period. In the former Belgian Congo and in Ruanda-Urundi there was considerable expansion in medical assistance facilities during the period—2 million cases were treated in 1956. In Mauritius, Cyprus and British Guiana, malaria has been entirely eradicated. In Bechuanaland a successful struggle has been waged against the tsetse fly. In Nigeria a major public health programme has succeeded in making substantial progress against malaria, sleeping sickness, leprosy and other diseases.

In respect of *housing*, the following information may be regarded as typical of developments in the areas which were non-metropolitan territories during the period. A major programme in the housing field was undertaken in former French West Africa as from 1954-55. This programme has been financed by public loans and African savings (this last representing about 25 per cent.). During the period 1954-57 it was estimated that 13,200,000 C.F.A. francs were utilised for this purpose. In Madagascar low-cost housing has been built by the municipal authorities and rented to the inhabitants, who also have the possibility of becoming owners of these houses on a hire purchase basis. Legislation adopted in 1946 in Dominica was designed to promote slum clearance and to improve housing conditions. In Mauritius substantial funds have been utilised by the sugar cane interests for the construction of workers' housing. In the British West Indies, or particularly in Jamaica, the Sugar Welfare Fund has financed workers' housing. In a number of the territories in question, for example in Kenya, in Nyasaland, and in Northern Rhodesia, the employer is required to provide housing for his workers.

The reports also contain in a number of cases detailed information on progress in the various territories in the fields of nutrition, the welfare of children, the status of women, the standards of public services and levels of production.

B. Improvement of Standards of Living.

The provisions of the Convention here under consideration ² refer primarily to the three following objectives: (a) the planning of economic development so as not to disrupt family life and traditional social units; (b) measures to promote the productive capacity and the improvement of the standards of living of agricultural producers and (c) the maintenance of minimum standards of living as ascertained by official inquiries into living conditions.

In regard to the first of these objectives, four main points emerge from study of the reports. In the first place, in a considerable number of the areas which were non-metropolitan territories during the period, economic development has not

¹ This Article enumerates, *inter alia*, the following objectives: public health, housing, nutrition, education, the welfare of children, the status of women, standards of public services and general production.

² Articles 7, 8 and 9.

involved massive movements of manpower with the social consequences envisaged and the reports state that the problems referred to in the Convention do not exist in the territory (for example a number of Caribbean and Pacific territories). Secondly, as is indicated in Chapter I of this review, the relative importance of migratory labour movements in general is lessening. Thirdly, one approach to the over-all attainment of this objective which has been increasingly utilised in recent years, is the community development approach; this has been described as the improvement of the social life of the community by stimulating the active participation and individual initiative of all members of the community concerned in measures of social progress designed to promote their economic, social and cultural development. For this purpose, use is, wherever possible, made of local enterprise in agricultural development schemes, the development of fisheries, the building of schools and so on, on which are based community development projects in which the local and central government services are fully associated. Reports relating to British and New Zealand territories contain a number of examples of the utilisation of the "community development" approach. Fourthly, detailed information has been provided in respect of a number of territories in which the dangers envisaged in Article 7 of the Convention exist and of the measures taken to meet the problems that arise. In Bechuanaland and Tanganyika, for example, regulations are in force to limit the percentage of able-bodied males who may be recruited from the villages at any one time.¹ Legislation has been enacted in the British Central African territories to control the movement of migrant workers and to ensure that they do not remain abroad for more than a specified period unless accompanied by their families. The information provided in the reports in regard to town and village planning, the improvement of living conditions in rural areas and the establishment of suitable industries in those areas shows the substantial effort being made by governments in this regard: reference may be made on this point to the information supplied in respect of former French Equatorial Africa, French Polynesia, Cook Islands and Niue, Nyasaland, Southern Rhodesia, Sierra Leone, Kenya, Swaziland, Northern Rhodesia, the former Belgian Congo and Ruanda-Urundi.

In regard to measures to promote the productive capacity and the improvements of the standards of living of agricultural producers, the following points may be of interest. The control of the alienation of agricultural land to non-agriculturists has been effected by legislation in a number of territories, including former French Equatorial Africa and French West Africa. In the Cook Islands, where property is on a collective basis, the sale of lands to Europeans as well as mortgages are prohibited. In Western Samoa legislation dating from 1921 prohibits acquisition of the land of a Samoan for the payment of a debt, and legislation enacted in 1934 requires prior authorisation for all sales of land. In Swaziland, lands belonging to the Swazi people are held in trust by the High Commissioner and may not be alienated. In the former Belgian Congo and in Ruanda-Urundi, the position in regard to the rights of the local inhabitants had to be ascertained before land is alienated.

The reports provided indicate that in a very substantial number of cases laws and regulations exist to control the ownership and use of land with a view to preventing speculation and to ensuring that land and resources are used in the interests of the inhabitants of the territory. Legislation along these lines exists for example in Madagascar and former British Somaliland. In some of the territories, such as Kenya, comprehensive legislation on land utilisation has been enacted.

Detailed information is also given in the reports in regard to existing provisions for the supervision of tenancy arrangements including *métayage*. The information on this subject contained in the reports dealing with French Polynesia, Basutoland,

¹ See also Chapter I, section II, above.

Dominica, Nyasaland, Brunei, and British Guiana, include a number of points of special interest. Detailed information is also provided in regard to the development of producers' and consumers' co-operatives in the territories.

The information contained in the reports relating to the maintenance of minimum standards of living as ascertained by official inquiries into living conditions, shows that such inquiries have been undertaken and are utilised in a substantial number of territories. In Madagascar a cost-of-living index was established for 12 regions on the basis of official inquiries and discussions in the Labour Consultative Committee. In the former Belgian Congo and in Ruanda-Urundi, inquiries were undertaken in respect of specific problems including the cost of living and minimum wage rates. In Western Samoa, an inquiry covering the rural areas was carried out in 1950-51. In the Falkland Islands and in Mauritius, cost-of-living indices have been established which take into account the family needs of the workers. In St. Helena periodical inquiries are undertaken to establish an annual cost-of-living index, and in the Bahamas a cost-of-living index is maintained. In Basutoland an inquiry was undertaken in 1955-56 on nutritional and social problems generally. In 1955 an inquiry was undertaken in British Guiana by an I.L.O. expert, and the Government established a new consumers' price index on the basis of methods recommended by the expert. In Hong Kong workers receive in addition to their salary a cost-of-living allowance based on indices of the price of foodstuffs, fuel, and retail prices generally. In Tanganyika an inquiry covering the Dar-es-Salaam area has been undertaken, and in Kenya a family budget survey has been carried out with the co-operation of employers and workers.

C. Non-Discrimination.

The substance of the provisions ¹ on this subject is that it shall be an aim of policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of a number of aspects of labour and social policy which are enumerated; it is further provided that all practicable steps shall be taken to lessen existing differences in wage rates due to such discrimination and special allowance is made for workers coming from outside the territory and for protective measures for women workers. Paragraph 1 of Article 18 does not go beyond making the abolition of discrimination "an aim of policy" and paragraph 2 requires that "all practicable measures shall be taken" for that purpose. Further, non-discrimination in regard to wage rates is applicable only to the extent that the principle of equal pay for work of equal value is recognised in the corresponding metropolitan country.

Most of the reports received simply refer to the absence of any discrimination of the kind covered by this provision of the Convention. In a few cases, discrimination based on sex is indicated to exist with certain qualifications and in the case of one territory it was stated that it was the aim of policy to remove forms of discrimination other than those based on sex: in this instance, as in a few others, references were made to the existence of differential wage rates. The general picture provided by the reports does not seem to give a complete view of the situation similar to that which other sources of information provide, notably in respect of conditions of engagement and promotion and opportunities of vocational training; it would seem that governments should supply in their future reports more detailed information in regard to the application of this Article of the Convention. Consequently the Committee expresses the hope that reports requested for 1962 by the Governing Body, under article 19 of the I.L.O. Constitution, on the Discrimination Convention 1958, will

¹ Article 18 of the Convention.

contain information on the conditions obtaining in this field in non-metropolitan territories.

D. Education and Training.

Article 19 of the Convention requires in particular that provision be made for the progressive development of broad systems of education, vocational training and apprenticeship, that the school-leaving age and the minimum age of entry into employment be fixed, and that the employment of persons under the school-leaving age be regulated in relation to educational facilities. Article 20 lays special emphasis on the provision of facilities for the training of skilled workers.

The reports provided indicate the major concern of governments, without exception, with the promotion of general education as well as of technical and vocational training. Progress towards free and compulsory primary education, which is generally considered as the basic prerequisite for advancement in these fields, has been clearly one of the objectives sought. In the Pacific area and in the Caribbean, which however account for only a small proportion of the areas which were non-metropolitan territories during the period, primary school enrolment appears to be at a high level. In Africa, on the other hand, which contains the majority of the population of the non-metropolitan territories in question, information in regard to enrolment indicated that even where there had been marked expansion over recent years, primary school facilities were inadequate, essentially because of the absence of adequate financial resources. In spite of the accepted importance of technical and vocational education, it would seem that its development and its claim on financial resources in the territories in question suffer from the prejudice still existing in some areas against a form of education which has, as its primary aim, the production of manual workers however highly trained.

The reports submitted contain a substantial amount of information for most territories in respect of both general and technical education. The information provided, however, does not permit of a systematic analysis of the major issues raised and their priority. In respect of Articles 19 and 20 of the Convention the Committee has so far essentially confined its attention to drawing the attention of a number of governments to the fact that Article 19 contains specific obligations in regard to the fixing of school-leaving ages and minimum ages for entry into employment. In view of the major importance that attaches to the development of general as well as technical and vocational education in underdeveloped countries the Committee expresses the hope that more detailed information on this question will be supplied by governments in their future reports.

* * *

Summary of the Position and General Conclusions

The various indications given in the preceding chapters make it possible to trace in outline the evolution which has occurred during the last 40 years in the countries covered by the present survey. They also permit a general assessment of the present situation of these countries and show what are the main prospects for future action.

Main Aspects of Evolution

As noted in the general introduction, at the beginning of the period in question, the situations in the countries dealt with in this survey differed greatly. During the last 40 years, the rhythm of economic, social and political development in these

countries has naturally also varied. Nevertheless on the economic and social level the common characteristic of the evolution of these countries has undoubtedly been a more or less complete and rapid disappearance of the subsistence economy, which has in certain sectors been gradually replaced by a market economy with a consequential increase in the number of wage earners.

The relative significance of these factors has necessarily varied greatly from one country to another and from one time to another, and, even within the same country, from one region to another. Social policies, and particularly the manner in which labour problems have been solved, have also developed in different ways in these countries.

In certain countries in which at the beginning of the period wage earners already constituted a significant proportion of the active population and there existed a relatively ample supply of labour, the first measures for the protection of these workers had to be taken relatively early. Many instances of this have been cited in the preceding chapters.

In many countries, as market production (whether of agricultural products or of minerals) increased, development needs were invoked to justify the use of certain forms of compulsion: forced labour, recruitment, long-term contracts, penal sanctions. In most of these countries the earliest measures taken locally were primarily aimed at supplying employers with relatively ample and stable manpower, so as to enable them adequately to cultivate land or to extract from the subsoil the minerals which had been discovered. Nevertheless in many of these countries the measures in question were soon supplemented by certain safeguards aimed at preventing the workers concerned, who were mostly illiterate, from lightly entering into obligations, for example under long-term contracts which might reduce them to a condition similar to serfdom. The legislation on such matters in force in the 1920s in the various territories certainly fell considerably short of providing all the safeguards necessary to give the workers adequate protection. Fragmentary protection was however already to be found in the laws and practices of some territories. It was on this basis that international action was able to develop.

The various isolated measures taken to facilitate the exploitation of the resources of the countries concerned gradually gave place to development programmes aimed particularly at developing means of communication—ports, roads, railways. The execution of these large-scale projects at times gave rise to certain forms of compulsion—including in certain cases even recourse to forced labour, which the existing international standards moreover permitted as a transitional measure. At the same time these programmes frequently led to an increase in the number of wage earners and to a speeding up of the social evolution which had already begun.

On the eve of the Second World War the economic and social position of many non-metropolitan territories had already undergone profound changes as compared with the situation 20 years before.

The changes recorded in the preceding chapters show that in many territories the frequently considerable increase in the wage-earning population in relation to the entire economically active population had led to the adoption of certain measures for the protection of workers and in some cases even of measures of protection against certain social contingencies.

Among the earliest measures for the protection of workers—whose scope was necessarily confined to the few existing industries, although they sometimes applied also to commerce, and, less frequently, to agriculture—mention may be made of legislation governing certain conditions of work (particularly work by women and children), the adoption of certain safety and health provisions, the creation of minimum wage-fixing machinery, the introduction of workmen's compensation schemes and the adoption of trade union legislation.

Although in some of the countries concerned quite strong workers' organisations had developed, in the absence of such organisations in most territories the regulation of conditions of work by collective agreements could not be contemplated. The effective application of the legislative provisions which had already been adopted called for the existence of adequately staffed inspection services. As has been seen ¹, a beginning had been made in a number of territories to set up services for supervising the observance of labour laws.

The war did not everywhere interrupt these developments. Although in some cases defence requirements were regarded as justifying recourse to certain forms of compulsion, sometimes even to forced labour, social development nevertheless continued in many countries.

For example, in a large number of territories for whose international relations the United Kingdom was responsible, the years 1940-45 saw the adoption of many provisions concerning work of young persons, compensation for accidents and occupational diseases and the establishment and functioning of trade unions. The large-scale disruption caused by the war, particularly in the economic field, and the evolution of ideas led to the adoption of new methods and new concepts which undoubtedly played a decisive part in the subsequent evolution, themselves hastening this evolution. The period following the end of hostilities was marked in many territories by the drawing up and execution of economic and social development plans intended to encourage the establishment of new industries and inducing the authorities increasingly to intervene in the economy.

Furthermore, in many countries the social aims of development were no longer considered as only an indirect consequence of economic development. This new approach can hardly be better illustrated than by the following instructions which were sent by the competent Minister of a member State of the I.L.O. in 1945 to the local authorities of its territories:

... without economic development it will be impossible for the Dependencies to maintain from their own resources the improved standards which are desired for them; but in the meantime the social services must be improved and in many cases this improvement in the social services will contribute ... to economic development and general advancement. ...

Henceforth, emphasis was frequently laid on the need to associate the local populations closely with these plans in order to ensure their advancement. The circular already cited above referred in the following terms to this aspect:

In the preparation of plans, and indeed in all work connected with them, it is of the first importance that the interest of the inhabitants of the Dependency should be aroused and their opinion consulted and their co-operation secured wherever possible. A great part of the value of the assistance given ... will be lost if the developments ... are regarded merely as an activity of "Government" and not as the concern of the ordinary people of the country. ...

On the international level the Social Policy in Dependent Territories Recommendation, which was adopted by the International Labour Conference in 1944 and supplemented in 1945, was inspired by the need for measures to secure co-ordinated economic and social development and to associate the populations concerned in the planning and execution of development schemes. These two basic principles were subsequently incorporated in the Social Policy (Non-Metropolitan Territories) Convention adopted by the Conference in 1947.

In the period immediately following the Second World War the constant growth in the number of wage earners in most territories made possible the establishment and development of trade unions. The legal framework within which these organisations might develop had frequently been created earlier. In some of these countries,

¹ See Chapter VI above.

metropolitan trade unions and certain international trade union organisations played an important part in the creation and development of a well organised and relatively powerful trade union movement.

On the legislative plane this development was marked in many countries by the adoption and application of new legislation to protect workers in all the fields treated in international social legislation.

Finally, from this time onwards, labour administrations frequently possessed more staff and greater financial resources. By carrying out more frequent inspections, they were able to supervise observance of the legislation more thoroughly. In many countries they also sought increasingly to encourage and promote collective bargaining between workers and employers, a development which amongst other things enabled trade unions to acquire enhanced importance.

It would no doubt be difficult, if not impossible, to put one's finger in each case upon the decisive factor in this evolution. The indications given in the preceding chapters throw some light on the part played by local authorities, metropolitan governments and metropolitan parliaments, as well as on the influence exerted by international factors, particularly international labour standards.

* * *

Developments Since 1955 and Assessment of the Present Situation

In 1955 the Committee had already set out in its report the encouraging conclusions emerging from its last five-yearly review.

This general impression is confirmed this year by the examination of the evolution in local conditions and in the measures taken, particularly with a view to implementing international labour standards, not only in the majority of territories but also in former non-metropolitan territories, both as regards the acceptance of new international obligations and as regards the adoption of legislative and practical measures.

Very considerable progress has been made since 1955 in the acceptance of international obligations by or on behalf of these various countries.

The number of declarations communicated during this period is 1,089, representing an average of more than 180 declarations a year. By virtue of these declarations, various Conventions became applicable without modification to 417 territories and, subject to modifications, to 64 territories. Among these Conventions are certain basic instruments, such as the Abolition of Forced Labour Convention, adopted by the Conference in 1957 (44 declarations), the Conventions of 1948 and 1949 in the field of freedom of association (respectively 27 and 29 declarations) and the Labour Inspection Convention, 1947 (24 declarations). The total number of formal communications made since 1922 under article 35 of the I.L.O. Constitution regarding the applicability of Conventions to non-metropolitan territories is 3,223. In 1,941 cases, these were communications to make a Convention applicable to a given territory.¹

In the last few years there has been a considerable increase in the number of declarations made, but a rapid glance at the table appended to this review shows that many more declarations could still be made. All governments should therefore seek, as requested by the Committee, to communicate the declarations provided for in article 35 as soon as possible for all Conventions concerned, whatever the date of their ratification.

¹ Among which 290 declarations with modifications.

However, it appears that in some 2,165 cases, even in the absence of formal declarations, Conventions are completely applied or are applied to a very considerable extent, barring one or two points of minor importance.¹

The fact that countries which have become independent have undertaken, by state succession, the obligations previously binding the State which was responsible for their international relations has resulted in the registration, upon their admission to the I.L.O., or sometimes as a result of a subsequent communication, of more than 300 ratifications. Moreover, as the number of Conventions which had been applied frequently exceeded the number of Conventions in respect of which formal declarations had been made, the international obligations undertaken by new States Members on their admission to the I.L.O. have in certain cases not been confined to Conventions whose obligations had been formally accepted.

In examining each of the questions dealt with in the various chapters of this review, it would seem that, with regard to a considerable number of the countries or territories concerned, the available information on the whole reveals a favourable situation. Admittedly there is still room for improvement in many fields, but, leaving aside certain territories which are very small, are sparsely populated or possess no natural resources, there are relatively few territories which do not possess basic labour laws.

Recourse to the various forms of forced labour falling within the 1930 Convention and various kinds of indirect compulsion to work (recruitment, long-term contracts, penal sanctions) is almost everywhere on the decline and appears to have completely disappeared in certain vast regions. More detailed indications as to the countries where these various forms of compulsion still exist will be found in Chapter I.

In a considerable number of the countries concerned, the legislation appears to contain no provisions which might infringe freedom of association, and the rights provided for in the relevant international standards seem to be guaranteed by law.

In most cases the application of the standards relating to minimum wages, protection of wages, and labour clauses in public contracts also appears to be satisfactory. However, as regards equal remuneration for men and women workers, much remains to be done.

It is more difficult to assess the manner in which effect is given to certain standards relating to general conditions of work. Whereas in certain countries hours of work, weekly rest and annual holidays are regulated by legislation, which is frequently extremely detailed and whose effective application naturally depends on adequate inspection, in other countries these matters are governed by collective agreements, thus depending directly on the strength of the trade unions. In many countries protection of women workers appears to be in conformity with international standards (as regards prohibition of night work, prohibition of underground work, and maternity protection). As regards work by young persons, although generally the standards concerning the prohibition of night work appear to be applied, the effective application of standards providing for a minimum age or medical examination is closely related to the organisation of educational and medical facilities. Finally it appears that, having regard to the various industries which have been established, appropriate safety and health measures have generally been taken.

In the field of social security it appears that in most countries workers—and their dependants—are entitled to adequate compensation in case of accident or illness resulting from their work. A beginning is being made in covering certain other contingencies—sickness, maternity, old age, death and dependency.

It would appear from the information available as regards labour administration that in many countries the general situation is on the whole satisfactory. The legisla-

¹ See the Chart appended to this review (Appendix II).

tion concerning labour inspection appears very frequently to be in conformity with international standards. However, the effectiveness of labour inspectorates naturally depends on the number of inspectors, having regard to number and size of the undertakings to be inspected, and upon the qualifications of the inspection staff for their work. In many countries a public employment service has been established, but it is not always easy to determine whether the number of offices and the staff provided are adequate to meet requirements. Finally, it appears that the competent administrations are increasingly seeking to compile and publish various labour statistics.

* * *

The general indications given above provide an over-all idea of the situation in the various countries concerned with regard to the main matters dealt with in international labour Conventions. More detailed indications are given in the various chapters of this survey and in the table appended to it; reference may be made thereto with a view to obtaining a clearer picture concerning a particular country or group of countries.

It would, however, be dangerous to purport to base a general assessment of the social situation in a particular country merely on these indications, which it has frequently been possible to set out only in a very schematic form. Similarly, any attempt to compare one country with another on the basis of the number of Conventions which are applied more or less fully would not necessarily provide a true picture of the situation. At most it would seem possible to draw certain conclusions as to the manner in which particular States responsible for non-metropolitan territories have discharged their international obligations.

In the first place, it must be remembered that, with a few exceptions, the information used as a basis for the various studies has been drawn essentially from the reports on the application of Conventions ratified by the States in question, so that the availability of information for a given country with regard to a particular question depended directly on the number and nature of the Conventions which had been ratified.

Secondly and above all, the various Conventions which have been taken into account clearly do not all have the same value or effect from the point of view of a country's social evolution. The obligation to mark the weight of packages transported by vessels is undoubtedly an appropriate safety measure to prevent certain accidents, including fatal accidents. Nevertheless from the point of view of a country's general social situation, it is clear that the full application of the Convention providing for this safety measure does not have the same significance as, say, the implementation of international labour standards prohibiting forced labour or guaranteeing freedom of association, or of the provisions of the Social Policy Convention calling for the association of the people or their representatives in decisions concerning economic or social policy affecting them.

It would thus appear that any attempt to depict the social situation of a given country on the basis of the Conventions which are applied in it must at least take account of the matters dealt with in these Conventions, according to whether the purpose of the standards is to provide for the protection of workers, or some of them, or to ensure their advancement by guaranteeing certain fundamental freedoms or associating them in decisions affecting them.

In general, measures aimed at the advancement of the people have, in a substantial number of the countries covered by the present survey, been taken parallel with the adoption of measures of protection. In such cases the fact that the people, and above all the workers, have been increasingly associated in decisions which affected them has no doubt prepared them to assume more extensive responsibilities, and provides

a guarantee that previously adopted measures of social protection will be kept in force.

In contrast, in some cases the effort to provide protection, both through legislation and institutional arrangements, has not had the same repercussions as one might have expected if corresponding attention had been given to measures for the advancement of workers. The value of the results actually achieved, on the technical level, in ensuring the protection of the workers should certainly not be underestimated, but may the most spectacular technical achievements not lose a considerable part of their value, or even be lost, if those whom they are intended to benefit are not associated in them and do not actively participate in their realisation ?

Prospects

If the present period may come to be known in political history as that of the attainment of independence by a large number of peoples, does it not also deserve to be identified in the history of ideas as the period in which a universal awareness has arisen of the problems of underdevelopment and the need to grapple with them ? In effect, the problems of underdevelopment and the search for means of solving them appear to occupy a predominant place in the preoccupations of all peoples of all States, whether new or old, and in contemporary international policies.

Some of the manifold and complex questions thus arising relate to the various problems dealt with in this survey and concern, directly or indirectly, the field covered by international labour standards. Certain of these questions are of a relatively technical nature and do not all possess the same topical interest or relatively the same importance for the different countries whose situation has been considered in this survey. The governments concerned may thus find in the various chapters of the survey more detailed indications of the aims which the international labour standards might assign to their social policy in the various fields concerned. Certain problems of more general interest, and frequently of fundamental importance for all the countries concerned, deserve special attention. Some of these problems are briefly mentioned below.

The first question, which is often raised with reference to problems of development, is whether the economic and social development of a country is reconcilable with the observance of fundamental human rights or whether such development can be realised only at the cost of the compulsions which some regard as inevitable. Referring more particularly to matters dealt with in certain international labour standards—prohibition of forced labour and freedom of association—the problem is to determine whether, in order to achieve economic development, recourse to forced labour or restrictions on freedom of association could be justified. These two questions are considered below.

The problem of forced labour in the world will next year be the subject of a detailed study by the Committee.¹ The general comments made below must thus be regarded as of a preliminary nature.

Attempts have already been made in many countries, both non-metropolitan territories and independent States, to achieve economic development through the

¹ Reports have been requested from all States Members on the legislation and practice, both in their national territory and in their non-metropolitan territories, regarding the forms of forced labour and indirect compulsion dealt with in the two Conventions and two Recommendations in this field. In accordance with its normal practice, the Committee's conclusions will relate both to the countries which have ratified the Conventions in question and the countries which have not ratified them.

establishment of systems of compulsory labour to carry out certain major projects. This question has been discussed in detail by the Conference, which in 1957 adopted the Abolition of Forced Labour Convention. This instrument prohibits the use of forced labour, *inter alia*, "as a method of mobilising and using labour for purposes of economic development".

The information available on the experience of certain countries which have had recourse to this form of forced labour permits certain conclusions to be drawn.

In the first place, the economic results obtained appear hardly to have justified the hopes of those who initiated the schemes in question. The output of a forced worker is always very low and frequently the value of his work barely covers the cost of his maintenance. This finding is confirmed by the results of studies which have been made for the purpose of discovering means of increasing labour productivity.

Recourse to forced labour for the purposes of economic development also demands a considerable number of supervisors. Countries with limited human and financial resources may find it difficult to solve the problems involved in recruiting such supervisory staff and paying the wages required by them.

Finally, even in so far as such a system might operate effectively from a purely economic point of view, it would, from the social point of view, necessarily have deplorable psychological and political consequences. The fundamental aim of economic and social development must be the freeing of the individual and the development of his personality by giving him the feeling of belonging to a group and actively participating in its life. Forced labour cannot but encourage or increase the estrangement of the individual from society. The aim of development is to train citizens, in the full sense of this word; the consequence of forced labour is to create slaves.

However, various solutions have been proposed and used on a more or less wide scale in certain countries to combat underemployment and make full use of available manpower. In so far as such solutions do not in fact involve compulsion and retain a truly voluntary character, they appear almost all to invoke modified techniques of community development. However, whereas within the framework of community development it may be relatively easy for a social promoter to persuade the members of a small community to devote part of their leisure time to the carrying out of certain work for the benefit of their community, whose utility all can clearly perceive, the generalisation of such methods may give rise to certain problems which have already been mentioned in Chapter I and which the Committee will consider further in 1962.

The problem of the scope to be allotted to freedom of association and of the role which trade unions may play in the processes of economic and social development is also one of the most acute.

For a number of years, the International Labour Organisation has endeavoured to secure respect for freedom of association in the different countries. Experience shows that in proportion as the political power has decided to have recourse to constraint—in order to attain particular economic objectives or for other reasons—either the independent occupational organisations are dissolved and obstacles placed in the way of their reconstitution or, in other cases, sometimes on the pretext of promoting unity in the trade union movement, the public authorities attempt to transform the trade union movement into an executive organ and to subject organisations to strict supervision.

Nevertheless, by thus suppressing all freedom of association, the public authorities may deprive themselves of the valuable assistance which independent occupational organisations may render or reduce considerably the contribution of the trade union movement. But infringements of freedom of association do not always result from deliberate intervention on the part of the public authorities. Infringements may also be the consequence of the attitude adopted by the organisations themselves.

Whether it be in the field of their collaboration with the public authorities or of their political activity—in respect of which, however, they can be guided by the principles adopted by the Conference¹—whether it be in the field of relations between employers and workers—in which their normal desire to further and defend the interests of their members should not cause them to lose sight of the need to take account of the general interests of the country—and even though it be the result of their weakness or divisions, occupational organisations should be conscious of the fact that, if by reason of their incapacity to perform their proper role the freedom which they enjoy leads to abuses, they themselves may compromise their position by providing justifications for intervention by the State or by giving the State opportunity to intervene.

Thus, in the last resort, the importance of the role which occupational organisations will be able to play in the processes of economic and social development, and even the degree of freedom which they continue to enjoy, depend to a large extent on the capacity of their officers and members, on their maturity and on their sense of responsibility. In this connection, it will probably be found necessary, in countries in which the trade union movement is not already relatively strong and well organised, for the application of international standards relating to freedom of association and industrial relations to be supplemented by taking advantage as far as possible of the programmes of assistance and education afforded by the I.L.O. and certain international organisations of workers and employers.

The development of powerful organisations, well organised and conscious of their responsibilities, must also enable as much scope as possible to be left for the application by means of collective agreements of minimum standards prescribed by legislation. Apart from the various advantages thus afforded², it would seem that, as was recently observed, the voluntary negotiation of collective agreements may “lead to industrial democracy and thus strengthen democracy in the whole community”.

This strengthening of democracy in the whole of the community may also result directly from the implementation of the principles laid down in the Social Policy (Non-Metropolitan Territories) Convention. This Convention stipulates especially the adoption of various measures for promoting economic and social progress and defines the principal fields in which such action should be undertaken; it also recommends above all that the population should be associated, preferably through their own elected representatives, in the drawing up and carrying out of development plans.

In this connection, the Committee has learned with interest that, at the suggestion of the First African Regional Conference, the question of the possibility of revising this Convention so as to permit of its ratification by independent States and of its application in their own national territories has been submitted to the Governing Body of the I.L.O. The Committee is bound to feel satisfaction at this initiative to keep in force the fundamental standards contained in the Convention.

The second general question which arises is the question as to whether “social charges” may not involve a risk of delaying the moment when an economy can “take off”. In other words, and siting this problem in the one field of the measures prescribed with respect to international labour standards, do not the relevant international obligations involve the danger of economic development being slowed down?

This problem is certainly not a new one. In different terms and under different circumstances it arose at the end of the nineteenth century when the first measures

¹ See Chapter II above.

² See above, Chapter II.

for the protection of labour in industrialised countries were adopted. In fact, it might be said that the International Labour Organisation was set up because this problem had arisen. More recently, it arose in connection with the drawing up and implementation of a labour code for certain non-metropolitan territories. The view was expressed in certain quarters that the entry into force of this code would hinder irreparably the economic development of the territories to which it was to apply. Experience, however, hardly seems to have confirmed these pessimistic forecasts.

Regarded in very general terms, however, the question does not seem to be one to which one can give a reply which is valid in all circumstances. Admittedly, it is not impossible to imagine situations in which the high level of social charges might impose a disproportionately heavy burden on the economy of a country. None of the countries considered in this survey, however, appear to be in this position. If the undeniable progress made in these countries has made it possible to strike a fairly positive balance on the whole, the detailed indications given in the various chapters of the survey show that there is still room for considerable progress and that in many cases the measures of social protection have not yet reached the optimum level beyond which they might become a burden on the economy.

Among the various elements which should be borne in mind when attempting to reply to this question, consideration has to be given to the fact that wage earners still represent only a small proportion of the active population in a number of these countries. The burden of the various measures of social protection which these workers enjoy—or, if we refer to international labour standards, what is called “the application density”¹, of such of these standards as relate only to wage earners—should not therefore be overestimated.

It is also necessary not to lose sight of the fact that the measures of social protection of wage earners employed in the sectors of the market economy are intended not only to protect them against certain risks inherent in their new circumstances and to which they were not formerly exposed, but must also provide them with the environment and protection which are often afforded, even now, by the traditional social structures to the individuals engaged in the sectors of the subsistence economy.

Having regard to the different information available with respect to the economic and social situation of the different countries referred to in this survey, it would therefore seem desirable not only to ensure the maintenance of the progress already achieved in the social field but also to promote continuous action in this field. The information given in the chapters of the survey on the principal problems remaining to be solved makes it possible to assess the progress which has still to be achieved. In this connection, it would seem that the attention of governments and occupational organisations might be devoted especially to two main problems.

In the field of fundamental human rights, more complete and general application of the standards relating to the abolition of forced labour, to freedom of association and to non-discrimination should be achieved and placed on the basis of international obligation through the ratification of the corresponding Conventions by member States and through their acceptance on behalf of non-metropolitan territories. In the field of the different technical problems, the protection of the work of women and children and the compensation of industrial accidents should also, it would seem, be selected with a view to immediate action; ratification by the member States of the relevant Conventions and acceptance thereof on behalf of non-metropolitan territories would make it possible to measure the progress made.

¹ I.L.O.: First African Regional Conference, Lagos, 1960, Report I: *Report of the Director-General* (Geneva, 1960), p. 79.

With regard to social measures of broader scope, some, such as education and training, themselves constitute an indispensable element in economic development and, therefore, their adoption will become a vital necessity.

Indeed, as was recently emphasised, "social action not only responds to human needs but becomes itself an agent of economic growth, thus sustaining the material basis for the achievement of its own objectives".¹

¹ I.L.O.: Seventh Conference of American States Members of the International Labour Organisation, Buenos Aires, April 1961, Report I: *Report of the Director-General* (Geneva, 1960), p. 138.

APPENDIX I

Presentation of the Chart of the Application of Conventions

1. In essence the "Chart of the Application of Conventions in Non-Metropolitan Territories", which is annexed to the present review, is similar to the two previous charts presented by the Committee. However, this chart contains a certain number of innovations which are set out below.

2. In the first place it seemed appropriate, for various reasons, not to limit the survey only to territories which still have non-metropolitan status in relation to the I.L.O. on 30 June 1960. Consequently the chart presented this year contains a certain number of countries which were considered as non-metropolitan territories during the greater part of the period since 30 June 1954. A note has been inserted against the name of each of these countries to indicate the year of its change of status.

3. It has also been necessary to bear in mind other changes which have occurred during the period under consideration. Thus certain territories which were previously grouped under one name now appear individually. This is the case of the Leeward Islands¹, French West Africa² and French Equatorial Africa.³

4. Much attention was also given to studying the different suggestions which have been made with a view to simplifying, as far as possible, the chart's presentation and to reducing the number of symbols used.

5. One of the governments responsible for non-metropolitan territories suggested that only one chart, similar to the chart of ratifications of States Members should be drawn up. This chart would only contain two signs: one indicating declarations of application without modification or, in the absence of a declaration, indicating instances where the Convention appears to be fully applied; the other indicating declarations of application with modifications. It did not seem desirable to adopt this suggestion. The chart presented by the Committee must enable the Conference to review the manner in which States Members have undertaken their different constitutional obligations. It must also enable it to see how far a Convention is applied irrespective of whether a declaration has been communicated.

6. The use of two symbols, one indicating the nature of the declaration made, the other indicating the evaluation made by the Committee, must also be capable of showing the responsible authorities the cases where a new declaration modifying the terms of a previous declaration might be communicated, in conformity with article 35, paragraphs 3 and 7, of the Constitution of the I.L.O.

7. The possibility of reducing the number of the symbols used by trying other schemes has also been studied. As regards the signs used to indicate the nature of

¹ Antigua, British Virgin Islands, Montserrat, St. Christopher-Nevis-Anguilla.

² Dahomey, Guinea, Ivory Coast, Mauritania, Niger, Senegal, Sudan (now Mali), Upper Volta.

³ Chad, Congo, Gabon, Ubangi-Shari (now Central African Republic).

the declarations communicated under article 35, four different signs are necessary to take account of the different types of declaration laid down in certain Conventions¹ which specially provide for:

cases where the Convention is declared applicable without modification;
cases where the Convention is declared applicable with modifications;
cases where the decision is reserved;
cases where the Convention is considered inapplicable.

It is impossible therefore to simplify these signs.

8. Reduction of the different symbols designed to indicate schematically the way in which effect is, more or less, given to a Convention also presents certain difficulties. In the first place the sign used to indicate that a Convention appears fully applied can only be used in cases where the Committee would have no observations to make on the application of this Convention (except perhaps to request information on the practical application of the Convention), if a similar situation existed in a State Member which had ratified the Convention.

9. This is the reason why, even in cases where the application of the Convention appears as a whole to be very satisfactory, with the exception of one or two more or less minor points—but on which the Committee might want to make an observation—a special symbol has been used. In order to avoid confusion, this sign has not been used, as in previous charts, to indicate that a Convention declared applicable with modifications, appears to be applied in conformity with the declaration communicated. In the cases—not very numerous it is true—where the modifications are more or less of a secondary character, it seemed preferable to use in future the third symbol used by the Committee to indicate its evaluation, i.e. indicating partial application.

10. The third symbol, which indicates cases where the Convention is only partially applied, covers a large number of different situations. In some cases it indicates that the Convention is only beginning to be applied, either because its provisions are applied only to certain workers or because only a certain number of its basic provisions are applied. In other cases, on the contrary, it has also been used when the Convention appears to be fairly substantially applied.

11. One sign has also been used to indicate all cases where the Convention has not been applied, although these situations may differ widely. This may notably be the case when the Convention cannot be applied at all, for example if the Convention in question concerns seafarers' work conditions and the territory concerned has no access to the sea, or when a Convention concerns an industry (mines, glass-works, etc.) which does not exist in the territory concerned. On the other hand the same sign has also been used in cases where local conditions do not explain why the Convention is not applied, whatever the formal engagement undertaken in the matter by the Government concerned.

12. It appears, however, that, in order to follow—to some extent at least—the suggestions of certain members of the Conference Committee on the Application of Conventions and Recommendations, there would be no difficulty in omitting purely and simply the last sign used in previous charts and designed to indicate cases where the information contained in reports was insufficient to enable the Committee to make an evaluation. As a result, no symbol appears on the righthand side of the chart presented in Appendix II to the present survey, not only in cases where no report

¹ For example in Article 26 of the Forced Labour Convention, 1930 (No. 29).

has been supplied during the period under consideration, but also in cases where insufficient information was supplied in the reports.

13. As the Committee has emphasised on previous occasions, this Chart of the Application of Conventions in Non-Metropolitan Territories should be interpreted with caution. For this purpose, in addition to the information supplied in annual reports which are summarised by the International Labour Office and laid before the Conference, it is also possible to consult the different chapters above.

APPENDIX III

LIST OF PRINCIPAL LEGISLATION

(States and territories are indicated by the names under which they were previously known)

ADEN

Employment of Women, Young Persons and Children Ordinance No. 20 of 1938. Ch. 55 of the Laws.
Workmen's Compensation Ordinance No. 40 of 1939 as amended by Ordinances No. 35 of 1940 and No. 22 of 1950 (Ch. 143).
Minimum Wage and Wage Regulation Ordinance No. 17 of 1940 (Ch. 89).
Contracts of Employment (Indigenous Workers) Ordinance No. 45 of 1942 (Ch. 28).
Trade Union and Trade Disputes Ordinance 1942, amended, *inter alia*, by Ordinance No. 7 of 1947.
Labour Ordinance No. 16 of 1943.
Ordinance No. 4 of 1952 (creating an arbitration tribunal for essential services) (*Aden Colony Gazette*, 14 February 1952, supplement No. 1).
Shop Opening Hours Ordinance No. 6 of 1958.
Trade Disputes (Arbitration and Inquiry) Ordinance No. 6 of 1960.
Labour Ordinance (Ch. 84).
Minimum Wage and Wages Regulation Ordinance (Ch. 97).
Factories Ordinance (Ch. 63).

ALASKA

Chapter 35: Safety in Mines (1923).
Chapter 82: Inspection of Mines (1923).
Chapter 101: Regulation of Private Employment Agencies (1923).
Chapter 63: Medical Care for Victims of Industrial Accidents (1925).
Chapter 65: Old-Age Pensions (1925).
Act No. 96243 of 1927 (Exemption of wages from set-off and attachment).
Act No. 139 of 1927 (school attendance).
Workmen's Compensation Act of 1929 (Ch. 25.)
Chapter 85: Public Holidays (1931).
Chapter 29: Equal Pay (1949).
Chapter 18: Discrimination in respect of Employment (1953).
Chapter 185: Wages and Hours of Work Act (1955).

ALGERIA ¹

Act of 13 July 1906 respecting weekly rest, rendered applicable to Algeria by decree of 21 January 1909.
Decree of 21 March 1914 concerning dangerous occupations prohibited for children and women, applied to Algeria by decree of 14 February 1921.
Decree of 19 January 1915 to bring into force in Algeria the provisions of Book I of the Labour and Social Welfare Code concerning labour conventions (*Code algérien du travail (C.A.T.)*, p. 11).
Act of 25 September 1919 to apply to Algeria the French Act of 9 April 1898 concerning liability for industrial accidents (*Journal officiel de la République française (J.O.R.F.)*, 10 April 1898).
Act of 25 October 1919 concerning occupational diseases (*J.O.R.F.*, 27 October 1919).
Decree of 15 January 1921 to apply to Algeria Book II of the Labour Code (Conditions of Work) (*I.L.O. Legislative Series*, 1921—Fr. 1).
Act of 15 December 1922 extending the workmen's compensation scheme to agricultural undertakings (*L.S.*, 1922—Fr. 3), amended on 30 April 1926.

¹ See also under France: Algeria and Overseas Departments.

- Decree of the Governor General of Algeria, of 10 February 1932, to issue regulations respecting holidays with pay for homeworkers.
- Act of 24 June 1936 to provide for a 40-hour week in industrial and commercial undertakings and to fix hours of work in mines (*L.S.*, 1936—Fr. 8).
- Sections 33 et seq. of Book I of the Labour Code, as amended by the Act of 1 August 1941, made applicable to Algeria, by the decree of 29 December 1941 (Homeworkers).
- Ordinance of 14 August 1943 respecting the revision of wages.
- Ordinance of 22 February 1945 concerning the establishment of works committees (*L.S.*, 1945—Fr. 8), amended by Act of 16 May 1946 (*L.S.*, 1946—Fr. 8).
- Decree of 29 August 1945 respecting holidays with pay.
- Act of 25 February 1946 concerning payment for overtime (*L.S.*, 1946—Fr. 2).
- Act No. 46-730 of 16 April 1946 to determine the status of workers' representatives in undertakings (*L.S.*, 1946—Fr. 7).
- Decree of 6 June 1946 to apply to Algeria Ordinance No. 45-1030 of 24 May 1945 concerning the placement of workers and the supervision of employment (*L.S.*, 1945—Fr. 7).
- Order of 25 June 1946 concerning the wages system (*C.A.T.*, p. 123).
- Act of 30 October 1946 concerning the prevention of and compensation for industrial accidents and occupational diseases (*L.S.*, 1946—Fr. 12).
- Order of 10 June 1949 to bring into force decision No. 49-045 of the Algerian Assembly concerning the organisation of a social security scheme for industry and commerce (*L.S.*, 1949—Fr. 4), amended and supplemented, *inter alia*, by order of 19 November 1959 (*Recueil des actes administratifs*, 1 December 1959).
- Order of 10 September 1949 to bring into force decision No. 49-064 of the Algerian Assembly to establish a social insurance scheme in agriculture (*L.S.*, 1949—Fr. 7).
- Act of 11 February 1950 concerning collective agreements and the procedures for the settlement of collective labour disputes (*L.S.*, 1950—Fr. 6 (A)), amended by Act No. 57-833 of 26 July 1957 (*L.S.*, 1957—Fr. 2 (A)).
- Order of 24 March 1950 to prohibit the use of white lead, etc., in the painting of buildings (*Journal officiel de l'Algérie*, (*J.O.A.*), 28 March 1950).
- Order of 28 March 1951, concerning the Algerian Higher Collective Agreements Board.
- Order of 27 August 1951 on the organisation of manpower services (*L.S.* 1951—Alg. 2).
- Act No. 52-834 of 18 July 1952 respecting variations in the national guaranteed inter-occupational minimum wage as a result of changes in the cost of living.
- Order of 22 January 1954 to regulate the work of women and children in industry and commerce (*L.S.*, 1954—Alg. 1).
- Decision No. 54-024, confirmed by decree of 25 May 1955, to establish an assistance scheme for involuntarily unemployed workers (*L.S.*, 1955—Alg. 1).
- Orders of 25 February 1954 and 2 September 1954 respecting the prevention of industrial accidents.
- Act No. 332 of 27 March 1956 to amend the rules governing annual holidays with pay.
- Decree of 5 August 1956 respecting the system of holidays with pay.
- Act No. 56-416 of 27 April 1956 to ensure freedom of association and protection of trade union rights.
- Order No. 57-199 of 18 February 1957 to determine the conditions of application in Algeria of the legislation concerning occupational diseases in agriculture (*J.O.A.*, 21 May 1957).
- Decree No. 57-200 of 18 February 1957 to apply to Algeria sections 992-1000 of the Rural Code concerning the regulation of working hours and weekly rest in agricultural occupations (*J.O.R.F.*, 23 February 1957).
- Decree of 28 May 1958 to confirm a decision of the Governor of Algeria to establish an agricultural insurance scheme [repealing Decision No. 49-064 of the Algerian Assembly] (*J.O.A.*, 23 July 1957).
- Order of 30 December 1957 concerning the establishment of an old-age pension scheme for persons not working for wages (*J.O.A.*, 7 January 1958).
- Decree No. 58-4 of 2 January 1958 to apply to Algeria the Act of 27 June 1935 concerning the indication of weight on heavy packages transported by vessels (*J.O.R.F.*, 7 January 1958).
- Order of 6 October 1957 concerning the protection of women and minors against dangerous work (*Recueil des actes administratifs*, 17 October 1957).

ANGOLA ¹

- Legislative Ordinance No. 537 of 30 May 1927 abolishing the specification of categories of workers in the service of the State and fixing minimum wages (*Boletim oficial (B.O.)*, No. 23 of 1927).
- Decree No. 670 of 15 December 1927.
- Act No. 1942 of 27 July 1936 respecting the right to compensation for the consequences of industrial accidents or occupational diseases.

¹ See also under Portugal: Overseas Provinces.

Legislative Order No. 1840 of 6 November 1946 to regulate weekly rest and hours of work of non-indigenous employees (*B.O.*, 6 November 1946).
 Ordinance No. 6224 to provide for the identification of Natives (*B.O.*, Series I, 2 February 1948).
 Ordinance No. 6622 concerning employment offices (European and assimilated workers) (*B.O.* No. 2, 12 January 1949).
 Legislative Decree No. 2266 concerning native settlements (*B.O.*, No. 25, 5 July 1950).
 Legislative Decree No. 27971 of 31 December 1956 to consolidate the regulations governing native labour (*B.O.*, No. 52, 31 December 1956).
 Legislative Decree No. 2827 of 5 June 1957 to establish a Labour Code in Angola (*L.S.*, 1957—Ang. 1).
 Ordinance No. 9934 of 23 October 1957 concerning the employment of women and young persons (European and assimilated workers) (*B.O.*, No. 43, 23 October 1957).

ANTIGUA¹

Lead Poisoning Ordinance No. 8 of 1928 (*L.S.*, 1928—Ant. 1).
 Labour Ordinance No. 3 of 1950.
 Workmen's Compensation Ordinance No. 24 of 1956.
 Factories Ordinance No. 12 of 1957.

AUSTRALIAN NEW GUINEA

Native Labour Ordinance No. 15 of 24 March 1922 (*L.S.*, 1922—*L.N.* 3), amended by Ordinances No. 13 of 1923, (*L.S.*, 1923—*L.N.* 3), of 1924 (*L.S.*, 1924—*L.N.* 3), No. 28 of 1927, (*L.S.*, 1927—*L.N.* 6), No. 6 of 1930 (*L.S.*, 1930—*L.N.* 2), No. 30 of 1931 (*L.S.*, 1931—*L.N.* 6), and No. 6 of 1932 (*L.S.*, 1932—*L.N.* 1).
 Mines Ordinance No. 18 of 30 August 1928 (*L.S.*, 1928—*L.N.* 2).
 Ordinance No. 17 of 31 August 1931 concerning the marking of weight on heavy packages transported by vessels.
 Ordinances Nos. 14, 20, and 32 of 1933 to amend the Native Labour Ordinance (*L.S.*, 1933—*L.N.* 2).
 Ordinances Nos. 29 and 44 of 1936 to amend the Native Labour Ordinance (*L.S.*, 1936—*L.N.* 3).
 Ordinance of 1935 to regulate mines and industrial undertakings (*L.S.*, 1935—*L.N.* 4), amended by Ordinance No. 27 of 1936 (*L.S.*, 1936—*L.N.* 4 (A)).
 Ordinances of 30 April and 15 November 1938 to amend the Native Labour Ordinance (*L.S.*, 1938—*L.N.* 1 (A and B)).
 Ordinance No. 3 of 1947 concerning the wages and conditions of work of native labour (*Commonwealth of Australia Gazette*, 23 April 1947).
 Ordinance No. 5 of 1947 concerning workmen's compensation (*Commonwealth of Australia Gazette*, 15 May 1947).
 Native Labour Ordinance 1950-53 (*L.S.*, 1953—Pap N.G. 1).
 Ordinance No. 37 of 24 October 1951 concerning the marking of weight on heavy packages transported by vessels.
 Ordinance No. 38 of 24 October 1951 concerning unemployment allowances for seamen.
 Ordinance No. 77 of 13 June 1952 concerning apprenticeship of Natives (*L.S.*, 1952—Pap. N.G. 1).
 Ordinance No. 1 of 9 January 1958 concerning the protection of workers in industry.
 Ordinance No. 55 of 1958 concerning restrictions on emigration of Natives.
 Ordinance No. 59 of 1958 concerning workmen's compensation.

BAHAMAS

Public Office, Banks and Shop Closing Act, 1926.
 Labour Minimum Wage Act, No. 32 of 1936.
 Labour Minimum Wage Order-in-Council, 1937.
 Employment of Children Prohibition Act, 1938.
 Recruiting of Workers Act, 1939.
 Trade Unions Act, No. 9 of 31 March 1943.
 Workmen's Compensation Act, No. 25 of 1943.
 Labour Boards Act, No. 1 of 1946.
 Trade Disputes Ordinance of 23 May 1946 (*Official Gazette*, 1 June 1946).
 Trade Unions and Industrial Conciliation Act, No. 30 of 21 August 1958 (amending previous legislation on the subject).

¹ See also Leeward Islands.

BARBADOS

Masters and Servants Act, 1881.
 Labour Minimum Wage Act, 1936.
 Act No. 17 of 1937 repealing the penal clauses in the Master and Servants Act of 1881.
 Recruiting of Workers Act, No. 12 of 1938, as amended by Act No. 45, 1941.
 Employment of Women, Young Persons and Children Act, 1938.
 Recruiting of Workers Act, No. 49 of 1938 (Act No. 49 of 1938).
 Workmen's Compensation Act, No. 2 of 1943 as amended by Acts of 1943 and 1950.
 Wages Board Act, No. 32 of 1943 and Regulations made thereunder.
 Labour Department Act No. 21 of 1943, as amended (*Laws of Barbados*, 1943 and 1944).
 Wages Boards Regulations, 1944.
 Trade Union and Trade Disputes Act, No. 61 of 1946.
 Trade Union and Trade Disputes Regulation, 1946 (*Official Gazette*, 21 October 1946).
 Recruiting of Workers (Amendment) Regulations, 1949.
 Holidays with Pay Act No. 38 of 1951 (*Laws of Barbados*, 1951, Vol. VII).
 Employment Exchanges Act, No. 43 of 1955 (*L.S.*, 1955—Bar. 1).
 Factories Act, No. 52 of 1958.

BASUTOLAND

Native Labour Proclamation 1907, amended in 1907, 1912, etc.
 Native Labour Proclamation No. 5 of 1942, as amended (*Laws of Basutoland*, Ch. 57).
 Trade Unions and Trade Disputes Proclamation, No. 16 of 1942 (*Laws of Basutoland*, Ch. 103).
 Workmen's Compensation Proclamation No. 4 of 1948 as amended.
 Pensions Proclamation No. 1 of 1950.
 Prisons Proclamation No. 30 of 1957.
 Basutoland Prisons' Rules (Government Notice No. 27 of 1957).

BECHUANALAND

Masters and Servants Acts 1856 to 1889 of the Cape of Good Hope as amended by Ch. 34 of the Laws of Bechuanaland, 1948.
 Employment of Women and Children Proclamation, Ch. 41.
 Protection of Native Labourers Proclamation (*L.S.*, 1936—Bech. 1).
 Workmen's Compensation Proclamation No. 28 of 1936, as amended.
 Native Labour Proclamation No. 56 of 1941, as amended in 1954.
 Trade Union and Trade Disputes Proclamation, No. 16 of 1942 (Ch. 124 of the Laws of Bechuanaland, as amended).
 Masters and Servants (Amendment) Proclamation, No. 13 of 1943 (Abolition of Penal Sanctions for Breach of Contract by Non-Adult Persons).
 Workmen's Compensation (Amendment) Proclamation, No. 51 of 1948.
 Native Labour Proclamation, 1948, Ch. 64.
 Wage Boards Proclamation No. 52 of 1949.

BELGIAN CONGO

Order No. 476bis/AIMO of 8 December 1914 respecting the hygiene and safety of workers, as amended.
 Decree of 15 June 1921 respecting the hygiene and safety of workers.
 Decree of 16 March 1922 respecting the contract of employment between indigenous workers and civilised masters.
 Decree of 19 March 1925 to issue portorage regulations.
 Decree of 19 July 1926, respecting the emigration of indigenous workers outside the territory of Ruanda-Urundi.
 Ordinance No. 17 of 30 April 1928 to regulate portorage (*Bulletin administratif du Congo belge* (*B.A.*), No. 11).
 Act of 5 June 1928 to regulate contracts of maritime employment (*Bulletin officiel*, (*B.O.*), 1928, p. 1345), amended, *inter alia*, by legislative orders of 16 December 1943 (*B.O.*, 1944, p. 124) and 25 March 1944 (*B.O.*, 1944, p. 213).
 Act of 30 December 1929 respecting compensation for industrial accidents sustained by seamen.

- Ordinance No. 55 of 9 August 1930 concerning occupational safety and health and regulations in respect of contracts of employment between Natives and civilised masters (*L.S.*, 1930—Belg. 15 (A)).
- Decree of 5 December 1933 respecting native districts.
- Act of 10 September 1937 approving the Convention on Recruiting and Contracts of Employment of Indigenous Workers.
- Ordinance No. 212 of 2 August 1940 concerning sanitation work imposed in native districts.
- Legislative Order of 20 May 1943 to approve the Convention concerning forced or compulsory labour adopted by the International Labour Conference at its 1930 Session (*L.S.*, 1943—Bel. 2).
- Decree of 20 December 1945 concerning compensation for industrial accidents suffered by non-indigenous workers (*B.O.*, 1946, p. 34), amended, *inter alia*, by decrees of 31 December 1946, 28 February 1947 and 10 November 1947.
- Decree of 20 December 1945 concerning compensation for the consequences of occupational diseases suffered by non-indigenous workers (*B.O.*, 1946, p. 59), amended, *inter alia*, by decrees of 28 February 1947 and 10 November 1947.
- Legislative ordinance of 17 March 1946 concerning native occupational organisations (*B.A.*, 1946, p. 618) amended, *inter alia*, by legislative ordinance of 20 January 1948 (*B.A.*, p. 389) and decree of 25 January 1957 on the exercise of the right of association (*B.O.*, 1957, p. 206).
- Ordinance No. 100/AIMO of 1946 concerning the settlement of collective labour disputes between employers and their native employees (*L.S.*, 1946—Bel. 9).
- Ordinance No. 128/AIMO of 1946 concerning native occupational unions (*L.S.*, 1946—Bel. 10).
- Ordinance of 6 April 1946 to institute and organise regional and professional native labour and social progress boards.
- Ordinance No. 21/16 of 20 January 1948 concerning night work by native women (*B.A.*, 10 February 1948).
- Ordinance No. 21/16bis concerning night work by native children (*L.S.*, 1948—Bel. 2).
- Ministerial Order of 23 July 1948 respecting insurance against the insolvency of employers who are not insured or who have been disqualified.
- Decree of 25 June 1949 concerning contracts of employment (*B.O.*, 1949, p. 1274), amended, *inter alia*, by decree of 31 December 1949 (*B.O.*, 1950, p. 57).
- Decree of 1 August 1949 concerning compensation for industrial accidents and occupational diseases for native workers (*L.S.*, 1949—Bel. 11 (A)), amended, *inter alia*, by legislative ordinance of 24 June 1950, decree of 30 June 1954, legislative ordinance of 27 August 1957 and legislative ordinance of 4 July 1958 (*L.S.*, 1958—B.C. 1).
- Order of the Regent of 16 November 1949 establishing a list of occupational diseases entitling indigenous workers to the payment of compensation.
- Decree of 16 March 1950 to create a labour inspectorate (*B.O.*, 15 April 1950).
- Decree of 21 March 1950 respecting the safety and hygiene of workplaces.
- Order No. 23/157 of 12 May 1950 containing the list of industries, occupations, work or operations which may cause occupational diseases.
- Decree of 26 May 1951 to organise a system of family allowances for Natives.
- Ordinance No. 51/269 of 4 September 1951 respecting occupational health and safety (*B.A.*, 27 September 1951).
- Ministerial Order of 22 June 1953 to establish in the Colonial Invalidity Fund a guarantee fund against the insolvency of non-insured employers or of employers in arrears with the payment of compensation for industrial accidents and occupational diseases sustained by non-indigenous workers.
- Decree of 30 June 1954 to amend the decree of 16 March 1922 respecting employment contracts for indigenous workers.
- Royal Order of 19 July 1954 to consolidate the provisions of the decree of 30 June 1954 with those of the decree of 16 March 1922 on contracts of employment of native workers (*L.S.*, 1954—B.C. 2).
- Ordinance No. 21/13 of 8 December 1954 to implement the decree of 30 June 1954 respecting the recruitment and acclimatisation of indigenous workers.
- Ordinance No. 22/408 of 12 December 1954 to implement the decree of 30 June 1954 respecting employment contracts for indigenous workers.
- Ordinances Nos. 22/408 of 12 December 1954 and 22/282 of 24 August 1955 respecting minimum wage-fixing machinery.
- Decree of 6 June 1956 concerning workers' pensions (*L.S.*, 1956—B.C. 2), amended by Legislative Ordinance No. 22/301 of 4 July 1958 (*L.S.*, 1958—B.C. 2).
- Decree of 25 January 1957 to regulate the exercise of the right of association of agents and auxiliary agents of the African administration and the judiciary including temporary agents (*L.S.*, 1957—B.C. 1(A)).
- Decree of 25 January 1957 concerning the exercise of the right of association by officials and auxiliary staffs of the African administration and the judiciary (*L.S.*, 1957—B.C. 1 (B)).

- Decree of 19 February 1957 concerning invalidity allowances for workers in the Belgian Congo and Ruanda-Urundi (*L.S.*, 1957—B.C. 2).
- Decree No. 21/57 of 8 March 1957 concerning the exercise of the right of association by the inhabitants of the Belgian Congo and Ruanda-Urundi having served under contracts of service for less than three years (*L.S.*, 1957—B.C. 1 (C)).
- Decree of 14 March 1957 concerning the limitation of hours of work, and rest on Sundays and public holidays (*L.S.*, 1957—B.C. 3).
- Legislative Ordinance No. 22/199 of 11 July 1957 concerning pensions for workers in the Belgian Congo and Ruanda-Urundi, amended by Legislative Ordinances Nos. 22/216 and 22/218 of 22 July, 22/248 of 20 August and 22/456 of 31 December, 1957 (*B.A.*, Part I, 27 July, 3 August, 7 September 1957 and 13 January 1958).
- Legislative Ordinance No. 22/290 of 20 September 1957 concerning the procedure for conciliation and arbitration in collective labour disputes (*L.S.*, 1957—B.C. 5).

BERMUDA

- Civil Servants and Public Employees' Accidents Act, No. 3 of 1926.
- Protection of Children Act, No. 2 of 1943.
- Labour Boards Act, No. 2 of 1945.
- Labour Disputes Act (Arbitration and Inquiry), No. 3 of 1945.
- Trade Unions and Trade Disputes Act, No. 61 of 1946.

BRITISH GUIANA

- Employment of Children Ordinances Nos. 14 of 1933, 6 of 1934 and 7 of 1940.
- Labour Ordinance No. 2 of 1942.
- Recruiting of Workers Ordinance No. 9 of 1943.
- Shops Ordinance No. 5 of 1944 (Ch. 118 of the Revised Laws), as amended by ordinance of 5 December 1958.
- Old-Age Pensions Ordinance No. 17 of 1944.
- Employment Exchanges Ordinance No. 21 of 1944 (*Official Gazette of British Guiana*, 29 July 1944).
- Employers and Servants Ordinance (Ch. 261).
- Fair Wages Rules, 1946.
- Trade Unions Ordinance (Ch. 57).
- Summary Jurisdiction (Offences) Ordinance, Ch. 13, as amended.
- Labour Regulation No. 19 of 1950 (Arbitration Procedure).
- Factories Ordinance of 1951 (*O.G.B.G.*, 9 June 1951).
- Annual Paid Holidays Ordinance No. 3 of 1952 (*ibid.*, 8 March 1952).
- Workmen's Compensation Ordinance No. 63 of 1952 (*ibid.*, 31 December 1952).
- Employment of Women, Young Persons and Children Ordinance (Ch. 107, Laws of British Guiana, 1953).
- Building (Safety) Regulations No. 4 of 1955.
- Trade Disputes (Essential Services) Ordinance No. 44 of 1956 (repeals ordinance of 1952).
- Wage Boards Ordinance No. 51 of 1956.

BRITISH HONDURAS

- Employment of Women, Young Persons and Children Ordinance No. 12 of 1933.
- Public Safety Ordinance No. 25 of 1935.
- Recruiting of Workers Ordinance No. 25 of 1938.
- Trade Disputes (Arbitration and Inquiry) Ordinance No. 3 of 1939.
- Labour (Minimum Wages) Ordinance, No. 1 of 1940.
- Employment of Children Ordinance No. 8 of 1940.
- Trade Unions Ordinance No. 1 of 1941, as amended.
- Trade Unions Rules No. 60 of 1941.
- Trade Unions Regulations No. 61 of 1941 as amended.
- Ordinance No. 20 of 1941 amending the Recruitment of Workers Ordinance No. 25 of 1938.
- Workmen's Compensation Ordinance No. 4 of 1942, as amended by Ordinances No. 18 of 1942 and No. 7 of 1943.
- Factories Ordinance No. 9 of 1942.
- Employers and Workers Ordinance, No. 6 of 1943, as amended.
- Shops (Regulation) Ordinance No. 18 of 1943.
- Arbitration Tribunal Ordinance No. 24 of 1953.
- Labour Regulation of 18 July 1956 (Statutory Instrument No. 41).
- Wage Boards Ordinance No. 21 of 1958.

BRITISH SOMALILAND

Workmen's Compensation Ordinance No. 7 of 1927.
Masters and Servants Ordinance No. 8 of 1927.
Employment of Women, Young Persons and Children Ordinance (Ch. 107).
Minimum Wages Ordinance (Ch. 109).
Native Labour Ordinance No. 21 of 1937 (Ch. 110).
Employers' Liability Ordinance (Ch. 60).
Trade Unions and Trade Disputes Ordinance (Ch. 111).
Contracts of Employment (Indigenous Workers) Ordinance No. 6 of 1953 (*L.S.* 1953—Som. (Br.) 1).
Workmen's Compensation Ordinance No. 7 of 1953, as amended by No. 16 of 1957.

BRITISH VIRGIN ISLANDS

(*See under Leeward Islands*)

BRUNEI

Labour Code, 1932 (Enactment No. 4/32), as amended.
Workmen's Compensation Notification No. 3 of 1950.
Labour Ordinance of 1954.
Workmen's Compensation Enactment of 1957.

CAMEROUN¹

Decree of 4 August 1922 to regulate native labour (*J.O.*, 1922, No. 213, p. 8231). (*L.S.*, 1922—L.N. 1), supplemented by decree of 9 July 1925 (*J.O.*, 1925 No. 163, p. 6557) (*L.S.*, 1925—L.N. 2).
Order of 8 April 1929 to establish a Labour Office (*L.S.*, 1929—L.N. 2).
Decree of 14 September 1935 to regulate the employment of women and children in agricultural, commercial and industrial undertakings (*L.S.*, 1935—L.N. 1).
Order of 24 November 1936 to regulate the system of labour dues in Cameroun (*L.S.*, 1936—L.N. 2 (A)), amended by order of 31 December 1936 (*L.S.* 1936—L.N. 2 (B)).
Decree of 17 November 1937 to regulate native labour in Cameroun (*L.S.*, 1937—L.N. 2).
Decree of 7 January 1944 to regulate native labour (*L.S.*, 1944—L.N. 1).
Decree of 23 August 1945 concerning the employment of Europeans or assimilated persons in private undertakings.
Order No. 4914 of 5 October 1953 respecting the obligation of the employer to keep a register.
Ministerial Order of 16 April 1954 respecting the right to holidays, promulgated in the territory by Order No. 2964 of 1955.
Order of 3 May 1954 promulgating the decree of 28 January 1954 which extends the Maternity Protection Convention to the Overseas Territories.
Order of 27 November 1954 respecting the employment of women and children.
Order No. 6450 of 3 December 1954 to lay down regulations respecting weekly rest.
Order No. 6675 of 5 October 1956 to prohibit the use of white lead, etc., in painting of buildings (*J.O.*, 17 October 1956).
Orders of 5 and 10 November 1956 to promulgate the Act of 27 March 1956 respecting annual holidays with pay.

CAPE VERDE²

Legislative Ordinance No. 12 of 27 April 1927 concerning workmen's compensation (*L.S.*, 1927—Port. 7).
Order No. 74 of 18 June 1927 concerning the admission of workers to occupations carried on in the open air to remedy the insufficiency of agricultural work and concerning the payment of wages (*Boletim oficial (B.O.)*, 1927, No. 5).
Decree No. 16199 of 6 December 1928 to approve the Native Labour Code for the Portuguese colonies in Africa.

¹ See also under France: Overseas Territories and Associated Territories.

² See also under Portugal: Overseas Provinces.

Act No. 1942 of 27 July 1946 regarding the right to compensation in cases of industrial accidents or occupational diseases.

Ordinances No. 2441 of 2 May 1942, No. 2463 of 13 June 1942 and No. 2556 of 1942.

Legislative Decree No. 1053 concerning minimum wage-fixing machinery (*B.O.*, No. 34, 26 August 1950).

Legislative Decree No. 1146 concerning labour welfare services (*B.O.*, No. 5, 30 January 1954).

Ordinance No. 4636 concerning employment services (commercial employees) (*B.O.*, No. 43, 23 October 1954).

Legislative Decree No. 1192 concerning penal sanctions (*B.O.*, No. 43, 23 October 1954).

Legislative Decree No. 1285 concerning standards of social action (*B.O.*, No. 15, 14 April 1956).

Legislative Decree No. 1330 of 9 February 1957 to regulate labour relationships in private, commercial, industrial and agricultural undertakings (*B.O.*, No. 6 of 9 February 1957).

CEYLON

Road Ordinance, 1861, as amended.

Employment of Women and Young Persons and Children Ordinance No. 6 of 1923 (*L.S.*, 1923—Cey. 1).

Native Affairs Act, 1927.

Indian Labour in Plantations (Amendment) Ordinance No. 15, 1941.

Wage Boards Ordinance No. 27 of 1941, as amended.

Employment of Women (Amendment) Ordinance, No. 46 of 1941.

Factories Ordinance No. 45 of 1942.

Maternity Benefits (Amendment) Ordinance No. 35 of 1946.

CHAD

(See under French Equatorial Africa)

COMORO ISLANDS¹

Order No. 53-142/C of 8 July 1953 to set up a central advisory board under the Territorial Inspector of Labour and Social Legislation.

Order No. 54-87/C of 12 May 1954 to issue regulations respecting weekly rest.

Order of 12 May 1954 prescribing provisional measures concerning holidays and travelling expenses.

Order No. 55-40/IT of 23 February 1955 respecting the work of women and children.

Act of 27 March 1956 to amend the holidays with pay scheme, promulgated by Local Order of 24 January 1958.

CONGO

(See under French Equatorial Africa)

COOK ISLANDS AND NIUE

Industrial Unions Regulations, 1947.

CYPRUS

Employment of Women (During the Night) Law (Ch. 213).

Employment of Women (in Mines) Law (Ch. 214).

Hours of Work Act No. 23 of 1927.

Employment of Young Persons and Children Act, No. 16 of 1932, as amended.

Workmen's Compensation Laws, as amended (No. 30 of 1932, Nos. 2 and 11 of 1944).

Trades Unions and Trade Disputes Act, 1941.

Minimum Wages Act, 1941.

Labour Disputes and Arbitral Act, 1941.

Workmen's Compensation Act, 1942.

Trade Unions Act, 1949.

¹ See also under France: Overseas Territories.

Night Work in Bakeries Act, 1950.
Employment of Children and Young Persons Act, 1952 (*Cyprus Gazette*, 26 November 1952, Supplement No. 2).
Employment of Dock Workers Act, 1952 (*L.S.*, 1952—Cyp. 1).
Children and Young Persons (Employment) Law, 1953.
Workmen's Compensation Law No. 67 of 1955.
Social Security Act, 1956.
Factories Act, 1956.

DAHOMY

(*See under French West Africa*)

DOMINICA

Workmen's Compensation Ordinances No. 19 of 1937 and No. 25 of 1949.
Employment of Women, Young Persons and Children Act, 1938.
Leeward Islands Act No. 21 of 1937 (adapted to Dominica by Ordinance No. 19 of 1939).
Factories Ordinance No. 10 of 1941.
Recruiting of Workers Ordinance, No. 3 of 1943.
Wage Boards Regulation, 1944.
Minimum Wages (Agricultural Workers) Proclamation, 1945.
Pensions Ordinance No. 10 of 1946.
Labour Statistics Ordinance No. 5 of 1948.
Minimum Wages (Agricultural Workers) (Amendment) Proclamation 1948.
Trade Unions and Trade Disputes Ordinance No. 12 of 1952.

FALKLAND ISLANDS

Workmen's Compensation Ordinances Nos. 4 of 1937, 7 of 1939, 13 of 1948 and 23 of 1949.
Employment of Children Ordinance No. 4 of 1939.
Minimum Wages Ordinance No. 2 of 1942.

FAROE ISLANDS

Order No. 441 respecting public peace on the holidays of the National Church.

FIJI

Labour Ordinance No. 14 of 1935.
Workmen's Compensation Ordinance, 1940 (*L.S.*, 1940—Fiji 1) as amended by Ordinance No. 16 of 1946.
Pensions Ordinance 1944, as amended.
Labour Supply Ordinance No. 23 of 1947.
Trade Disputes Ordinance No. 15 of 1952.
Wage Boards Ordinance No. 9 of 1957.
Factories Ordinance No. 13 of 1957.
Trade Disputes (Arbitration and Inquiry) Ordinance No. 2 of 1958.

FRANCE

ALL PRESENT AND FORMER NON-METROPOLITAN TERRITORIES

Consular Order of 29 Germinal, Year X, respecting weekly rest.
Act of 13 December 1926 to institute a Maritime Labour Code.
Decrees of 17 June 1935 and 7 May 1952 concerning the seamen's insurance scheme.
Act No. 56-332 of 27 March 1956 to amend the system of annual holidays with pay.
Act No. 56-416 of 27 April 1956 aimed at guaranteeing freedom of association and protection of the right to organise (*L.S.*, 1956—Fr. 1).

*Algeria and Overseas Departments*¹

- Decree of 19 July 1925 concerning the application of the Act of 9 April 1898.
 Act of 31 December 1927 concerning the establishment of labour and agricultural advisory committees (*J.O.*, 1928, p. 282).
 Decree of 4 April 1931 concerning workmen's compensation (*L.S.*, 1931—Fr. 6).
 Decree of 1 July 1933 to extend the Conventions concerning night work by women and children in industry, concerning the rights of association and combination of agricultural workers and concerning the use of white lead in painting (*J.O.*, p. 7265).
 Act of 27 June 1935 to apply various metropolitan Acts concerning the protection of children in itinerant trades (*J.O.*, p. 6874).
 Decree of 14 December 1936 to extend the provisions of (1) the Act of 20 June 1936 providing for annual holidays with pay in industry, commerce, the liberal professions, domestic service and agriculture; (2) the Act of 21 June 1936 providing for a 40-hour week in industrial and commercial undertakings; (3) the Act of 24 June 1936 to amend and supplement Ch. IVbis of Title II of Book I of the Labour Code, concerning collective agreements (*J.O.*, p. 13000).
 Decree of 2 March 1939 to extend certain provisions of Book II of the Labour Code.
 Decree No. 48-592 of 30 March 1948 to extend the labour and manpower legislation of metropolitan France and to consolidate this legislation.
 Act of 9 June 1949 to grant to young workers in agriculture the same holidays with pay as are granted in other occupations.
 Decree No. 52-976 of 20 August 1952 concerning the application of Act No. 52-834 of 18 July 1952.
 Act No. 54-1806 of 13 August 1954 to extend the social insurance scheme respecting the scheme of industrial accidents and occupational diseases.

*Overseas Territories and Associated Territories*²

- Decree of 7 August 1944 providing for trade unions in French West Africa, French Equatorial Africa, Cameroun, Togoland and French Somaliland (*L.S.*, 1944—Fr. 2).
 Decree of 17 August 1944 to establish a labour inspectorate in the colonies (*L.S.*, 1944—Fr. 3).
 Act No. 46-645 of 11 April 1946 to suppress forced labour in the Overseas Territories.
 Penal Code, sections 114, 304, 307, 341, 354.
 Act of 7 May 1946 to grant French citizenship to nationals of Overseas Territories.
 Act No. 52-1322 of 15 December 1952 providing for a Labour Code for the territories and associated territories within the competence of the Ministry of Overseas France (*L.S.*, 1952—Fr. 5).
 Order of 4 May 1953 to regulate the organisation and functioning of the Higher Labour Council (*J.O.R.F.*, 14 May 1953) amended by order of 16 May 1956 (*J.O.R.F.*, 19 May 1956).
 Decree No. 55-184 of 2 February 1955 to regulate co-operatives in the territories within the competence of the Ministry of Overseas France (*L.S.*, 1955—Fr. 1), amended by Decrees No. 56-1136 of 13 November 1956 and No. 57-209 of 23 February 1957 (*J.O.R.F.*, 5 February 1955, 14 November 1956 and 24 February 1957).
 Decree No. 55-972 of 16 July 1955 regarding attachment, garnishings, assignment and deductions of workers' salaries and wages (*J.O.R.F.*, 21 July 1955), amended by Decree No. 57-471 of 8 April 1957 (*J.O.R.F.*, 12 April 1957).
 Decree No. 55-1679 of 29 December 1955 to define the status of inspectors of labour and social legislation in overseas territories.
 Act No. 56-332 of 27 March 1956 to amend the system of annual holidays with pay (*J.O.R.F.*, 31 March 1956).
 Decree No. 56-918 of 13 September 1956 to apply to the Overseas Territories the provisions of international labour Convention No. 11 (concerning the right of association and combination of agricultural workers) (*J.O.R.F.*, 16 September 1956).
 Decree No. 56-919 of 13 September 1956 to apply to the Overseas Territories the provisions of international labour Convention No. 95 (concerning protection of wages) (*J.O.R.F.*, 16 September 1956).
 Decree No. 57-245 of 24 February 1957 concerning compensation for and prevention of industrial accidents and occupational diseases in the Overseas Territories (*L.S.*, 1957—Fr. 1).
 Decree No. 57-829 of 23 July 1957 to apply the amendments made by parliament to the decree of 24 February 1957 respecting compensation for and prevention of industrial accidents and occupational diseases.

¹ French Guiana, Guadeloupe, Martinique, Réunion.

² Cameroun, Chad, Comoro Islands, Congo, Dahomey, French Polynesia, French Somaliland, Gabon, Guinea, Ivory Coast, Madagascar, Mauritania, Niger, New Caledonia, St. Pierre and Miquelon, Senegal, Sudan, Togo, Ubangi-Shari, Upper Volta.

FRENCH EQUATORIAL AFRICA ¹

- Decree of 4 May 1922 concerning labour administration.
Order of 7 January 1925 to reorganise the system of labour dues. (*L.S.*, 1925—Fr. 8).
Order of 6 December 1926 to lay down the conditions governing portage in the colony of Gabon and the wages of carriers (*Journal officiel de l'A.E.F. (J.O.A.E.F.)*, 1927, No. 10).
Order of 8 March 1927 to lay down the conditions governing portage in the colony of the Middle Congo and the wages of carriers (*L.S.*, 1927—Fr. 8).
Order of 21 December 1931 to administer the decree of 4 May 1922.
Order of 29 May 1933 to regulate the exaction of compulsory public labour (*L.S.*, 1933—Fr. 8).
Order of 28 December 1936 to reorganise the system of labour dues (*L.S.*, 1936—Fr. 4).
General Order of 28 May 1946 promulgating in French Equatorial Africa the Act of 11 April 1946 to suppress forced labour in Overseas Territories.
Order of 19 February 1954 to promulgate in the territory Decree No. 54-110 of 28 January 1954 by which the provisions of the Maternity Protection Convention are extended to the overseas territories.
General Order of 17 March 1957 to regulate holidays with pay for workers, issued under the Act of 27 March 1956.

FRENCH GUIANA ²

- Order of 17 February 1927 to promulgate the Maritime Labour Code (*Journal Officiel de la Guyane française (J.O.G.F.)*, 26 February 1927).
Decree of 14 December 1936 to extend to French Guiana the provisions of (1) the Act of 20 June 1936 providing for annual holidays with pay in industry, commerce, the liberal professions, domestic service and agriculture ; (2) the Act of 21 June 1936 providing for a 40-hour week in industrial and commercial undertakings ; (3) the Act of 24 June 1936 to amend and supplement Ch. IVbis of Title II of Book I of the Labour Code, concerning collective agreements (*J.O.G.F.*), p. 13000.
Order No. 430/ID/IB of 1956 to apply to French Guiana the Act of 21 June 1936 on the 40-hour week (*Bulletin des actes administratifs*, 12 July 1956).

FRENCH GUINEA

(See under French West Africa)

FRENCH POLYNESIA ³

- Decree No. 620/IT of 29 May 1950 governing the conditions of employment of employees in local public services.
Order of 8 October 1951 making compulsory the declaration of industrial accidents.
Decree No. 54-111 of 25 January 1954 to apply the Weekly Rest (Industry) Convention to the territory.
Decree No. 54-110 of 28 January 1954 to extend the provisions of the Maternity Protection Convention to the overseas territory.
Order No. 1030/IT of 9 July 1954 respecting the posting of notices and keeping of records and time-tables of daily hours of work.
Order No. 1335/IT of 28 September 1956 to establish a family allowance scheme for persons employed in the territory.
Act No. 56-332 of 27 March 1956 to amend the holidays with pay scheme, promulgated by local order on 24 May 1957.
Local order of 10 September 1957 to apply the provisions of Act No. 56-332.

FRENCH SOMALILAND ⁴

- Order of 5 March 1930 to promulgate the Maritime Labour Code (Act of 13 December 1926) (*L.S.*, 1926—Fr. 13).

¹ See also France: Overseas Territories. Congo, Chad, Gabon, Ubangi-Shari.

² See also France: Overseas Departments.

³ See also under France: Overseas Territories and Associated Territories.

⁴ See also under France: Overseas Territories.

Order of 24 January 1930 to provide for labour dues in French Somaliland and its dependencies and to regulate the same (*L.S.*, 1931—Fr. 9).
 Decree of 22 May 1936 to regulate native labour.
 Order No. 160, 6 February 1937, to apply the above decree.
 Order of 7 September 1937 to promulgate the Forced Labour Convention.
 Decree of 22 December 1945 to repeal in the Overseas Territories the Code respecting indigenous persons.
 Decree of 20 February 1946 to repeal "Penalties on Indigenous Persons".
 Decree No. 54-111 of 28 January 1954 to apply the Weekly Rest (Industry) Convention to the territory.
 Act No. 56-332 of 27 March 1956 to amend the annual holidays with pay scheme.
 Order No. 998 of 21 July 1955 to establish wage zones and to fix the guaranteed inter-occupational minimum wage for the territory.

FRENCH WEST AFRICA ¹

Decree of 22 October 1925 to regulate native labour (*L.S.*, 1925—Fr. 13).
 Order of 29 March 1926 to promulgate the decree of 22 October 1925 regulating native labour (*L.S.*, 1927—Fr. 12).
 Decree respecting compulsory labour for public purposes in colonies, 21 August 1930 (*Journal officiel*, 30 August 1930, p. 10078) (*J.O.*, 8 July 1937, p. 7726).
 Order No. 153 of 20 January 1932 establishing a labour and native labour inspectorate (*L.S.*, 1932—Fr. 2).
 Decree of 2 April 1932 to regulate workmen's compensation (*L.S.*, 1932—Fr. 4).
 Decree of 18 September 1936 for ensuring the protection of female and child labour (*L.S.*, 1936—Fr. 13 (A)).
 Decree of 22 September 1936 to amend the legislation on native labour.
 Decree of 11 March 1937 to determine the conditions of application in French West Africa of Titles I and III of the Labour Code (trade unions) (*L.S.*, 1937—Fr. 6 (A)).
 Decree of 20 March 1937 providing for occupational associations in French West Africa (*L.S.*, 1937—Fr. 6 (B)).
 Decree of 20 March 1937 concerning collective labour agreements in French West Africa (*J.O.*, p. 3468).
 Decree of 20 March 1937 providing for compulsory conciliation and arbitration for the settlement of labour disputes in French West Africa (*J.O.*, p. 3468).
 Decree of 3 April 1937 concerning the fixing of minimum wages for native workers in French West Africa (*J.O.*, p. 4005).
 Decree of 12 August 1937 to apply the provisions of the Forced Labour Convention to Overseas Territories, promulgated in French West Africa by Order No. 2895 A.P. of 15 October 1937.
 Decree of 18 September 1937 to amend the decree of 2 April 1932 concerning workmen's compensation (*J.O.*, p. 10824).
 Order of 28 September 1938 to regulate the transport of administrative staff and stores by means of requisitioning of labour.
 Act of 11 April 1946 to suppress forced labour in the Overseas Territories promulgated in French West Africa by order of 28 April 1946.
 Order of 10 June 1946 to regulate the operation of the labour inspectorate.
 Order of 5 July 1946 respecting the setting up of labour advisory boards in the various territories of French West Africa.
 General Order No. 6556/IGTLS of 3 September 1953 prescribing provisional measures respecting holidays and travelling allowances.
 Decree No. 54-111 of 28 January 1954 to apply the Weekly Rest (Industry) Convention in French West Africa.
 Order of 19 February 1954 to promulgate in the territory Decree No. 54-110 of 28 January 1954 by which the provisions of the Maternity Protection Convention were extended to the Overseas Territories.
 General Order No. 5254/IGTLS of 19 July 1954 to fix the methods of implementing the legal provisions respecting the employment of women and children.
 General Order of 17 December 1956 to issue administrative regulations under the Act of 27 March 1956 respecting holidays with pay (*Journal officiel de l'Afrique occidentale française*, 29 December 1956).

¹ See also France: Overseas Territories. Ivory Coast, Dahomey, Guinea, Mauritania, Niger, Senegal, Sudan, Upper Volta.

GABON

(See under French Equatorial Africa)

GAMBIA

Protectorate Ordinance, 1913.
Protectorate Administration Rules, 1915.
Trade Union Ordinance, 1932 (*L.S.*, 1932—Gamb. 1).
Labour Ordinance, 1933.
Forced Labour Ordinance, 1934 (Ch. 46, *Gambia's Laws*).
Recruiting of Workers Ordinance, 1940 (Ordinance No. 1 of 1940), as amended.
Workmen's Compensation Ordinance No. 18 of 1940.
Factories Ordinance No. 8 of 1941.
Labour Ordinance No. 13 of 1941.
Labour Ordinance No. 21 of 1944.
Arbitration Ordinance No. 6 of 1955.
Forced Labour (Amendment) Ordinance No. 14 of 1958 (*Gambian Gazette*, 31 December 1958, Supplement C).

GIBRALTAR

Employment of Women, Young Persons and Children Ordinance No. 16 of 1932.
Minimum Wage Ordinance No. 3 of 1933.
Regulation of Wages and Conditions of Employment Ordinance (Ch. 195 of the Laws).
Trade Unions and Trade Disputes Ordinance (Ch. 128).
Shop Hours Ordinance, 1950.
Employment Injuries Insurance Ordinance (No. 10 of 1952) as amended, and the Regulations made thereunder.
Social Security Ordinance No. 14 of 1955.
Factories Ordinance No. 12 of 1956.
Control of Employment Ordinance, 1956.

GILBERT AND ELLICE ISLANDS

Native Laws Ordinance, 1917.
Conditions of Employment of Non-Europeans Ordinance No. 9 of 1929.
Trade Unions and Trade Disputes Ordinance No. 2 of 1946.
Workmen's Compensation Ordinance No. 6 of 1949.
Native Contracts Ordinance No. 9 of 1949.
Labour Ordinance No. 6 of 1951.
Labour Ordinance No. 13.

GOLD COAST

Northern Territories Administration Ordinance, 1902 (sec. 25).
Ashanti Administration Ordinance, 1902 (sec. 30 (3)).
Native Jurisdiction Ordinance (Ch. 82 of Gold Coast Laws, 1920).
Roads Ordinance (Ch. 107 of Gold Coast Laws, 1920) as amended by ordinance of 1924.
Regulation of Employment Ordinance No. 11 of 1921.
Employment Conditions Regulation No. 4 of 1925 (*Gold Coast Government Gazette*, 1925, p. 258).
Conspiracy and Protection of Property (Trades Disputes) Ordinance No. 12 of 1941.
Trade Unions Ordinance No. 13 of 1941, as amended by Ordinance No. 19 of 1953.
Labour Ordinance No. 16 of 1948 as amended by Ordinance No. 43 of 1949.
Workmen's Compensation Ordinance (Ch. 94 of Gold Coast Laws, 1951) as amended by Ordinance No. 43 of 1954.
Factories Ordinance No. 33 of 1952 (*Gold Coast Gazette*, 12 July 1952, Supplement).

GRENADA

Masters and Servants Act (Ch. 136, revised edition), 1934.
Women, Young Persons and Children Ordinance, No. 8 of 1934, as amended in 1939 and 1945.
Labour (Minimum Wage) Ordinance, 1934.
Trade Unions Regulation No. 4 of 1935.

Workmen's Compensation Ordinances Nos. 1 and 16 of 1936.
 Employment of Women, Young Persons and Children Regulations, 1938.
 Recruiting of Workers Ordinance No. 17 of 1939, as amended.
 Department of Labour Ordinance No. 16 of 1940.
 Department of Labour Order, 1942.
 Trade Unions and Trade Disputes Ordinance No. 6 of 1943.
 Labour (Minimum Wage) (Shop Assistants) Order No. 48 of 1947.
 Labour Ordinance No. 43 of 1949.
 Wages Council Ordinance No. 4 of 1951.
 Trade Unions and Trade Disputes Ordinance No. 20 of 1951, as amended.
 Trade Unions Rules No. 8 of 1952.

GUADELOUPE ¹

Order of 2 March 1944 concerning work in bakeries (*Journal officiel de la Guadeloupe*, 4 March 1944).
 Order No. 194 of 1949 regulating hours of work, holidays with pay, etc., in agriculture (*Recueil des actes administratifs*, 5 March 1949).
 Act No. 56-332 of 27 March 1956 to amend the annual holidays with pay scheme.
 Prefectorial Decree No. 56-1267 of 15 June 1956 respecting the application of the Act of 27 March 1956.
 Order No. 56-26231 of 1956 concerning hours of work and rest in agriculture (*Recueil des actes administratifs*, 5 January 1957).

HAWAII

Chapter 262: Attachment of Wages (1925).
 No. 74: Act on Unemployment Benefits in Agriculture (1957).
 No. 137: Payment of Wages and Wage Receipts (1957).

HONG KONG

Employers and Servants Ordinance of 1902.
 Asiatic Immigration Ordinance, 1915.
 Factories Ordinance No. 3 of 1927 (*L.S.*, 1927—H.K. 1).
 Minimum Wage Ordinance No. 28 of 1932.
 Factory and Industrial Establishment Ordinance of 1937 as amended by Ordinances Nos. 31 of 1940, 24 of 1946 and 44 of 1947.
 Wage Boards Ordinance No. 15 of 1940.
 Trade Unions and Trade Disputes Ordinance No. 8 of 1948 (*L.S.*, 1948—H.K. 1).
 Employers and Servants Ordinance (Ch. 57 of the Laws, 1950 Edition).
 Compulsory Service Ordinance, 1951.
 Workmen's Compensation Ordinance No. 28 of 1953, as amended.
 Factories and Industrial Establishments Ordinance No. 34 of 1955.
 Special Regulations for Factories and Industrial Establishments (Radiation), 1957.

INDO-CHINA

Order of 27 December 1923 to amend sec. 41 of the order of 11 November 1918 regulating the recruitment of native agricultural labour in Cochinchina (*Journal officiel de l'Indochine*, p. 2828).
 Order of 19 July 1927 to establish a general labour inspectorate in Indo-China (*L.S.*, 1927—Fr. 12), amended by order of 16 January 1932 (*L.S.*, 1932—Fr. 12 (A)).
 Order of 19 October 1927 to establish a labour inspectorate in Cambodia (*L.S.*, 1927—Fr. 17), amended by order of 29 April 1932 (*L.S.*, 1932—Fr. 12 (B)).
 Decree of 29 April 1930 to establish conciliation boards for the settlement of individual disputes between employers and workers arising out of a contract of employment (*L.S.*, 1930—Fr. 8), amended by decree of 18 April 1931 (*L.S.*, 1931—Fr. 4).
 Decree of 29 June 1930 concerning contracts of employment (*L.S.*, 1930—Fr. 11).
 Decree of 2 April 1932 to make provision in Indo-China for conciliation and arbitration in collective disputes between Natives or assimilated Asian salaried and wage-earning employees and their employers (*L.S.*, 1932—Fr. 5).
 Decree of 19 January 1933 to regulate the conditions of voluntary employment of Natives and assimilated Asians (*L.S.*, 1933—Fr. 2), amended by decree of 13 October 1936 (*L.S.*, 1936—Fr. 15).

¹ See also France: Overseas Departments.

- Order of 19 December 1934 to regulate the recruitment of voluntary labour in Tonkin (*L.S.*, 1934—Fr. 11).
 Order of 21 September 1935 to amend the order of 25 October 1927 concerning the protection of native and foreign Asian labour working under contract in agricultural, industrial and mining undertakings (*L.S.*, 1935—Fr. 15).
 Decree of 30 December 1936 to regulate conditions of employment of native Indo-Chinese and assimilated labour (*L.S.*, 1936—Fr. 18).
 Order of 11 October 1936 to regulate actual hours of work of wage-earning and salaried employees in industrial and commercial undertakings (*L.S.*, 1936—Fr. 19).
 Decree of 24 February 1937 to regulate employment of European and assimilated workers (*J.O.*, p. 2666).

IVORY COAST

(*See under French West Africa*)

JAMAICA

- Shop Assistants Act No. 15 of 1925 (*L.S.*, 1925—Jam. 2).
 Trade Union Law (Ch. 389, Revised Laws, 1933).
 Minimum Wage Law, 1938, as amended.
 Workmen's Compensation Act (Ch. 408) as amended by Acts No. 35 of 1939, 71 of 1941 and 45 of 1942.
 Trade Disputes Act (Arbitration and Inquiry) 1939 (*L.S.*, 1939—Jam. 1).
 Masters and Servants (Amendment) Law, 1940.
 Recruiting of Workers Law, 1940 (Law No. 30 of 1940).
 Factories Act No. 43 of 1940 (Ch. 124).
 Employment of Women Act, 1941 (Ch. 417).
 Recruiting of Workers Regulation, 1944.
 Paid Holidays Act, 1947 (*Jamaica Gazette (J.G.)*, 8 April 1947).
 Minimum Wages Act, 1948 (amending Act of 1938).
 Labour Officers (Powers) Act (Ch. 203 of the Revised Laws of Jamaica, 1953).
 Dock Workers (Protection against Accidents) Act (Ch. 103).
 Trade Disputes (Essential Services) Act, 1952 (*J.G.*, 1 May 1952, supplement).
 Employment Exchanges Act, 1956.
 Shops and Offices Act, 1957 (*L.S.*, 1957—Jam. 1).
 Old-Age Pensions Act, 1958 (*J.G.*, 14 January 1959, Supplement).

KENYA

- Collective Punishment Ordinance, 1909.
 Masters and Servants Ordinance, 1910.
 Native Authority Ordinance Laws, 1912, as amended.
 Native Authority (Famine Relief) Ordinance, 1918, as amended.
 Native Employment Ordinance, 1920.
 Compulsory labour for Government purposes, Cmd. 2464 (1925).
 Collective Punishment Ordinance, 1930 (Ch. 98, Laws of Kenya).
 Shop Hours Ordinance (Ch. 114) (*L.S.*, 1925—Kenya 1; 1930—Kenya 1).
 Penal Code, 1930 (Ch. 24, Laws of Kenya).
 Native Authority Ordinance, 1937 (Ch. 97).
 Employment of Servants Ordinance (No. 2 of 1938), as amended (Ch. 109).
 Resident Labourers Ordinance, as amended (Ch. 113).
 Trade Unions and Trade Disputes Ordinance No. 1 of 26 March 1943.
 Domestic Employment (Registration) Ordinance No. 10 of 1943 (amending ordinance of 25 April 1938).
 Workmen's Compensation Act, 1946.
 Minimum Wage Ordinance, No. LV of 1946 (*L.S.*, 1946—Kenya 1).
 Employment of Native Workers Ordinance No. 17 of 1947.
 Trade Disputes (Arbitration and Inquiry) Ordinance No. 71 of 1948.
 Workmen's Compensation Ordinance No. 72 of 1948.
 Employment of Women, Young Persons and Children Ordinance No. 78 of 1948, as amended by Ordinances No. 35 of 1950, Nos. 12 and 39 of 1956. (Ch. 111).
 Employment Ordinance No. 39 of 1949 (*L.S.*, 1949—Kenya 1).
 African District Councils Ordinance No. 12 of 1950.

Factories Ordinance No. 38 of 1950 as amended by Ordinances No. 38 of 1951 and No. 39 of 1956.
Regulation of Wages and Conditions of Employment Ordinance No. 1 of 1951 (*L.S.*, 1951—Kenya 1)
as amended by Ordinances Nos. 41 and 63 of 1951, 9 of 1954 and 34 of 1956.
Compulsory National Service Ordinance No. 19 of 1951.
Forced Labour Ordinance No. 51 of 1952 (*Official Gazette*, November 1952, Supplement 1957).

LEEWARD ISLANDS¹

Workmen's Compensation Act, 1937, as amended in 1939 and 1941, etc.
Employment of Women, Young Persons and Children Act, 1938.
Trade Disputes (Arbitration and Inquiry) Act, 1939.
Recruitment of Workers Act, 1941.
Labour (Minimum Wages) Act, 1944 (amending the Act of 1937).
Trade Unions Regulation No. 9 of 1 November 1946.
Factories Act, 1948.
Workmen's Compensation Act, 1955 (repealing the Act of 1937).
Apprentices Act (Ch. 136 of the Laws).

MACAO

(See under Portugal : Overseas Provinces)

MADAGASCAR²

Decree of 22 September 1925 to regulate native labour (*L.S.*, 1925—Fr. 11), amended by decrees of
14 January 1936 (*L.S.* 1936—Fr. 1A), 8 April 1936 (*L.S.*, 1936—Fr. 1B), and 1 May 1937
(*Journal officiel*, 1937, p. 5002).
Orders of 17 February and 19 March 1927 to fix minimum-wage rates for native workers (*Journal
officiel de Madagascar (J.O.M.)*, Nos. 2132 and 2136).
Ordinance of 23 May 1927.
Order of 5 March 1932 to apply to the colony of Madagascar and its dependencies the decree of
21 August 1930 concerning the organisation of compulsory public labour (*L.S.*, 1930—Fr. 17).
Decree of 19 March 1937 determining the application in Madagascar of the Act of 25 February 1927
concerning trade unions (*L.S.*, 1927—Fr. 3).
Ordinance of 22 October 1937, promulgating the decree of 12 August 1937 for the ratification of the
Forced Labour Convention, 1930.
Decree of 7 April 1938 to regulate native labour in Madagascar (*L.S.*, 1938—Fr. 2).
Order No. 1855-IGT of 23 September 1953 respecting persons employed in road transport under-
takings.
Orders Nos. 2247-IGT and 2248-IGT of 16 November 1953 prescribing rules regarding weekly rest
provisions.
Order of 5 February 1954 to regulate conditions of work for women.
Act No. 56-332 of 27 March 1956 to amend the holidays with pay scheme.
Order of 29 October 1956 respecting annual holidays with pay.

FEDERATION OF MALAYA

Workmen's Compensation Legal Provision No. 1 of 29 March 1928.
Children and Young Persons Ordinance No. 33 of 1947 (*Malayan Union Government Gazette*,
11 August 1947, Supplement No. 3).
Wage Boards Ordinance No. 41 of 1947 (*ibid.*, 2 September 1947).
Workers' Compensation Ordinance No. 85 of 1952, (*L.S.*, 1952—Mal. 1).
Trade Unions (Amendment) Ordinance No. 4 of 1955 (*L.S.*, 1955—Mal. 1).
Labour Ordinance No. 38 of 1955 (*L.S.*, 1955—Mal. 2).
Labour (Amendment) Ordinance No. 43 of 1956 (*L.S.*, 1956—Mal. 1).

MALTA

Factories Act, 1926 (*L.S.*, 1926—Malta 1).
Trade Unions Act, 1927 (*L.S.*, 1927—Malta 1).

¹ Antigua, British Virgin Islands, Montserrat, St. Christopher-Nevis-Anguilla.

² See also under France: Overseas Territories.

Workmen's Compensation Act, 1929 (*L.S.*, 1929—Malta 1).
 Merchant Shipping (International Labour Convention) Act, 1929 (*L.S.*, 1929—Malta 3).
 Trade Unions Act, 1929 (*L.S.*, 1929—Malta 2 (a)).
 Workmen's Compensation Ordinance No. 28 of 1934 (Ch. 128).
 Hours of Employment and Shops Ordinance No. 5 of 1938 (Ch. 149 of Revised Laws).
 Children Ordinance No. 6 of 1944.
 Trade Unions and Trade Disputes Ordinance, 1945.
 Trade Union Regulations, 1946.
 Shops Ordinance No. 23 of 1946 (Ch. 149).
 Conciliation and Arbitration Act, 1948.
 Ordinance No. 1 of 1950 (Labour Inspection) issued under the Hours of Employment and Shops Ordinance No. 5 of 1938.
 Dock Security Regulation, 1951 (*Malta Government Gazette*, 27 April 1951).
 Conditions of Employment and Contracts of Employment Ordinance Act, 1952 (*L.S.*, 1952—Malta 2).
 Social Security Act, 1956.
 Shops Act, 1956.

MARTINIQUE ¹

Act of 13 December 1926 to establish a Maritime Labour Code, as amended.
 Order of 20 June 1927 concerning occupational health and safety (*L.S.*, 1927—Fr. 9).
 Order of 20 June 1927 to prescribe work prohibited for children under 18 years and women (*L.S.*, 1927—Fr. 10).
 Order of 27 September 1927 to promulgate the Maritime Labour Code (*J.O.M.*, 1928, No. 1).
 Order No. 82 of 16 January 1947 to establish a manpower service (*J.O.M.*, 23 January 1947, No. 4).
 Decree of 30 March 1948 to apply sections 30-50 (b) of the Labour Code to Martinique.
 Act No. 49-1104 of 2 August 1949 extending to Martinique the provisions of the Act of 30 October 1946 respecting the prevention of and compensation for industrial accidents and occupational diseases.
 Order No. 49-749 of 7 October 1949 concerning hours of work (*Recueil des actes administratifs*, 15 October 1949).

MAURITIUS

Workmen's Compensation Ordinance No. 13 of 1931, as amended by Ordinances Nos. 7 of 1932, 13 of 1935, 32 of 1937, 64 of 1947, 16 of 1950, 78 of 1952, 15 of 1954 (Ch. 220 of the Laws of Mauritius, 1945).
 Free Emigration Ordinance No. 12 of 1933.
 Employment of Women, Young Persons and Children Ordinance (Ch. 211) (*L.S.*, 1934—Maur. 1; 1935—Maur. 1) as amended by Ordinances Nos. 5 of 1942 and 43 of 1945.
 Minimum Wages Ordinance No. 41 of 1934, as amended.
 Labour Ordinance, No. 47 of 1938.
 Recruitment of Workers Ordinance, No. 3 of 1939 (Ch. 218).
 Industrial Courts Ordinance (Ch. 183), as amended by Ordinances Nos. 23 of 1954 and 20 of 1955.
 Labour Ordinance (Ch. 214) as amended by Ordinances Nos. 44 and 67 of 1945, 20 of 1946, 6 and 36 of 1947, 36 of 1948, 37 of 1951, 33 of 1952 and 40 of 1955.
 Dockers Safety Ordinance (Ch. 219).
 Shops Ordinance (Ch. 409) as amended by Ordinances Nos. 56 of 1945, 72 of 1946, 14 of 1959, 20 of 1950 and 9 of 1952.
 Apprenticeship Ordinance No. 13 of 1946.
 Factories Ordinance No. 42 of 1946.
 Minimum Wages Ordinance No. 36 of 1950.
 Trade and Industry Ordinance No. 65 of 1951.
 Old-Age Pensions Ordinance No. 77 of 1951 (*L.S.*, 1951—Maur. 1).
 Trade Union Ordinance No. 36 of 1954.
 Trade Union Rules (Government Notice No. 137 of 1954).
 Trade Disputes Ordinance No. 37 of 1954.

MAURITANIA

(See under French West Africa)

¹ See also France: Overseas Departments.

MONTSERRAT¹

Labour Ordinance of 1950.

Workmen's Compensation Ordinance of 1956 (*Montserrat*, No. 5 of 1957).

MOROCCO

Dahir of 12 August 1913 to establish a Code of Obligations and Contracts (*Bulletin officiel du Maroc* (B.O.M.), 12 September 1913), amended and supplemented by Dahirs of 8 April 1938 (B.O.M., 1 July 1938), 26 September 1938 (B.O.M., 2 December 1938), 18 December 1947 (B.O.M., 12 March 1948) and 6 July 1954 (B.O.M., 23 July 1954).

Dahir of 27 September 1921 concerning workers' employment agencies (B.O.M., 11 October 1921), amended and supplemented by Dahirs of 24 September 1924 (B.O.M., 30 September 1924), 8 September 1941 (B.O.M., 17 October 1941), 30 June 1945 (B.O.M., 24 August 1945), and 26 April 1955 (B.O.M., 20 May 1955).

Order of 12 July 1926 to establish a manpower office (B.O.M., 13 July 1926).

Dahir of 13 July 1926 to regulate work in industrial and commercial undertakings (L.S., 1926—Mor. 1).

Dahir of 13 July 1926 regarding the payment of wages of wage-earning and salaried employees (L.S., 1926—Mor. 2).

Order of 25 December 1926 concerning general measures for protection and health in all industrial and commercial undertakings (L.S., 1926—Mor. 3).

Order of 18 January 1927 concerning the employment of young persons in mines (L.S., 1927—Mor. 1).

Order of 21 January 1927 concerning dangerous occupations prohibited for young persons and women (L.S., 1927—Mor. 2).

Order of 13 May 1927 regarding the supervision of labour inspection in state undertakings (B.O.M., No. 763 of 1927).

Dahir of 25 June 1927 concerning workmen's compensation (L.S., 1927—Mor. 3).

Dahir of 18 December 1930 concerning weekly rest, amended by Dahir of 9 September 1939 (L.S., 1939—Mor. 2 A).

Dahir of 18 June 1936 concerning minimum wages of wage-earning and salaried employees (L.S., 1936—Mor. 3), amended by Dahirs of 1 September 1937 (L.S., 1937—Mor. 3A), 25 June 1938 (L.S., 1938—Mor. 1), and 16 June 1952 (B.O.M., 25 July 1952).

Dahir of 18 June 1936 on hours of work, amended by Dahir of 23 September 1939 (L.S., 1939—Mor. 2 B).

Dahir of 20 December 1939 respecting wage-fixing for homeworkers.

Dahir and order of 31 May 1943 extending to occupational diseases the provisions of the Dahir of 25 June 1927 concerning workmen's compensation (*Bulletin officiel du Protectorat de la République française au Maroc*, pp. 450 and 451).

Dahir of 12 March 1945 to extend the workmen's compensation scheme to employees in agricultural undertakings (B.O.M., 30 March 1945).

Dahirs of 9 January and 16 October 1946 concerning annual holidays with pay (L.S., 1946—Mor. 1A and 1D), amended by Dahir of 12 February 1952 (L.S., 1952—Mor. (Fr.) 1).

Dahir of 19 January 1946 concerning conciliation and arbitration in collective labour disputes (L.S., 1946—Mor. 2A), amended and supplemented by Dahirs of 23 October 1948 (L.S., 1948—Mor. 2B), and 11 December 1950 (L.S., 1950—Mor. (Fr.) 3).

Dahirs of 19 February and 20 September 1946 to amend the Dahir of 27 June 1927 concerning workmen's compensation (L.S., 1946—Mor. 3A and 3B).

Vizirial Order of 14 March 1946 to supplement the Order of 29 January 1927 concerning dangerous occupations prohibited for young persons and women (L.S., 1946—Mor. 4).

Dahir of 2 July 1947 to regulate conditions of work (L.S., 1947—Mor. 1), amended and supplemented by Dahirs of 21 December 1949 (B.O.M., 28 October 1949), 5 August 1950 (L.S., 1950—Mor. (Fr.) 2), 10 August 1952 (B.O.M., 31 October 1952) and 27 April 1953 (B.O.M., 24 July 1953).

Dahir of 21 July 1947 concerning weekly rest and public holidays (L.S., 1947—Mor. 2).

Dahir of 23 October 1948 concerning model conditions of employment of employees in commercial and industrial undertakings and the liberal professions (L.S., 1948—Mor. 3).

Vizirial Order of 30 September 1950 concerning loads which may be drawn or pushed by young persons and women (L.S., 1950—Mor. (Fr.) 1).

Dahir of 12 February 1952 to amend and supplement the Dahir of 9 January 1946 concerning annual holidays with pay (L.S., 1952—Mor. (Fr.) 1).

¹ See also under Leeward Islands.

- Dahir of 24 January 1953 concerning the calculation and payment of wages, works stores, goods and subcontracts (*L.S.*, 1953—Mor. (Fr.) 1).
 Dahir of 12 September 1955 extending the right to organise to Moroccan citizens and amending the Dahir of 24 December 1936 concerning trade unions (*L.S.*, 1955—Mor (Fr.) 2).
 Dahir of 16 September 1955 determining the status of workers' delegates in industrial, commercial and agricultural undertakings (*L.S.*, 1955—Mor. (Fr.) 3).

MOZAMBIQUE

- Ordinance No. 643 of 13 October 1917 to approve the general regulations respecting industrial accidents.
 Ordinance No. 1180 to regulate native labour (*Boletim oficial (B.O.)*, 4 September 1930).
 Legislative Order No. 707 of 5 June 1940 to regulate hours of work for non-native employees.
 Ordinances of 21 and 22 September 1940, 1 April, 27 May and 17 December 1942.
 Ordinance No. 4963 concerning forced labour as a tax (*B.O.*, 26 December 1942), amended by Ordinance No. 5175 (*B.O.*, 26 June 1943).
 Ordinance No. 5483 concerning workmen's compensation (*B.O.*, Series I, No. 15, 8 April 1944).
 Ordinance No. 6490 to provide for the identification of Natives (*B.O.*, 15 June 1946).
 Ordinance No. 7468 concerning employment offices (European and assimilated workers) (*B.O.*, 19 August 1948).
 Ordinance No. 7798 to regulate native labour (*B.O.*, No. 14, 2 April 1949).
 Ordinance of 17 August 1953 concerning native labour standards (*B.O.*, Series I, 17 August 1953).
 Legislative Decree No. 1595 of 28 April 1956 concerning the labour system (European and assimilated workers) (*B.O.*, Series I, No. 18, 7 May 1956).
 Legislative Decree No. 1706 of 19 October 1957 concerning workmen's compensation (European and assimilated workers) (*B.O.*, Series I, 19 October 1957).
 Ordinance No. 12432 concerning workmen's compensation (European and assimilated workers) (*B.O.*, Series I, No. 10, 8 March 1958).

NAURU

- Native Administration Ordinance No. 17 of 1922.
 Ordinance No. 18 of 18 November 1922 to regulate the employment of native and Chinese labour (*L.S.*, 1922—L.N. 4), amended by Ordinance No. 5 of 1923 (*L.S.*, 1923—L.N. 3) and ordinance of 22 January 1924 (*L.S.*, 1924—L.N. 3).

NETHERLANDS ANTILLES

- Industrial Accidents Regulations of 1936 (*Publicatieblad*, 1946, No. 103).
 Decree concerning industrial accidents (Royal Decree No. 69 of 20 April 1939).
 Workmen's Compensation Regulations (Ordinance of 8 May 1939).
 Workmen's Compensation Ordinance (Governmental Ordinance of 5 December 1939).
 Safety Decree of 1942.
 Wage-Fixing Ordinance No. 2 of 1946.
 Public Holidays Regulation, 1949.
 Labour Regulations of 1952 (*Publicatieblad*, 1952, No. 95, modified in 1954 by *Publicatieblad* No. 25).
 Ordinance of 22 August 1952 to regulate hours of work and to prohibit nightwork by children and the employment of women and young persons at night and in dangerous occupations (*L.S.*, 1952—Neth. Ant. 1).
 Ordinance of 12 March 1954 to amend the Labour Regulation of 1952 (*L.S.*, 1958—Neth. Ant. 1B).
 Decree to fix minimum wages for shop workers (*Publicatieblad*, 1957, No. 2).
 Ordinance of 12 May 1958 concerning collective labour agreements (*L.S.*, 1958—Neth. Ant. 2).

NETHERLANDS EAST INDIES

- Order No. 15 of 29 June 1925 to establish a Coolie Ordinance for the West Coast of Sumatra (*Staatsblad van Nederlandsch Indie (S.N.I.)*, 1925, No. 303) (*L.S.*, 1925—D.E.I. 1).
 Order No. 13 of 17 December 1925 to restrict the employment of children and night work by women (*S.N.I.*, 1925, No. 647) (*L.S.*, 1925—D.E.I. 2).
 Ordinance of 27 February 1926 to regulate the employment of children and young persons on ships (*L.S.*, 1926—D.E.I. 1).
 Ordinance of 14 September 1926 to regulate compulsory labour in the province of Tapanoeli (*S.L.*, No. 408).

Ordinance of 28 April 1927 to repeal the prohibition to take free labour on board ship and the prohibition to conclude contracts for emigration from Java (*L.S.*, 1927—D.E.I. 1).
 Ordinance of 11 May 1927 to regulate compulsory services on the East Coast of Sumatra (*S.L.*, No. 202-208).
 Order of 14 November 1928 notifying the Washington Convention fixing a minimum age for admission to industrial employment (*S.L.*, No. 515).
 Ordinance of 21 December 1931 prohibiting the use of white lead (*L.S.*, 1931—D.E.I. 2).
 Ordinance of 25 February 1935 to amend and supplement the provisions concerning the rights of association and assembly (*S.N.I.*, No. 85).
 Ordinance of 10 October 1936 to amend the Ordinance of 1931 (*L.S.*, 1936—D.E.I. 1A).
 Order of 24 April 1937 to promulgate the 1935 Convention concerning the employment of women in underground work (*S.N.I.*, 1937, p. 219).
 Industrial Accidents Decree (Royal Decree No. 69 of 20 April 1939).
 Industrial Accidents Regulations (Ordinance of 8 May 1939).
 Industrial Accidents Ordinance (Government Ordinance of 5 December 1939).
 Order of 28 February 1941—new provisions concerning night work by women (*S.N.I.*, No. 45).
 Ordinance of 13 October 1941 to regulate conditions of work in industrial undertakings (*S.N.I.*, No. 467).

NETHERLANDS NEW GUINEA

(*See under Netherlands East Indies*)

NEW CALEDONIA ¹

Order No. 473 of 11 May 1929 to determine the conditions of employment of native labour engaged on public works (*L.S.*, 1929—Fr. 10).
 Order No. 1046 of 4 October 1929 to determine conditions of employment of native labour (*L.S.*, 1929—Fr. 10), amended and supplemented by Orders No. 489 of 13 May 1931 (*L.S.*, 1931—Fr. 7A), and No. 944 of 1931 (*L.S.*, 1931—Fr. 7B).
 Decree of 15 May 1930 concerning workmen's compensation (*L.S.*, 1930—Fr. 9).
 Decree of 14 December 1936 to extend to New Caledonia the provisions of (1) the Act of 20 June 1936 providing for annual holidays with pay in industry, commerce, the liberal professions, domestic service and agriculture; (2) the Act of 21 June 1936 providing for a 40-hour week in industrial and commercial undertakings; (3) the Act of 24 June 1936 amending and supplementing Ch. IVbis of Title II of Book I of the Labour Code, concerning collective labour agreements (*J.O.*, p. 13000).
 Decree of 12 August 1937 to apply the Forced Labour Convention promulgated on 22 November 1937.
 Decree of 2 March 1939, applying to the territory Book II of the Labour Code.
 Order No. 196 of 15 February 1941 respecting compulsory labour in time of war, repealed by Order No. 541 of 3 May 1946.
 Order No. 1684 of 4 September 1956 to apply Act No. 56-332 of 27 March 1956, in respect of holidays with pay.

NIGER

(*See under French West Africa*)

NIGERIA

Native Authority Ordinance (Ch. 73 of the Laws of Nigeria), 1927.
 Labour Ordinance, No. 1 of 1929 (*L.S.*, 1929—Nig. 1), amended by Ordinances No. 17 of 1932 (*L.S.*, 1932—Nig. 1) and Nos. 12 and 29 of 1933 (*L.S.*, 1933—Nig. 2).
 Forced Labour Ordinance, No. 22 of 1933 (*L.S.*, 1933—Nig. 1).
 Docks (Safety of Labourers) Regulations, No. 35 of 1940.
 Trade Disputes (Arbitration and Inquiry) Ordinance No. 32 of 1941.
 Workmen's Compensation Ordinance No. 51 of 1941 as amended by Ordinances Nos. 23 of 1950 and 14 of 1956.
 Spanish Treaty republished under Government Notice No. 665 in *Nigeria Gazette* (*N.G.*), Vol. 30, No. 28, 17 June 1943, as revised from time to time.
 Labour (Wage-Fixing and Registration) Ordinance, No. 40 of 1943.

¹ See also under France: Overseas Territories and Associated Territories.

REPORT OF THE COMMITTEE OF EXPERTS

Labour Code: Ordinance of 5 November 1945 (*L.S.*, 1946—Nig. 1) as amended by Ordinances Nos. 18 and 29 of 1948, (*L.S.*, 1948—Nig. 1), No. 7 of 1949 (*L.S.*, 1949—Nig. 1) No. 34 of 1950 (*L.S.*, 1950—Nig. 1), No. 14 of 1953 and No. 3 of 1956.
Children and Young Persons Regulation of 14 June 1946 (*N.G.*, 27 June 1946, Supplement, p. 727).
Trade Union Ordinance (Ch. 218).
French Treaty published under Government Notice No. 1207 in *N.G.*, Vol. 36, No. 46, 8 September 1949.
Factories Ordinance No. 33 of 1955.
Wages Boards Ordinance No. 5 of 1957.
Trade Disputes (Arbitration and Inquiry) (Federal Application) Ordinance No. 46 of 1957.
Docks (Safety of Labour) Regulations, L.N. 42 of 1958.

NORFOLK ISLAND

Ordinance No. 5 of 31 August 1932 concerning the marking of weight on heavy packages transported by vessels (*L.S.*, 1932—Austr. 2).

NORTH BORNEO

Machinery Ordinance No. 4 of 1920 (Ch. 75).
State Manual Work Ordinance No. 2 of 1929 (*L.S.*, 1929—N.B. 1.).
Labour Ordinance, 1936.
Labour Ordinance No. 18 of 1949 (Ch. 67).
Workmen's Compensation Ordinance, No. 3 of 1950.
Prohibition of Forced Labour Ordinance No. 12 of 1950 (*North Borneo Government Gazette*, 15 July 1950, first supplement).
Trade Unions and Trade Disputes Ordinance (Ch. 143 of the Revised Laws, 1953).
Workmen's Compensation Ordinance No. 14 of 1955.

NORTHERN RHODESIA

Masters and Servants Proclamation, 1908, as extended by Proclamation 18 of 1912.
Administration of Natives Proclamation, 1916.
Native Authority Ordinance, 1929.
District Messengers Ordinance, 1929.
Employment of Natives Ordinance (Ch. 171) (*L.S.*, 1929—N.R. 1; 1930—N.R. 3) as amended by Ordinance No. 30 of 1953.
Employment of Women, Young Persons and Children Ordinance (Ch. 191) (*L.S.*, 1933—N.R. 1; 1936—N.R. 1; 1950—N.R. 1 A; 1950 N.R. 1 B).
Trade Unions and Trade Disputes Ordinance No. 23 of 1949 (*L.S.*, 1949—N.R. 1) as amended by Ordinances No. 16 of 1953 (*L.S.*, 1958—N.R. 2 B), No. 35 of 1956 (*L.S.*, 1958—N.R. 2 C), No. 21 of 1957 (*L.S.*, 1958—N.R. 2 D), No. 18 of 1958 (*L.S.*, 1958—N.R. 2).
Industrial Conciliation Ordinance No. 24 of 1949 (*L.S.*, 1949—N.R. 2) as amended by Ordinance No. 17 of 1958 (*L.S.*, 1958—N.R. 1).
Minimum Wages and Conditions of Employment Ordinance (Ch. 190) as amended by Ordinances Nos. 53 of 1953 and 4 and 27 of 1955.
Workmen's Compensation Ordinance (Ch. 188), as amended by Ordinances Nos. 35 of 1955 and 7 and 45 of 1956.
Factories Ordinance (Ch. 193) as amended by Ordinances Nos. 58 of 1955 and 14 of 1956.
Societies Ordinance (Ch. 262).
African Civil Servants Regulations (Ch. 57).
Employment Exchange Ordinance No. 19 of 1956.

NYASALAND

Native Labour Ordinance, 1909.
Employment of Natives Proclamation No. 5 of 1923.
Employment of Natives Ordinance, 1939.
Native Labour Ordinance (No. 4 of 1944), as amended.
Trade Unions and Trade Disputes Ordinance No. 5 of 1944.

Workmen's Compensation Ordinance No. 2 of 1944, as amended by Ordinances No. 15 of 1946 and No. 6 of 1949.
 Employment of Women, Young Persons and Children Ordinance (Ch. 39) of the Laws of Nyasaland 1946.
 Wages and Conditions of Employment Ordinance No. 32 of 1949.
 Factories Ordinance (Ch. 42) as amended by Ordinances No. 7 of 1950 and No. 22 of 1953.
 Standing Advisory Boards Rules, No. 19, 1950, published under Government Notice No. 42 of 1950.
 Forced Labour (Repeal) Ordinance No. 4 of 1950.
 Trade Disputes (Arbitration and Settlement) Ordinance, 1952.
 African Employment Ordinance No. 3 of 1954 (*L.S.*, 1954—Ny. 1 as amended by Ordinances Nos. 12 and 21 of 1955).
 Regulation of Minimum Wages and Conditions of Employment No. 4 of 1958 (*Nyasaland Government Gazette*, 21 February 1958, supplement).
 Trade Union Ordinance No. 32 of 1958 (*ibid.*, 12 December, 1958 supplement).

PAPUA¹

Native Plantations Ordinance, 1908 to 1952.
 Native Taxes Ordinance No. 11 of 1918.
 Ordinance No. 16 of 18 December 1925 concerning native plantations and the development of welfare of the Natives of Papua.
 Ordinance No. 11 of 7 December 1927 concerning the employment of Natives without contracts (*L.S.*, 1927—Austr. 9).
 Ordinances Nos. 1, 9 and 10 of 1931 to amend the Native Labour Ordinance, 1911-1927 (*L.S.*, 1931—Austr. 12).
 Shipping (Loading and Unloading) Regulation, No. 14 of 18 July 1931 (marking of weight on packages) (*L.S.*, 1931—Austr. 4).
 Ordinance No. 7 of 16 August 1937 to bring into force the Convention on unemployment indemnities in case of shipwreck.
 Native Labour Ordinance No. 13 of 1941.
 Native Regulation No. 121 of 1950.

PHILIPPINES

Act No. 3.428 of 10 December 1927 to provide compensation in respect of injury, death or diseases suffered or contracted in the course of employment.
 Act No. 3.958 of 1932: Payment of Wages (amendment): Prohibition of truck systems.
 Act No. 3.960 of 1932 concerning assignment of wages.
 Act No. 3.961 of 1932 concerning free medical care of workers in urgent cases.

PORTUGAL

OVERSEAS PROVINCES²

Decree of 18 December 1910 introducing the weekly rest principle in all Portuguese colonies.
 Decree No. 16199 of 6 December 1928 to approve the Native Labour Code for the Portuguese colonies in Africa (*L.S.*, 1928—Port. 3).
 Decree No. 18570 of 8 July 1930 to approve the Colonial Charter in substitution for Title V of the Constitution of the Portuguese Republic (Title II: Native Labour) (*L.S.*, 1930—Port. 1 (extracts)).
 Legislative Decree No. 23228 of 15 November 1933 to promulgate the Organic Charter of the Portuguese Colonial Empire (*L.S.*, 1933—Port. 4 (extracts)).
 Legislative Decree No. 31095 of 31 December 1940 promulgating the Administrative Code.
 Constitutional Act No. 2066 of 26 June 1953 respecting the overseas territories.
 Legislative Decree No. 39666 of 20 May 1954 to promulgate the Portuguese Native Statute of the Provinces of Guinea, Angola and Mozambique (*Boletim oficial (B.O.)*, 19 June 1954).
 Decree No. 39997 of 29 December 1954 respecting the reorganisation of prison services.

PORTUGUESE GUINEA³

Decree No. 16199 of 6 December 1928 to approve the Native Labour Code for the Portuguese colonies in Africa.

¹ See also under Australian New Guinea.

² Angola, Cape Verde, Macao, Mozambique, Portuguese Guinea, Portuguese Indies, S. Tomé and Príncipe, Timor.

³ See also under Portugal: Overseas Provinces.

Police Code and administrative control measures, approved by Legislative Order No. 486 of 7 December 1928.

Legislative Decree No. 938 to regulate native labour (*L.S.*, 1935—Port. 7A).

Act No. 1942 of 27 July 1936 respecting the right to compensation for the consequences of industrial accidents or occupational diseases.

Legislative Decree No. 122 concerning native labour (*B.O.*, 2 December 1940).

Ordinance No. 8 concerning forced labour as a tax (*B.O.*, 22 January 1945).

PORTUGUESE INDIES¹

Legislative Decree No. 417 of 6 May 1930 approving the Regulations on health and security in industrial establishments (*Boletim oficial (B.O.)*, No. 37, p. 651).

Legislative Decree No. 740 of 3 July 1934: National assistance scheme for agricultural workers in case of old age and invalidity.

Legislative Decree No. 1141 of 1952: Work conditions in industrial establishments (*B.O.*, 28 August 1952).

PUERTO RICO

Act No. 4: Conciliation (1923).

Act No. 11: Minimum Wages (1923).

Act No. 51: Establishment of free public employment offices.

Chapter 18: Closing of undertakings on Sundays and public holidays (1925).

Chapter 54: Hours of work and wages on public works (1925).

Chapter 64: Employment of children (1925).

Workmen's Compensation Act, No. 85 (1928).

Act No. 42: Permission for minors to work under certain conditions (1930).

Act No. 46: Public employment offices (1930).

Act No. 3: Public holidays (1931).

Act No. 15: Establishment of the Labour Department (1931).

Act No. 80: Regulation of overtime (1931).

Act No. 45 of 18 April 1935 concerning workmen's compensation and occupational diseases.

Act No. 382: Discrimination in respect of employment (1950).

Act No. 74: Unemployment Insurance Act (1956).

RÉUNION²

Decree of 27 April 1848 to abolish slavery.

International Anglo-French Agreement of 1861 to lay down conditions for the immigration of Indian workers to French colonies.

Decree of 30 March 1881 to establish the status of immigrants.

Decree of 22 May 1916 to establish Labour Code of Réunion.

Act of 25 October 1919 concerning workmen's compensation.

Decree of 26 September 1936 to issue public administrative regulations implementing the Act of 20 June 1936 respecting annual holidays with pay.

Decree of 28 April 1937 concerning conciliation and arbitration procedures in collective labour disputes in Réunion (*Journal officiel*, p. 4921).

Decree No. 48-592 of 13 March 1948 to extend the Metropolitan Labour Code.

Act No. 50-205 of 11 February 1950, respecting collective agreements and the procedure for the settlement of collective labour disputes, and subsequent texts.

Decree No. 51-255 of 1 March 1951.

Decree of 13 June 1951 (conditions of employment in state-sponsored contracts), extended to the overseas department by Decree No. 51-781 of 13 June 1951.

Act No. 56-332 of 27 March 1956 to amend the annual holidays with pay scheme.

RUANDA-URUNDI

Legislative Ordinance No. 52 of 7 November 1924 empowering residents to compel Natives to undertake works and the cultivation of cash crops (*L.S.*, 1924—L.N. 7).

Decree of 25 June 1949 respecting contracts of employment.

Ordinance No. 21/52 of 1953 to fix workers' minimum wages (*Bulletin officiel*, 31 May 1953).

¹ See also under Portugal: Overseas Provinces.

² See also France: Overseas Departments.

Decree of 30 June 1954 respecting contracts of employment.
Ordinances Nos. 22-408 of 12 December 1954 and 22-282 of 24 August 1955 respecting minimum wage-fixing machinery.
Ordinance No. 21/27 of 4 February 1955 concerning native works councils (*Bulletin officiel*, 28 February 1955).

ST. CHRISTOPHER-NEVIS-ANGUILLA ¹

Factories Ordinance No. 11 of 1955.
Workmen's Compensation Ordinance No. 21 of 1955.
Paid Holidays Ordinance No. 19 of 1956.
Workmen's Compensation Ordinance No. 24 of 1956.

ST. HELENA

Factories Ordinance (Ch. 35).
Ascension Island Workmen's Protection Ordinance No. 5 of 1926.
Minimum Wages Ordinance No. 11 of 1932.
Education Ordinance No. 10 of 1941 as amended by Ordinance No. 13 of 1949.
Workmen's Compensation Ordinance No. 3 of 1946.
Contracts of Service Ordinance 1951, as amended in 1953.

ST. LUCIA

Daily Labourers Wages Payment Ordinance No. 13 of 1924.
Employment of Women, Young Persons and Children Ordinance No. 22 of 1934, as amended by Ordinance No. 9 of 1939.
Labour (Minimum Wage) Ordinance No. 5 of 1935, as amended.
Labour Ordinances Nos. 14 of 1938 and 10 of 1943, as amended.
Employers and Servants Ordinance No. 29 of 1938.
Recruitment of Workers Ordinance No. 31 of 1939, as amended, *inter alia*, by Ordinance No. 2 of 1941.
Workmen's Compensation Ordinance No. 7 of 1941 as amended by Ordinances No. 4 of 1942 and No. 7 of 1949.
Labour Department Ordinance No. 14 of 1942.
Factories Ordinance No. 8 of 1943.
Employment of Women Ordinance No. 8 of 1946.
Trade Unions and Trade Disputes Ordinance No. 4 of 1948, as amended.
Wage Boards Ordinance No. 1 of 1952.
General Undertakings (Arbitration) Ordinance No. 12 of 1952.
Paid Holidays Ordinance No. 15 of 1957.

ST. PIERRE AND MIQUELON

Order of 10 January 1927 to promulgate the Act of 13 December 1926 issuing a Maritime Labour Code.
Order of 15 January 1927 to promulgate the Act establishing a Merchant Marine Disciplinary and Penal Code (*Journal officiel de Saint-Pierre-et-Miquelon (J.O.)*, No. 4 of 1927).
Order No. 290 of 6 September 1928 to reorganise public education (compulsory schooling to the age of 14 years) (*J.O.*, No. 19 of 1928).
Legislative Decree of 17 June 1938 respecting the seamen's insurance scheme.
Order No. 656 of 31 October 1949 concerning workmen's compensation insurance (*J.O.*, 15 November 1949).
Order of 14 March 1954 to promulgate in the territory Decree No. 54-110 of 28 January 1954 by which the provisions of the Maternity Protection Convention are extended to the overseas territories.
Order No. 240 of 13 May 1954 respecting the application of the weekly rest provisions.
Order of 14 August 1954 respecting the employment of women and children.
Order No. 884 of 26 December 1957 to apply Act No. 56-332 of 27 March 1956 respecting the holidays with pay scheme.

¹ See also Leeward Islands.

S. TOMÉ AND PRINCIPE

General Native Labour Regulations approved by Decree No. 951 of 14 October 1914 and enforced locally by orders of 24 May 1917 and 21 June 1918.
 Decree No. 16199 of 6 December 1928 to approve the Native Labour Code for the Portuguese colonies in Africa.
 Act No. 1942 of 27 July 1936 respecting the right to compensation for the consequences of industrial accidents or occupational diseases.
 Ordinance No. 977 to regulate native labour (*Boletim oficial (B.O.)*, 26 February 1947).
 Decree No. 36888 concerning the recruitment and stabilisation of labour (*B.O.*, No. 28, 10 July 1948).
 Ordinance No. 1578 concerning medical care (*B.O.*, 26 July 1951).
 Ordinance No. 1723 concerning workmen's compensation (*L.S.*, 1952—S. Tomé 1).
 Ordinance No. 1766 concerning hours of work in commerce and industry (*B.O.*, 26 August 1952).
 Ordinance No. 1767 concerning wages (*B.O.*, 26 August 1952, supplement).
 Ordinance No. 1825 concerning hours of work on plantations (*B.O.*, No. 50, 13 December 1952).
 Decree No. 40195 concerning medical care (*B.O.*, No. 30, 23 July 1955).
 Legislative Decree No. 505 of 27 February 1958 to create a social service to guide workers in their work and to assist them in finding employment.

ST. VINCENT

Minimum Wages Ordinance No. 14 of 1934.
 Employment of Women, Young Persons and Children, Ordinance No. 20 of 1935 as amended by Ordinance No. 14 of 1939.
 Employers and Servants Ordinance No. 16 of 1937.
 Workmen's Compensation Ordinance No. 21 of 1939, as amended by Ordinances Nos. 8 of 1943 and No. 5 of 1949.
 Recruitment of Workers Ordinance No. 3 of 1940, as amended by Ordinance No. 1 of 1941.
 Shops Ordinance No. 1 of 1942.
 Labour Department Ordinance No. 14 of 1942.
 Factories Ordinance No. 20 of 1943.
 Department of Labour (Powers and Duties of Labour Commissioner) Order No. 19 of 1943.
 General Undertakings (Arbitration) Ordinance No. 4 of 1952.
 Wage Boards Ordinance No. 1 of 1953.
 Factories Ordinance No. 5 of 1955.
 Employment Exchanges Ordinance No. 19 of 1956.

SARAWAK

Slavery Decree No. S-2 of 1928.
 Labour Conventions Ordinance, Ch. 116, Revised Laws, 1957.
 Trade Union and Trade Disputes Ordinance No. 10 of 1947, as amended.
 Local Authority Ordinance No. 52 of 1948.
 Local Authority (Provision of Transport) Regulations, 1949.
 Workmen's Compensation Ordinance No. 4 of 1949.
 Labour Ordinance No. 24 of 1951 (*L.S.*, 1951—Sar. 1).
 Weekly Rest Ordinance No. 3 of 1952.
 Workmen's Compensation Ordinance No. 10 of 1956.
 Essential Services (Arbitration) Ordinance No. 1 of 1958 (*Government Gazette*, 13 May 1958).
 Labour Protection Ordinance (Ch. 115).

SENEGAL

(See under French West Africa)

SEYCHELLES

Labour Ordinance No. 22 of 1932.
 Food Production Ordinance, No. 18 of 1945.
 Employment of Servants Ordinance No. 25 of 1945.
 Employment of Servants (Outlying Islands) Ordinance No. 26 of 1945.
 Recruitment of Workers Ordinance, No. 27 of 1945.

Proclamation No. 6 of 1945 fixing minimum wages for agricultural labour.
Recruitment of Workers' Regulation of 6 February 1950.
Factories Ordinance No. 1 of 1954 (repeals ordinance of 1937).

SIERRA LEONE

Headmen Ordinance, 1924 (section 5 (1) (b)).
Protectorate Native Law Ordinance, 1924.
Abolition of Slavery Ordinance No. 24 of 1927.
Employer and Employed Ordinance, Ch. 70 (*L.S.*, 1934—*S.L.* 1., as amended by Ordinances Nos. 32 of 1947 and 9 of 1956).
Workmen's Compensation Ordinance 1939, as amended (Ch. 268 of the Laws of Sierra Leone, 1946 Edition).
Recruiting of Workers Ordinance, No. 22 of 1941, Ch. 199.
African Labourers (Employment at Sea) Ordinance, Ch. 5.
Docks (Safety of Labourers) Ordinance, Ch. 66.
Wage Boards Ordinance, Ch. 258, as amended by Ordinances Nos. 42 of 1946, 15 and 30 of 1947 and 3 of 1952.
Trade Disputes Ordinance, Ch. 238, as amended by Ordinance No. 39 of 1946.
Trade Unions Ordinance, Ch. 242.
Wages Boards (Mining Workers) Rules, 1946.
Workmen's Compensation Ordinance No. 18 of 1954 (*L.S.*, 1954—*S.L.* 1).
Prohibition of Forced Labour Ordinance No. 33 of 1956 (*L.S.*, 1956—*S.L.* 1).
Wages Boards (Maritime Workers) Rules, 1957.
Wages Boards (Agricultural Workers) Rules, 1958.
Machinery (Safe Working and Inspection) Ordinance (Ch. 134).
Public Health Ordinance (Ch. 191).

SINGAPORE

Workmen's Compensation Ordinance, 1933, Ch. 70, 1936 Edition of the Laws of the Straits Settlements.
Protection of Workers Ordinance of 1939.
Weekly Rest Ordinance No. 4 of 1949.
Children and Young Persons Regulations of 29 February 1950 (*L.S.*, 1950—Sing. 1).
Workmen's Compensation Ordinance No. 5 of 1951.
Labour Ordinance (Ch. 69).
Wages Councils Ordinance No. 11 of 1953.
Workmen's Compensation Ordinance No. 31 of 1954.
Labour Ordinance No. 40 of 1955.
Clerks Employment Ordinance No. 14 of 1957.
Machinery Ordinance (Ch. 223).
Factories Ordinance No. 41 of 1958 (*Government Gazette*, 1 August 1958).
Employment Exchanges Ordinance No. 47 of 1958 (*L.S.*, 1958—Sing. 1).

SOLOMON ISLANDS

Labour Regulation 1921, amended by Regulation No. 7 of 1923.
Trade Unions and Trade Disputes Regulation of 1 April 1946 (*Western Pacific High Commission Gazette*, 1 April 1946, supplement, p. 35).
Workmen's Compensation Regulation No. 5 of 1952 (*ibid.*, 3 May 1952, supplement).
Labour Regulation, No. 3 of 1960.

SOUDAN

(*See under French West Africa*)

SOUTHERN RHODESIA

Employment of Native Young Persons Act (*L.S.*, 1926—*S.R.* 1).
Workmen's Compensation Act, 1941, as amended by Act No. 47 of 1948.
Native Forced Labour Act, 1942.

Native Labour Regulations Act (Ch. 86) and regulations thereunder.
 Native Labour Contracts Registration Act (Ch. 87).
 Shop Hours Act, 1945, as amended by Act No. 33 of 1946.
 Industrial Conciliation Act, 1945, as amended by Act No. 29 of 1959.
 Employment of Natives Act, 1947, as amended.
 Native Juveniles Employment Act.
 Native Labour Boards Act No. 26 of 1947, as amended by Acts No. 62 of 1948, No. 18 of 1953 and No. 17 of 1954.
 Masters and Servants Act (Ch. 231).
 Migrant Workers Act, No. 9 of 1948.
 Factories and Works Acts, 1948 (*L.S.*, 1948—S.R. 1) as amended by Act No. 37 of 1957.
 Employment Registers Act, 1951.
 Natives (Registration and Identification) Act, 1957.

SOUTH WEST AFRICA

Control and Treatment of Natives on Mines Proclamation No. 3 of 1917, amended by Proclamation No. 6. of 1924.
 Vagrancy Proclamation of 1920.
 Native Administration Proclamation No. 118 of 1922, as amended.
 Masters and Servants Proclamation No. 34 of 1920, amended by Proclamations Nos. 19 of 1923, 10 of 1927, 22 of 1938, 7 of 1947 and 26 of 1951 and by Ordinance No. 4 of 1955.
 Workmen's Compensation Proclamation No. 27 of 15 November 1924 (*L.S.*, 1924—L.N. 6).
 Native Labour Regulation Proclamation No. 6 of 1925, amended by Proclamation No. 27 of 1931.
 Education Proclamation No. 16 of 11 September 1926 (employment of children) (*Official Gazette of South-West Africa*, No. 207, 1926).
 Ordinance No. 16 of 4 July 1927 concerning further protection for children (*ibid.*, 1927, No. 240).
 Shop Hours and Shop Assistants Ordinance No. 15 of 1939.
 Workmen's Compensation Act No. 30 of 1941 of the Union of South Africa (*L.S.*, 1956—S.A. 1), applied to South West Africa by Act No. 51 of 1956.
 Natives Minimum Wages Proclamation No. 1 of 1944, amended by Proclamation No. 5 of 1944.
 Natives (Urban Areas) Proclamation No. 56 of 1951, as amended.
 Factories, Machinery and Building Works Ordinance No. 34 of 1952.
 Wage and Industrial Conciliation Ordinance No. 35 of 1952.
 Societies of Employers of Contracted Natives Ordinance, No. 48 of 1952.

SURINAM

Decree on Labour Disputes, 1946.
 Ordinance No. 145 of 10 September 1947 respecting industrial accidents.
 Decree of 10 June 1948 to give effect to the ordinance of 10 September 1947.

SWAZILAND

Native Labour Regulations Proclamation No. 19 of 1913.
 Wages Determination Proclamation No. 21 of 1937 (Ch. 123).
 Workmen's Compensation Proclamation No. 25 of 1939.
 Native Labour (Written Contract) Proclamation No. 6 of 1943.
 Employment of Women and Children Proclamation (Ch. 126).
 Masters and Servants Proclamation.
 Trade Unions and Trade Disputes Proclamation (Ch. 125).
 Trade Union Registration Rules (High Commissioner's Notice No. 8 of 1950).
 African Labour Proclamation No. 45 of 1954 (*L.S.*, 1954—Swa. 1.) as amended by Proclamation No. 87 of 1956.

TANGANYIKA

Employers and Native Workers Ordinance No. 32 of 1923 (*L.S.*, 1923—L.N. 5).
 Employers and Native Workers Ordinance No. 11 of 1926 (*L.S.*, 1926—L.N. 2).
 Native Authority Ordinance.
 Porters Ordinance No. 18 of 1928.
 Mines and Miners' Ordinance No. 15 of 1929 (*L.S.*, 1929—L.N. 1).
 Minimum Wage Ordinance No. 19 of 1939 as amended.

Employment of Women and Young Persons Ordinance No. 5 of 1940, as amended by Ordinance No. 4 of 1943 and 10 of 1946.
 Masters and Native Servants Ordinance (Ch. 78 of the revised edition of the Laws).
 Masters and Native Servants (Written Contracts) Ordinance No. 28 of 1942 as amended by Ordinance No. 20 of 1943 (Ch. 79).
 Masters and Native Servants (Recruitment) Ordinance No. 6 of 1946 (Ch. 80).
 Labour Supply Ordinance No. 2 of 1947.
 Trade Disputes (Arbitration and Inquiry) Ordinance No. 11 of 1947 (*Tanganyika Territory Gazette (T.T.G.)*, 5 September 1947, Supplement No. 1).
 Workmen's Compensation Ordinance No. 43 of 1948, as amended by Ordinance No. 41 of 1949 (Ch. 203).
 Master and Native Servants' Rules, 1949.
 Factories Ordinance No. 46 of 1950 (*T.T.G.*, Supplement No. 1) (Ch. 297).
 Regulation and Wages and Terms of Employment Ordinance No. 15 of 1951 (*T.T.G.*, 2 March 1951, Supplement No. 1) (Ch. 300).
 Collective Punishment Ordinance (Ch. 74).
 Native Authority Ordinance (Ch. 72).
 Native Tax Ordinance (Ch. 83), as amended.
 Dockworkers (Regulation of Employment) Ordinance No. 20 of 1953.
 Employment Ordinance No. 47 of 1955 (*L.S.*, 1959—Tan. 1, as amended by Ordinance No. 35 of 1956) (Ch. 366).
 Trade Unions Ordinance No. 48 of 1956 (*L.S.*, 1956—Tan. 1), as amended by Ordinance No. 11 of 1957.
 Employment (Forced Labour) Regulations, 1957.
 Employment (Recruitment) Regulations, 1957.
 Regulation of Wages and Terms of Employment (Calculation of Basic Minimum Wages) Rules, 1957.
 Employment (Protection of Wages) Regulations, 1957 (Government Notice No. 10 of 1957).

TIMOR ¹

Ordinance of 26 December 1896 concerning hours of work, and prohibiting the employment of children under 14 years of age.
 Ordinance No. 4391 of 2 July 1936 to approve the Native Labour Regulations.
 Act No. 1942 of 27 July 1936 respecting the right to compensation for the consequences of industrial accidents or occupational diseases.
 Legislative Decree No. 39660 of the President of the Council to supplement the legislation concerning the exercise of the right of association (supplements article 8 (2) of the Constitution) (*Boletim oficial*, 10 July 1954).

TOGO ²

Decree of 29 December 1922 concerning native labour in Togoland (*L.S.*, 1922—L.N. 2).
 Order No. 246 of 27 October 1924 concerning contracts of employment (*L.S.*, 1924—L.N. 5), supplemented by Order No. 443 of 11 December 1925 (*L.S.*, 1925—L.N. 6).
 Order No. 64 of 16 November 1929 establishing a labour office (*Journal officiel du Togo (J.O.T.)*, 1929, No. 146).
 Order No. 612/A.P.A. of 18 August 1946 as amended by Order No. 243/A.P.A. of 21 March 1947 respecting the organisation and functioning of the labour inspectorate in the Territory of Togoland.
 Order of 26 September 1953 concerning provisional regulations on holidays and travelling allowances.
 Order No. 396-54/ITLS of 28 April 1954 to amend Order No. 613-53 respecting overtime pay.
 Order No. 885-55/ITLS of 28 October 1955 concerning the prohibition of the use of white lead, etc., in the painting of buildings (*J.O.T.*, 25 November 1955).
 Decree No. 385-56/ITLS of 30 April 1956 regarding the organisation and operation of the Family Benefits Compensation Fund.
 Decree of 26 July 1957 to regulate annual holidays with pay.
 Decree of 26 July 1957 respecting the organisation and operation of the Ministry of Labour and Social Affairs.

TOKELAU ISLAND

Labour Order 1953.

¹ See also under Portugal: Overseas Provinces.

² See also France: Overseas Territories.

TRINIDAD AND TOBAGO

Labour Supply Office Ordinance of 1919 (Ch. 22, No. 2 of the Laws).
 Workmen's Compensation Ordinance No. 8 of 1926 (*L.S.*, 1926—Tri. 1).
 Prohibition of the Employment of Children Ordinance No. 4 of 1927 (*L.S.*, 1927—Tri. 1).
 Trade Unions Ordinance, 1932.
 Trade Disputes Ordinance No. 7 of 1943.
 Workmen's Compensation Ordinance (Ch. 22, No. 12) as amended by Ordinances Nos. 20 of 1943, 12 of 1945 and 23 of 1948.
 Labour (Minimum Wage) Ordinance (Ch. 22, No. 3).
 Factories Act No. 44 of 1946. (Ch. 30).
 Wage Councils Ordinance No. 20 of 1949, as amended by Ordinance No. 22 of 1950.
 Shop (Hours of Opening and Employment) Ordinance (Ch. 31).
 Recruitment of Workers Ordinance (Ch. 22, No. 6).

TRUST TERRITORY OF SOMALILAND

Ordinance No. 27 of 1951 concerning compulsory insurance against industrial accidents (*L.S.*, 1951—It. Som. 1), amended by Ordinance No. 7 of 1954 extending workmen's compensation insurance to occupational diseases (*L.S.*, 1954—It. Som. 2).
 Administrative Decree of 31 December, 1951 repealing Proclamation No. 2 of 1947 respecting agricultural manpower, and the Implementing Regulations of 14 February 1947 (Notices Nos. 17 and 18 of 1947).
 Ordinance No. 13 of 1952 to repeal the regulations authorising forced or compulsory labour (*Bollettino Ufficiale*, 10 August 1952).
 Ordinance No. 12 of 1953 concerning the employment of children (*L.S.*, 1953—It. Som. 1).
 Ordinance No. 2 of 1954 to regulate the establishment and activities of associations, companies and institutions.
 Ordinance No. 4 of 27 February 1954 to regulate the employment of women (*L.S.*, 1954—It. Som. 1).
 Legislative Decree of 15 November 1958: Labour Code (*L.S.*, 1958—It. Som. 1).

TUNISIA

Decree of 15 June 1910 concerning occupational safety and health and hours of work.
 Decree of 20 April 1921 concerning weekly rest (*L.S.*, 1921—Tun. 1-3), supplemented by decree of 22 May 1937 (*Journal officiel tunisien (J.O.T.)*, 15 June 1937) and amended by decrees of 27 September 1939 (*J.O.T.*, 7 November 1939) and 3 August 1950 (*L.S.*, 1950—Tun. 3).
 Decree of the Bey of 15 March 1921 establishing a workmen's compensation scheme, extended to agricultural undertakings by decree of 31 January 1924 (*J.O.T.*, 20 February 1924).
 Decree of 10 April 1922 concerning the use of white lead (*L.S.*, 1922—Tun. 1).
 French Act of 24 June 1936 concerning collective agreements.
 Decree of 4 August 1936 providing for a 40-hour week in industrial and commercial undertakings (*L.S.*, 1936—Tun. 2 A).
 Decree of 11 December 1936 to amend the decree of 15 June 1910 regulating conditions of work in industrial and commercial undertakings (*L.S.*, 1936—Tun. 2 B).
 Decree of 4 February 1937 supplementing the decree to regulate conditions of work in industrial and commercial undertakings (*L.S.*, 1937—Tun. 1).
 Decree of 29 April 1937 concerning the fixing of wages and settlement of labour disputes in agriculture (*J.O.T.*, 30 April 1937), amended by decree of 29 July 1937 (*J.O.T.*, 6 August 1937).
 Decree of 9 March 1944 providing holidays with pay in agriculture (*J.O.T.*, 15 March 1944), amended by decree of 25 February 1954 (*J.O.T.*, 26 February 1954).
 Decree of 25 July 1946 concerning annual holidays with pay in industry, commerce and the liberal professions.
 Decree of 6 April 1950 concerning health and safety and the employment of women and children in commerce, industry and the liberal professions (*L.S.*, 1950—Tun. 1).
 Decree of 27 July 1950 prohibiting night work in bakeries (*L.S.*, 1950—Tun. 2).
 Decree of 18 February 1954 concerning the protection of workers employed by subcontractors (*L.S.*, 1954—Tun. 1).
 Decree of 18 February 1954 concerning the employment of women and children in agriculture (*L.S.*, 1954—Tun. 2).

UBANGI SHARI

(See under French Equatorial Africa)

UGANDA

Collective Punishment Ordinances, 1909-23
Masters and Servants Ordinances, 1913 to 1923.
Native Authority Ordinance, 1919.
Poll Tax Ordinances, 1920 to 1923.
Labour Regulations, 1924.
Employment of Children Ordinance No. 18 of 1938 as amended by Ordinance No. 27 of 1946.
Trade Unions and Trade Disputes Ordinance No. 9 of 1943.
Employment Ordinance No. 13 of 1946, as amended (*L.S.*, 1955—Ug. 1).
Workmen's Compensation Ordinance No. 14 of 1946 (*L.S.*, 1946—Ug. 1).
Minimum Wages Ordinance No. 32 of 1949 (Ch. 109, of the Revised Laws of Uganda).
Factories Ordinance No. 5 of 1952 (*Uganda Gazette*, 3 April 1952, Supplement No. 1).
Trade Unions Ordinance No. 10 of 1952.
Minimum Wages Advisory Boards and Wages Councils Ordinance No. 21 of 1957 (*L.S.*, 1957—Ug. 1).
Prisons Ordinance No. 2 of 1958.
Mining Ordinance (Ch. 226).
Employment of Women Ordinance (Ch. 85).

UNITED KINGDOM

Legislation applicable to all United Kingdom non-metropolitan territories.

The Colonial Development and Welfare Acts, 1940 and 1945 (3 and 4 Geo. VI, Ch. 40, and 8 and 9 Geo. VI, Ch. 20; *L.S.*,—1945 U.K. 2 (A) and (B)).

UPPER VOLTA

(See under French West Africa)

WESTERN SAMOA

The Native Regulations (Samoa) Order, 1925.
Ordinance of 1931 respecting the closing of shops.
Regulations of 1953 respecting public services in Western Samoa.
Wages Councils Ordinance, 1957.

ZANZIBAR

Recruitment and Employment of Native Labour Supply Decree No. 4 of 1923 (*L.S.*, 1923—Zan. 2A), as amended by Decree No. 12 of 1923 (*L.S.*, 1923—Zan 2B).
Master and Servants Decree, 1925.
Minimum Wage Decree of 1935.
Trade Unions Decree, 1941.
Factories (Supervision and Safety) Decree No. 8 of 1943.
Government Notification No. 159 of 14 March 1944: Factories Regulation.
Minimum Wages Decree, No. 1 of 1945.
Labour Decree No. 11 of 1946.
Shop Assistants Decree No. 30 of 1948.
Employment of Women, Young Persons and Children Decrees (Ch. 132) as amended by Decree No. 27 of 1948.
Employment of Young Persons and Children Decree No. 8 of 1952.
Employment of Women Decree No. 9 of 1952.
Labour Decree No. 10 of 1952.
Workmen's Compensation Decree No. 27 of 1957.
Trade Union Decree No. 21 of 1958 (repeals Trade Union Decree, 1941) (*Zanzibar Government Official Gazette*, 6 December 1958, supplement).