

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 available ¹ 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, Denmark¹, Sweden¹ 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 benefit² 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 Iraq⁵ 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 to 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 needs¹; 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 information⁶ 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.

* * *

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.

* * *

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.

* * *

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).

INDEX OF PRINCIPAL LEGISLATION

Afghanistan.

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.

Federal Act of 16 December 1949 respecting children's grants (*BGBl*, 31 Jan. 1950, No. 5) (*L.S.* 1949—Aus. 5), and subsequent amendments.

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.

Decree respecting the encouragement of childbearing and large families (*I.*, No. 52 of 21 June 1951; *L.S.* 1951—Bul. 1), as subsequently amended.

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.

Hospital Insurance and Diagnostic Services Act, 12 April 1957 (*Statutes of Canada*, 1957, ch. 28), as amended.

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.

Old-Age Security Act, 1951 (*L.S.* 1951—Can. 2), as amended.

Government Employees' Compensation Act (*Revised Statutes of Canada*, 1952, ch. 134), as amended.

Family Allowance Act (*ibid.*, 1952, ch. 109), as amended.

Disabled Persons Act (*Statutes of Canada*, 1953-54, ch. 55), as amended.

Blind Persons Act (*Revised Statutes of Canada*, 1952, ch. 17), as amended.

Provincial Acts and regulations concerning hospital insurance, medical care, social assistance, workmen's compensation, mothers' allowances.

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).

Workmen's Compensation Law No. 385 of 11 November 1932 (*G.O.*, No. 4521 of 19 Nov. 1932; *L.S.* 1932—Dom. 1).

Enforcement Regulation of the Workmen's Compensation Law, No. 557 of 19 November 1932 (*G.O.*, No. 4515 of 29 Oct. 1932).

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).

General Medical Care Act. Dated 9 March 1951 (*S.A.-F.F.*, No. 141).

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).

Act respecting invalidity assistance. Dated 30 December 1946 (*S.A.-F.F.*, No. 907) (*L.S.* 1946—Fin. 7).

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).

Act respecting communal maternity and child-care guidance centres. Dated 31 March 1944 (*S.A.-F.F.*, No. 224).

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).

Salaried 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).

Placement and Unemployment Insurance Act, Notification of 1957 (*L.S.* 1957—Ger. (F.R.) 3), as subsequently amended (see in particular *L.S.* 1959—Ger. (F.R.) 1).

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.

Social Welfare Act No. 11 of 14 June 1952 (*L.S.* 1952—Irl. 1), as subsequently amended (1956, 1958, 1960).

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. 1955, 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—Peru²) as subsequently amended, particularly by Act No. 8509 of 23 February 1937 (*L.S.* 1937—Peru¹) 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 199) 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.

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.