

**REPORT III**  
**(PART IV)**

**International Labour Conference**

**FORTY-SIXTH SESSION**  
**GENEVA, 1962**

**Third Item on the Agenda**

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

---

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

**(Articles 19, 22 and 35 of the Constitution)**

**GENEVA**  
**International Labour Office**  
**1962**

**09661**



# CONTENTS

	Page
Index to Observations Made by the Committee (Classified by Countries) . . . . .	v

## PART ONE

### GENERAL REPORT

I. Introduction . . . . .	3
II. Work of the Committee . . . . .	5
III. Reports Submitted by Governments on Ratified Conventions . . . . .	7
IV. Application of Conventions in Non-Metropolitan Territories . . . . .	10
V. Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference . . . . .	11
VI. Reports Submitted by Governments on Unratified Conventions and on Recommendations . . . . .	14

## PART TWO

### OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning Annual Reports on Ratified Conventions (Article 22 of the Constitution) . . . . .	19
A. General Observations . . . . .	19
B. Individual Observations . . . . .	25
Appendix I. Detailed Reports Received and Detailed Reports Not Received by 27 March 1962 . . . . .	133
Appendix II. Statistical Table of Annual Reports on Ratified Conventions . . . . .	140
II. Observations on the Application of Conventions in Non-Metropolitan Territories (Articles 22 and 35, Paragraphs 6 and 8, of the Constitution) . . . . .	141
A. General Observations . . . . .	141
B. Individual Observations . . . . .	143
Appendix. Detailed Reports Received and Detailed Reports Not Received by 27 March 1962 . . . . .	160

## REPORT OF THE COMMITTEE OF EXPERTS

---

	Page
III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference (Article 19 of the Constitution) . . . . .	168
Appendix I. Position of the Individual Members with Regard to the Obligation to Submit Conference Decisions to the Competent Authorities . . . . .	180
Appendix II. Tables Showing the Position of Members with Regard to the Obligation to Submit Conference Decisions to the Competent Authorities . . . . .	186

### PART THREE <sup>1</sup>

#### FORCED LABOUR

General Conclusions on the Reports relating to the International Labour Conventions and Recommendations Dealing with Forced Labour and Compulsion to Labour . . . . .	193
---	-----

---

<sup>1</sup> A detailed table of contents of this Part is to be found on pp. 191-192.



# INDEX TO OBSERVATIONS MADE BY THE COMMITTEE (CLASSIFIED BY COUNTRIES) <sup>1</sup>

## **Afghanistan:**

I A.  
III.

## **Albania:**

General Report, paragraph 21.  
I A, and B, Nos. 4, 5, 6, 59.  
III.

## **Argentina:**

I A, and B, Nos. 13, 22, 23, 32, 52, 73, 79, 81,  
88, 90.

## **Australia:**

General Report, paragraph 24.  
I B, No. 88.  
II A.

## **Austria:**

I B, Nos. 2, 4, 18, 19, 24, 25, 33, 42, 81, 89, 94.

## **Belgium:**

I B, Nos. 7, 22, 32, 58, 81.  
II A, and B, Nos. 11, 29, 82, 84.

## **Bolivia:**

I A.  
III.

## **Brazil:**

I A, and B, Nos. 88, 92.

## **Bulgaria:**

I A, and B, Nos. 2, 13, 20, 29, 52, 79, 81, 88,  
94.  
III.

## **Burma:**

I B, Nos. 52, 87.

## **Byelorussia:**

General Report, paragraph 21.  
I A, and B, Nos. 52, 87.  
III.

## **Canada:**

III.

## **Central African Republic:**

General Report, paragraph 21.  
I A, and B, Nos. 84, 87.

## **Ceylon:**

I B, Nos. 16, 41, 81.

## **Chile:**

I B, Nos. 2, 4, 6, 11, 17, 34.

## **China:**

I A, and B, Nos. 22, 23, 45.  
III.

## **Colombia:**

I A, and B, Nos. 1, 3, 4, 8, 9, 13, 16, 17, 18, 22,  
23, 24, 25.  
III.

## **Congo (Brazzaville):**

I B, No. 29.

## **Congo (Leopoldville):**

I B, Nos. 29, 64.

## **Costa Rica:**

General Report, paragraph 24.

## **Cuba:**

General Report, paragraphs 21, 24.  
I A, and B, Nos. 52, 63, 79, 87, 88, 92, 94, 98.  
III.

## **Czechoslovakia:**

I A, and B, Nos. 4, 18, 42, 44, 52, 63, 89,  
90.  
III.

## **Dahomey:**

I A.

## **Denmark:**

I A, and B, No. 94.  
II B, No. 6.

## **Dominican Republic:**

I A, and B, Nos. 1, 81, 88.

## **Ecuador:**

I A, and B, Nos. 29, 95, 100.  
III.

<sup>1</sup> The roman numerals and the letters refer to the chapters of Part Two of this report and the arabic numerals to the numbers of the Conventions.

# REPORT OF THE COMMITTEE OF EXPERTS

## Ethiopia:

III.

## Finland:

I B, No. 94.

## France:

I B, Nos. 6, 18, 24, 32, 42, 52, 62, 63, 73, 77, 78, 89, 96, 97, 101.

II A, and B, Nos. 4, 6, 13, 18, 42, 62, 89.

## Gabon:

General Report, paragraph 21.

I A.

## Federal Republic of Germany:

I B, Nos. 18, 22, 42, 81, 96, 101.

## Greece:

I B, Nos. 1, 29, 42, 52, 81, 95.

III.

## Guatemala:

I B, Nos. 78, 79, 81, 87, 88, 89, 90, 94, 96.

III.

## Guinea:

I A, and B, Nos. 13, 29.

## Haiti:

I B, Nos. 1, 5, 17, 19, 24, 25, 42, 81.

III.

## Hungary:

I B, Nos. 6, 41, 45, 48, 77, 87.

III.

## Iceland:

General Report, paragraph 21.

I A.

## India:

I B, No. 81.

## Indonesia:

General Report, paragraph 21.

I A.

III.

## Iran:

I A.

## Iraq:

I A, and B, Nos. 81, 88.

III.

## Israel:

I A, and B, Nos. 77, 78, 79, 81.

## Italy:

I B, Nos. 13, 18, 42, 52, 59, 60, 73, 77, 78, 79, 81, 88, 90.

## Japan:

I B, No. 81.

## Jordan:

III.

## Lebanon:

III.

## Liberia:

General Report, paragraph 24.

I A, and B, Nos. 29, 53.

III.

## Libya:

I A.

III.

## Luxembourg:

General Report, paragraph 24.

I A.

III.

## Malaya:

I A.

III.

## Republic of Mali:

I A.

## Mauritania:

General Report, paragraph 21.

## Mexico:

General Report, paragraph 24.

I B, Nos. 8, 13, 22, 32, 42, 52, 63, 87, 90.

III.

## Morocco:

I B, Nos. 4, 18, 42, 52, 55, 81, 94.

## Netherlands:

I B, Nos. 87, 89, 90, 96.

II A, and B, Nos. 27, 42, 62, 81, 87, 88, 89, 90, 94, 95.

III.

## New Zealand:

I B, Nos. 17, 60.

## Nicaragua:

General Report, paragraph 21.

I A, and B, Nos. 4, 6, 11, 16, 22, 23.

III.

## Niger:

I B, No. 87.

## Nigeria:

I A.

## Pakistan:

I A, and B, Nos. 81, 87, 89, 90, 96.

## Panama:

General Report, paragraphs 21, 24.

I A.

III.

# INDEX TO OBSERVATIONS

## Paraguay:

III.

## Peru:

I A, and B, Nos. 4, 24, 41.

III.

## Philippines:

I B, Nos. 87, 88, 89, 90, 94, 95.

## Poland:

I B, Nos. 18, 42, 87, 95, 98.

## Portugal:

I A, and B, Nos. 29, 105.

II A.

## Rumania:

I A, and B, Nos. 6, 24, 87, 89, 98.

III.

## El Salvador:

General Report, paragraph 21.

I A.

III.

## Senegal:

III.

## Somali Republic:

General Report, paragraph 21.

I A.

## Republic of South Africa:

II B, No. 89.

## Spain:

General Report, paragraph 33.

I B, Nos. 1, 4, 19, 30, 48.

II A.

## Sudan:

General Report, paragraph 21.

I A.

III.

## Sweden:

I B, Nos. 17, 63.

## Switzerland:

I B, No. 18.

## Tanganyika:

I B, Nos. 29, 95, 101.

## Thailand:

III.

## Togo:

General Report, paragraph 21.

I A.

## Tunisia:

I B, No. 89.

## Turkey:

I B, Nos. 81, 96.

## Ukraine:

I A, and B, Nos. 11, 52, 87, 90.

III.

## U.S.S.R.:

I A, and B, Nos. 52, 87.

III.

## United Arab Republic:

General Report, paragraph 24.

I A, and B, Nos. 52, 81, 87, 88, 101.

## United Kingdom:

I B, Nos. 17, 101.

II A, and B, Nos. 29, 65, 81, 82, 84, 85, 94, 95, 105.

## Uruguay:

General Report, paragraph 21.

I A, and B, Nos. 2, 17, 22, 23, 24, 25, 52, 58, 59, 60, 62, 63, 73, 89, 90, 94, 95.

III.

## Venezuela:

I A, and B, No. 29.

## Yugoslavia:

I A, and B, Nos. 45, 81.

III.



**PART ONE**

**GENERAL REPORT**



## GENERAL REPORT

### I. Introduction

1. The Committee of Experts appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by Members of the International Labour Organisation upon the application by them of Conventions and Recommendations and to report thereon to the Governing Body, held its 32nd Session in Geneva from 15 to 27 March 1962. The Committee has the honour to present its report to the Governing Body.

2. The Committee has the profound regret to record the death of one of its members, Mr. Paul TSCHOFFEN, Doyen of the Bar at the Appeal Court of Liège, Minister of State of Belgium and former Minister of Justice, of Labour and for the Colonies, who had been Chairman of the Committee at all sessions which he had been able to attend since its first session in 1927. His eminent qualities as a statesman and a lawyer were of inestimable value in the deliberations of the Committee. His personal qualities rendered him an ideal Chairman and endeared him to his colleagues, who deeply regret his passing.

3. There have been no other changes in the membership of the Committee since its last session and the present composition of the Committee is as follows:

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

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

Baron Frederik M. VAN ASBECK (Netherlands),

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

Mr. Henri BATIFFOL (France),

Professor of Private International Law at the Faculty of Law and Economics of the University of Paris; member of the Institute of International Law; member of the Curatorium of the Academy of International Law;

Mr. Günther BETZKE (Federal Republic of Germany),

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

Mr. Choucri CARDAHI (Lebanon),

Former Minister of Justice; Honorary First President of the Supreme Court of Appeal of Lebanon; Honorary Professor of Law at the University of Beirut;

Corresponding Member of the Institute of France (Academy of Moral and Political Sciences); Professor at the Academy of International Law of The Hague, 1933 and 1937;

Mr. Isaac FORSTER (Senegal),

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

Mr. E. GARCÍA SAYÁN (Peru),

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

Mr. Arnold GUBINSKI (Poland),

Doctor of Laws; Lecturer of Law at the University of Warsaw; Chairman of the Working Party of the Codification Commission on the Legal Liability of Minors; Member of the Working Party on the Systemisation of Labour Law;

Mr. Paul M. HERZOG (United States),

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

Begum Liaquat ALI KHAN (Pakistan),

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

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

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

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

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

Mr. Afonso Rodrigues QUEIRO (Portugal),

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

Mr. Paul RUEGGER (Switzerland),

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

Mr. Isidoro RUIZ MORENO (Argentina),

Professor of International Public Law at the University of Buenos Aires; Member of the National Section of the Court of International Arbitration; Member of the



Argentinian Institute of International Law; Member of the Brazilian Society of International Law and of the Institute of International Law of Chile; Member of the National Academy of Law;

Mr. Max SØRENSEN (Denmark),

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

4. Three members of the Committee, Sir Grantley ADAMS, Mr. FORSTER and Mr. SØRENSEN, were prevented from attending the present session of the Committee owing to pressure of duties in their own countries. In addition, the Committee noted that Mr. FORSTER had already been occupied for several months during the past year with work on behalf of the International Labour Organisation.

5. The Committee elected Sir Ramaswami MUDALIAR as Chairman and Mr. KIRKALDY as Reporter of the Committee. Mr. VAN ASBECK acted as Reporter on questions affecting non-metropolitan territories.

## II. Work of the Committee

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

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

7. From 1 January to 31 December 1961, 210 ratifications were registered, 138 being new ratifications and 72 being ratifications resulting from the continuance by new States Members of the obligations undertaken on their behalf by the States which were formerly responsible for the foreign relations of the countries in question before the acquisition of independence.

8. The number of new declarations affecting non-metropolitan territories which were communicated during 1961 was 261, 37 of these being declarations of application without modifications and two being declarations of application with modifications.

9. By the time the Committee adopted its report the total number of ratifications stood at 2,497 and the number of declarations affecting non-metropolitan territories amounted to 1,072 declarations without modifications and 190 declarations with modifications. The continued decrease in the number of declarations affecting non-metropolitan territories is the result of the changed status of certain countries which were formerly non-metropolitan territories and, having become member States, are now bound by ratifications and no longer by declarations.

10. The total number of detailed reports and other items of information submitted by governments under the various provisions of the Constitution referred to in

paragraph 6 and coming before the Committee this year for examination was somewhat higher than the total of 3,000 examined last year.

11. The Committee learned that in the course of 1961 two complaints were filed with the International Labour Office, under article 26 of the Constitution, concerning the observance of ratified Conventions. The first complaint was filed by the Government of Ghana in February 1961 and related to the application by Portugal of the Abolition of Forced Labour Convention, 1957 (No. 105), in her African territories of Mozambique, Angola and Guinea. The Convention had been ratified by Portugal in 1959 and had come into force for her on 23 November 1960. The Governing Body of the International Labour Office appointed a Commission under the said article 26 to examine the complaint. This was the first occasion on which a commission of this kind had been established. The Commission, in addition to obtaining information from the parties and other sources, heard witnesses in Geneva, and visited Angola and Mozambique in December 1961. Its report was presented to the 151st Session of the Governing Body in March 1962, when the representatives of the two parties indicated that they accepted the Commission's findings and recommendations. The Commission's report recommended a number of measures which should be taken by Portugal to secure the effective application of the Abolition of Forced Labour Convention; it also recommended that Portugal should indicate regularly in its reports under article 22 of the I.L.O. Constitution the action taken to implement these recommendations. These arrangements thus make it incumbent upon the Committee of Experts to follow up the measures adopted in pursuance of the Commission's recommendations. The Commission also left it to the discretion of the Committee of Experts to indicate when it no longer considers any special information on all or some of these matters necessary. The Committee of Experts has therefore, in the observation to be found in Part Two below, requested the Government to supply in its next report information on the measures taken to implement the recommendations of the Commission. The second complaint was filed by the Government of Portugal in August 1961 and related to the observance by Liberia of the Forced Labour Convention, 1930 (No. 29). In this case also the Governing Body decided, at its 151st Session in March 1962, to refer the complaint to a Commission appointed under article 26 of the Constitution for examination. As indicated in an observation under Convention No. 29 in Part Two below, the Committee has decided to defer further consideration of the effect given by Liberia to the Convention until the Commission appointed under article 26 has reported.

12. In its last report the Committee set forth in some detail the reasons why it asked the Governing Body to continue the procedure under which, subject to certain important provisos, detailed reporting on ratified Conventions has since 1959 been placed on a two-yearly system. The Committee has noted that, after full examination of the matter, the Governing Body, as well as the 1961 Conference Committee on the Application of Conventions and Recommendations, has accepted the recommendation of the Committee that the new procedure should be continued on the understanding that its operation would be kept under review and governments should be urged to comply more scrupulously with their reporting obligations.

13. In its last report the Committee emphasised the degree to which in its view the success of the new system depended on the governments' supplying detailed reports as requested and replying fully to observations and requests made by the Committee. The Committee also stated that in an endeavour to obviate or reduce the delays in the supervision of Conference decisions the Committee had decided to ask the International Labour Office in its capacity as the secretariat of the Committee to ascertain immediately upon receipt of governments' reports whether these reports had taken

account of previous comments made by the Committee of Experts and by the Conference Committee. The Committee requested the Office, if it found this was not the case, to establish forthwith contact with the government concerned in order to explain that the Committee would be unable to carry out the task assigned to it by the Governing Body unless the necessary information was made available and to request the government to supply the information without delay.

14. In pursuance of this procedure the International Labour Office communicated with 30 governments and requested them to supply further information. Of these governments 12 responded to the request made by the International Labour Office on the Committee's behalf and have supplied the necessary information. The Committee recognises that a complete response was unlikely to be obtained in the first year in which this new procedure has been applied but it regrets that only approximately one-third of the governments should have in fact responded and it sincerely trusts that in future years a more complete response will be forthcoming. It would emphasise that such a response is essential if serious delays are to be avoided in the supervision of the application of Conference decisions.

15. In this connection the Committee would again emphasise a point which on many previous occasions it has raised in a more general manner. The Committee is seriously concerned that so many of the reports received arrive only after serious delays and sometimes only during the course of the Committee's session. It is clear that failure of the governments concerned to supply the reports in good time renders quite impractical the operation of the new procedure which was inaugurated last year. This requires the Office to examine the reports after receipt to see whether the comments made by the Committee of Experts and the Conference Committee have been dealt with and thereafter to communicate with the governments concerned in sufficient time to enable them to reply before the time of the Committee's annual session. This procedure clearly requires several months for its completion and is totally impossible of application in the case of reports received only shortly before the Committee meets.

16. In its General Observations regarding the countries concerned, the Committee has pointed out the importance it attaches to this matter. It has also asked the Office in all cases where no information has been provided in reply to an observation or a request to ask the government concerned to supply a detailed report covering the period 1961-62.

### III. Reports Submitted by Governments on Ratified Conventions

#### (a) *Supply of Annual Reports*

17. The reports requested from governments which came before the Committee this year related in most cases to the period 1 July 1959 to 30 June 1961. In addition, detailed reports were specially requested by the Committee from certain governments for this year which would not otherwise have been required under the two-yearly system; these reports related to the period 1 July 1960 to 30 June 1961. In accordance with the reporting procedure now in force the reports which came before the Committee this year fell into the following groups:

(a) reports on 46 Conventions on which detailed reports were requested for the period 1959-61<sup>1</sup>;

<sup>1</sup> The Conventions concerned are the following: Nos. 2, 4, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 24, 25, 29, 34, 41, 42, 44, 45, 48, 52, 53, 55, 56, 63, 65, 69, 73, 74, 77, 78, 79, 81, 82, 85, 88, 89, 90, 92, 94, 95, 96, 101, 104, 105.

- (b) detailed reports specially requested from certain governments on the remaining Conventions in force either because a first report was due after ratification or because important divergencies had previously been noted between national law or practice and the Convention in question;
- (c) general reports from governments on any of the Conventions which they have ratified and for which no detailed reports were requested this year;
- (d) a number of detailed reports voluntarily submitted by certain governments which were not due under the two-yearly procedure nor specially requested by the Committee.

The Committee also had before it a number of reports on ratified Conventions received too late for examination by the Committee of Experts or by the Conference Committee last year.

18. Of the reports supplied a number arrived so late that the Committee was unable to examine them in detail. To have done so would have seriously impeded the work of the Committee and rendered it impossible to complete its work in the time available. In these cases, therefore, the Committee felt that it had no alternative but to defer detailed examination of the reports in question until its next session.

19. The number of reports requested from governments on metropolitan countries under the headings (a) and (b) in paragraph 17 above amounted to 1,362. This number compares with 1,100 reports on ratified Conventions requested last year. Up to the date of the conclusion of the present session of the Committee the Office had received 1,090 reports, i.e. 80 per cent., of the 1,362 reports requested. A list showing the reports received classified according to countries and Conventions is given in Part Two (Chapter I, Appendix I) of this report. There is also given in Part Two (Chapter I, Appendix II) a table showing for each year since 1933 in which the Committee has met the number and percentage of reports which were received for the meeting of the Committee and for the session of the International Labour Conference. The table also shows the number and percentage of reports which were received by the date by which the governments were asked to supply them.

20. The Committee, while noting a slight improvement in the percentage of reports this year, is still gravely concerned that so many governments should fail to comply with one of the fundamental obligations imposed upon them by their membership of the International Labour Organisation and by the Conventions which they have ratified. The Committee is further concerned by the small proportion, which in most recent years has been less than 25 per cent., and this year is only 18.1 per cent., of the reports supplied by the date requested. In addition to underlining the practical importance of the timely supply of reports if the work of international supervision of ratified Conventions is to be effectively applied, the Committee draws the attention of governments to the fact that their obligation consists not merely in supplying the reports but also in supplying them in the form and by the time requested.

21. Of the 95 States which were called upon to supply detailed reports, 57 have supplied all those requested. By 1 January 1962, however, which was already two-and-a-half months after the date requested, 39 States had failed to supply more than one-half of the detailed reports requested. Further, no reports at all have so far been received for the current reporting period from 15 countries: Albania, Byelorussia, Central African Republic, Cuba, Gabon, Iceland, Indonesia, Mauritania, Nicaragua, Panama, El Salvador, Somali Republic, Sudan, Togo and Uruguay.

22. A total of 33 States supplied a general report on Conventions for which no detailed reports were due or requested or reports on some of these Conventions. The reports so supplied by 12 of these States contained information relating to matters of importance, such as changes in national law or practice, and so enabled the Committee to consider such changes without delay notwithstanding the operation of the two-yearly procedure.

23. A total of 84 first reports since ratification of the relevant Conventions were received from 38 countries and as in previous years the Committee has devoted particular attention to such reports. The Committee has thus been able in most cases to place before the governments concerned, for their attention, any matters on which there appeared to the Committee to be divergencies between the Convention and the law and practice of the ratifying countries. The Committee is again pleased to note that many countries have responded with interest to the comments so made by the Committee and have shown readiness to modify national law and practice in accordance with the Committee's comments. Some countries, on the other hand, have been able to supply further explanations which have removed misunderstandings and so satisfied the Committee that the national law and practice is in conformity with the ratified Conventions.

24. Seven countries, which were due to supply first reports on certain Conventions for examination by the Committee this year, have failed to do so, i.e. Australia, Costa Rica, Cuba, Liberia, Mexico, Panama, United Arab Republic. In addition, three countries from which first reports were due for examination in 1961 have again failed to supply the reports in question: Luxembourg, Panama, United Arab Republic. One country (Panama) has failed to supply first reports originally due in 1959.

25. When considering the delays and deficiencies enumerated above in regard to the supply of reports the Committee has, of course, borne in mind that since 1960, 22 States have joined the International Labour Organisation and, of these, 21 were newly independent States some of which may have been under special difficulties in developing administrative services necessary to comply with the obligations in question. Between them these 22 States are bound by 336 ratifications and the Committee makes a special appeal to those of the States concerned which have not supplied their reports to endeavour at the earliest possible opportunity to overcome the difficulties which may stand in their way in fulfilling the obligations entailed by membership of the Organisation in this regard. The Committee is aware that the International Labour Office is at the disposal of these countries for any assistance they may require in this connection.

26. This year again the Committee had before it a certain number of comments by employers' and workers' organisations on the manner in which certain Conventions are applied in their countries, these comments having been transmitted to the International Labour Office by the governments concerned.

27. The Committee has always hoped that comments of this kind would be of assistance to it in assessing the extent of practical application of ratified Conventions. The Committee has been unable this year to carry further its investigation of other means of examining the extent of practical application to which it drew attention in its last report. It notes the interest in this matter expressed by the 1961 Conference Committee and it is its intention to pursue the matter effectively as time and opportunity afford in future years.

(b) *Examination of Reports by the Committee*

28. In making its detailed examination of the reports submitted by governments on ratified Conventions the Committee has continued its previous practice under which such reports as were received by the Office in sufficient time were allocated to individual members of the Committee for preliminary examination and were circulated to them in advance of the session. The observations both of a general nature and on individual reports resulting from this procedure were examined and approved by the Committee as a whole. They will be found in Part Two of this report, together with a brief reference to cases in which "direct requests" were formulated by the Committee and will be sent to governments by the International Labour Office on the Committee's behalf. As pointed out in previous years it should be borne in mind that certain of these direct requests do not in fact imply doubt in regard to the extent of conformity with ratified Conventions but consist of acknowledgments of information previously requested by the Committee and now supplied by the governments concerned.

IV. *Application of Conventions in Non-Metropolitan Territories*

29. The Committee was called upon to examine the information available on measures taken by member States in accordance with article 35 of the Constitution. It noted that, since the conclusion of its last session, 31 declarations concerning the applicability of Conventions to non-metropolitan territories had been communicated to the Director-General of the International Labour Office. Of these, 23 were declarations of application or acceptance without modification. The total number of declarations under article 35 of the Constitution now registered is 2,299, of which, as stated above, 1,072 are declarations of application or acceptance without modification and 190 declarations of application or acceptance with modifications; the remaining declarations indicate that the Convention is inapplicable or that a decision is still reserved.

30. The Committee learned that, by letter of 13 March 1962, the Government of the United Kingdom had informed the Director-General of the International Labour Office that it had reconsidered the position regarding the making of declarations under article 35 in regard to Conventions ratified before 20 April 1948. The Government had decided, in deference to the views expressed by the Committee on this matter over a number of years (and lastly in paragraph 36 of the Committee's General Report of 1961), to set aside its reservations concerning the legal obligations in this regard and to set in train the procedures for the submission of declarations concerning the application of Conventions ratified by the United Kingdom before 20 April 1948 in non-metropolitan territories for whose international relations the United Kingdom is responsible. The Committee notes this decision with satisfaction, and looks forward to the positive developments which will no doubt result from this decision. The Committee also observes with interest the statement of the United Kingdom Government that, in making the above-mentioned declarations, account would of course be taken of the Chart of the Application of Conventions in Present and Former Non-Metropolitan Territories appended to the Committee's last report.

*Renunciation of the Possibility of Recourse to Article 35 of the Constitution*

31. With respect to the possibility for member States to renounce recourse to the provisions of article 35 of the Constitution of the I.L.O. in respect of territories which

have previously been treated as non-metropolitan territories within the meaning of article 35, both the Committee of Experts and the Conference Committee have pointed out on a number of occasions that, given the importance of such a decision, and in order to avoid any doubt as to the scope of the international obligations which would henceforth bind the State concerned, a formal written communication should in such cases be sent to the Director-General of the I.L.O. The Committee accordingly learned with interest that, by letter of 30 November 1961, the Government of Portugal had informed the Director-General that, as regards the application of ratified Conventions, it considered the Portuguese Overseas Provinces to constitute an integral part of the national territory of the Portuguese State. As has been observed by this Committee and the Conference Committee, where such a decision is communicated, all Conventions previously ratified by the State concerned must henceforth, in the absence of any contrary provisions in the individual Conventions themselves, be applied without modification to the whole national territory, including those parts which were previously regarded as non-metropolitan territories.

### *Reports Examined*

32. The Committee was also called upon to examine the reports communicated by member States—

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

33. The Committee had before it 1,551 reports, representing 80 per cent. of the total of 1,939 reports requested. This constitutes an improvement over the percentage reached in recent years (68.7 in 1960, 73.3 in 1961), and the Committee hopes that this trend will continue in the years to come. Several States (Denmark, Republic of South Africa, United States) supplied all reports requested; it may also be noted that over 96 per cent. of the 1,132 reports due in respect of United Kingdom territories were received. The Committee regrets, however, that once again no reports at all have been supplied by Spain in respect of its non-metropolitan territories.

34. Finally, the Committee has noted certain data supplied by two Governments (Netherlands, United Kingdom) to supplement the information contained in the review made by it in 1961 of social evolution in present and former non-metropolitan territories.

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

### *Introduction*

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

- (a) information on action taken to submit to the competent authorities, within the constitutional time limits of 12 or 18 months, the instruments adopted by the

- Conference at its 44th Session (June 1960): Radiation Protection Convention, 1960 (No. 115), Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113) and Radiation Protection Recommendation, 1960 (No. 114);
- (b) additional information on action taken to submit to the competent authorities the Conventions and Recommendations adopted by the Conference from its 31st Session (1948) to its 43rd Session (1959) (Conventions Nos. 87 to 114 and Recommendations Nos. 83 to 112);
- (c) replies to the observations and requests for information made by the Committee of Experts in 1961.

#### *Forty-fourth Session*

36. Information relating to the submission to the competent authorities of the instruments adopted by the Conference at its 44th Session has been received from 40 countries. The Committee is pleased to note that the Governments of the following 39 countries have indicated that all these instruments have been submitted to the competent authorities: Albania, Australia, Austria, Belgium, Bulgaria, Byelorussia, Canada, China, Colombia, Denmark, France, Federal Republic of Germany, Ghana, Haiti, Honduras, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Mexico, Morocco, Norway, Pakistan, Philippines, Rumania, Republic of South Africa, Sweden, Switzerland, Tunisia, Turkey, Ukraine, U.S.S.R., United Kingdom, United States, Venezuela and Yugoslavia. It also appears from information supplied by Spain that Convention No. 115 has been submitted to the competent authorities.

#### *Thirty-first to Forty-third Sessions*

37. The Committee notes with satisfaction from the information supplied to the Conference Committee in 1961 and the information that has since come to hand, that since last year eight countries have been added to the list of States which have stated that all the instruments adopted at the 43rd Session (1959) have been submitted to the competent authorities. These countries are Brazil, Colombia, Finland, Ghana, Hungary, Italy, Pakistan and Venezuela.

38. The Committee notes, moreover, that several countries have now supplied information on the submission to the competent authorities of several instruments adopted by the Conference since the 31st Session: this is the case particularly with regard to Colombia (the majority of instruments adopted since the 37th Session) and Peru (Recommendations Nos. 38 to 111).

39. The table in Appendix I to Chapter III of Part Two of the Committee's report shows the situation of each member State with regard to the obligation to submit the decisions of the Conference to the competent authorities.

#### *General Assessment*

40. The Committee also notes with satisfaction that certain countries which have recently attained sovereignty in the international field have satisfactorily fulfilled their obligations under article 19 of the Constitution of the I.L.O. as regards submission to the competent authorities of Conventions and Recommendations, giving effect particularly to the provisions contained in the Memorandum adopted by the Governing Body: this is the case as regards the Ivory Coast, which has supplied detailed information on the submission of the instruments adopted at the 45th Session and of the documents containing the proposals and comments of the Government on the



effect to be given to these instruments. Mention should also be made of Senegal, whose Government has supplied detailed reports which it proposes to lay before the National Assembly in the near future in relation to the instruments adopted at the 44th Session. The Committee considers that these examples are very encouraging, as regards the fulfilment of their constitutional obligations by the new member States of the Organisation, and it hopes that more cases of this type may be noted in its future reports.

41. The Committee notes that of the 83 States which were Members of the Organisation at the time of the 44th Session, 39 have stated that all the instruments adopted at this session have been submitted to the competent authorities. As in 1961, the Committee notes that the proportion of countries which have fulfilled their obligations this year as regards submission remains smaller than the number for the previous year. In these circumstances it hopes that the countries who have not yet supplied the information concerning the instruments adopted at the 44th Session will be able to state in the near future the measures taken to submit these instruments to the competent authorities. The Committee wishes to emphasise that the special character of the matters dealt with in certain of the above-mentioned instruments (ionising radiations) even if it explains this, ought not to constitute an obstacle to the fulfilment of the obligations resulting from article 19 of the Constitution, considering that, as has been pointed out on several occasions, "Conventions and Recommendations must be submitted to the competent authorities *in all cases*, whatever might be the measures envisaged by the government as regards ratification of Conventions or as to the effect to be given to Recommendations".

42. The individual observations made by the Committee regarding points in which it draws the special attention of the governments to the obligations provided for under article 19 are contained in the second part of its report. This year, the Committee feels itself bound, once more, to point out that in providing for the submission of Conventions and Recommendations to the competent authorities with a view to adopting legislative measures or other measures, article 19 of the Constitution of the I.L.O. implies that the competent authorities should at the same time be in a position to decide whether it is necessary or not to take the measures in question. It is evident that this condition cannot be implemented if the governments do not frame proposals or comments on the effect to be given to Conventions and Recommendations. The Committee hopes therefore that those governments which do not observe this procedure will find it possible in the future to present proposals or comments in this manner to the competent authorities. Furthermore, the Committee has been led to make once more this year certain individual observations with regard to the nature of the competent authorities to whom Conventions and Recommendations must be submitted. It hopes, once more, that some of the countries which up till the present did not consider it necessary to submit Conventions and Recommendations to the most representative legislative bodies will indicate in the near future the measures taken to this effect.

43. The Committee noted last year the exchange of views which took place in the Conference Committee in 1960 as regards the particular problems of federal States and the application of the special provisions provided for under article 19, paragraph 7. With a view to examining these problems as a whole the International Labour Office, in the Committee's name, has sent specially to the countries concerned a general request for information (which was contained in the Committee's report for 1960). Certain States have already replied to the request mentioned above. In order to collect as much information as possible, the Committee has asked the Office to address this request once more to the remaining countries. The Committee proposes to raise this question

again next year and hopes that the States concerned which have not yet answered will supply the relevant information in the near future.

## VI. Reports Submitted by Governments on Unratified Conventions and on Recommendations

44. The reports which the governments were asked by the Governing Body to supply under article 19 of the Constitution relate to the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35); the Forced Labour (Regulation) Recommendation, 1930 (No. 36).

45. One member of the Committee, Mr. Gubinski, requested that the discussion of the draft general conclusions on the reports relating to Conventions and Recommendations dealing with forced labour and compulsion to labour be removed from the agenda of the Committee's present session. He proposed that an extraordinary session of the Committee should be called at the end of April or the beginning of May 1962 to consider this document. He based this proposal on the fact that the draft report dealt with problems of great importance which had a bearing on a wide range of social relationships and that it referred to an immense number of laws and regulations. He contended that the report accordingly required more thorough study and the analysis of a large number of legal documents. The document had been distributed to the members of the Committee as a whole during the present session, at which it was to be discussed. In Mr. Gubinski's view, this had made impossible sufficiently thorough prior consideration of this problem. At the same time Mr. Gubinski proposed that in future the drafts of this kind of document should be prepared sufficiently in advance so that they might be transmitted to all the members of the Committee at least one month before the Committee of Experts' session. Mr. Gubinski believed that this procedure would facilitate the experts' work by permitting fuller preliminary study.

46. While taking due note of Mr. Gubinski's remarks, the Committee considered that, in accordance with its terms of reference, it must examine the question of forced labour at its present session, since this matter had been placed on its agenda by a decision of the Governing Body of the International Labour Office. Nor did it appear possible, having regard to the budgetary implications and the other commitments of various members of the Committee, to call a special meeting of the Committee at the end of April or the beginning of May. The Committee further noted that the question of forced labour had been examined by a working party of four of its members, whom it had requested to undertake the preliminary examination of this question and prepare a text for submission to the Committee. This working party had met several days before the session of the Committee as a whole. This represents the normal procedure of the Committee in that it always assigns to one or more members of the Committee the preliminary examination of the various questions the Committee deals with for the purpose of submitting proposed texts to the Committee as a whole. Moreover, each member of the Committee is always able during the discussion to ask for explanations and to see the provisions relied on. This procedure has been followed in the present case. However, the Committee considers that the Office might examine, for future years, if necessary, the means by which the drafts of the general studies made by the working parties appointed by the Committee could be made available somewhat earlier than is at present the case.

47. The total number of reports requested this year in connection with the Conventions and Recommendations referred to in paragraph 44 was 468. The total received by the time the Committee met was 308, i.e. 65.8 per cent. A list showing the reports supplied by the various governments will be found in Appendix II to Part Three of this report.

48. The Committee's general conclusions arising from the examination of the reports submitted by the governments this year on the unratified Conventions and on the Recommendations will be found in Part Three of this report. The Committee has again this year included in these general conclusions a survey of the position in regard to the matters dealt with in countries which have ratified the Conventions in question. As indicated in paragraph 46 above, the Committee reached these conclusions on the basis of a preliminary examination of the question which was made by a working party comprising four members of the Committee having special experience regarding the subject of forced labour. As a result the total number of countries, metropolitan and non-metropolitan, to which the survey relates is no less than 168, i.e. 94 States Members of the Organisation and 74 non-metropolitan territories.

\* \* \*

49. The Committee wishes to place on record its indebtedness to all the members of the staff of the International Labour Office who were concerned with the preparations for its current session and who were associated with the Committee in its work. The Committee is grateful for their devoted services which were again placed freely at the disposal of the Committee. It records its admiration for their specialised knowledge and skill and thanks them for their services.

Geneva, 27 March 1962.

*(Signed)* A. RAMASWAMI MUDALIAR,  
*Chairman.*

H. S. KIRKALDY,  
*Reporter.*



## **PART TWO**

### **OBSERVATIONS CONCERNING PARTICULAR COUNTRIES**



## OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

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

#### A. GENERAL OBSERVATIONS

*Afghanistan.* The Committee notes with interest the Government's assurance that the terms of all ratified Conventions are to be incorporated in new regulations which are currently being prepared. It trusts that the next reports will indicate in detail how these regulations give effect to these various instruments and will also reply to the observation previously made as regards the Protection of Wages Convention, 1949 (No. 95).

*Albania.* The Committee regrets that once again no reports have been received and that the Committee had therefore to confine its examination to the reports for the preceding period which arrived only during the 1961 Session of the Conference. The Committee must moreover repeat its direct request of 1960 concerning the Minimum Age (Agriculture) Convention, 1921 (No. 10).

The Government's persistent failure to supply its reports in time for the Committee's meeting and to eliminate the discrepancies previously noted gives rise to serious concern on the part of the Committee.

*Argentina.* The Committee noted with interest from the statement made by a Government representative in the Conference Committee in 1961 that the Minister of Labour and Social Security set up a Committee in May 1961 to study and propose the measures required to bring the existing legislation into conformity with the Conventions ratified by Argentina, taking particularly into account the observations of the Committee of Experts. Although under the Argentine Constitution Conventions approved by the Legislature become binding as law of the land, the setting up of the above Committee had been considered desirable having regard to certain court decisions which consider the existence of internal provisions necessary in order to incorporate the provisions of international Conventions into the national legislation.

In these circumstances the Committee particularly regrets that the reports on five Conventions (Nos. 22, 23, 32, 52 and 73) do not contain any information in response to previous observations and requests.

The Committee trusts that the work of the Committee set up by the Minister of Labour and Social Security will facilitate compliance with ratified Conventions and that future reports will reply to all the observations and requests.

*Bolivia.* The Committee regrets that the reports arrived only during the closing days of its meeting, so that their examination had to be postponed until its next session. This is all the more regrettable because the reports on three Conventions (Nos. 26, 42, 96) are the first since the ratifications of these instruments in 1954.

The reports also fail to indicate whether copies have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution.

The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Brazil.* The Committee notes with regret that a substantial proportion of the reports did not arrive until the middle of February, i.e. four months after the due date. Moreover, two-thirds of the reports contained no new information even in those cases where an observation or a request had previously been made (Conventions Nos. 19, 92, 101).

The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Bulgaria.* The Committee notes with regret that those reports which were received arrived only shortly before the opening of its session. In addition, over half of these reports do not contain any new information. Finally, no reports have been supplied on four Conventions (Nos. 11, 44, 62, 68) in respect of which requests had previously been made and these requests must therefore be repeated.

The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Byelorussia.* The Committee notes with regret that none of the reports due have arrived and that the requests on Conventions Nos. 10, 29, 52, 77, 78, 79 and 90 must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Central African Republic.* The Committee notes with regret that none of the reports due has arrived and that the requests on Conventions Nos. 4, 13, 33, 85 and 87 must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*China.* The Committee notes with regret that the reports did not arrive until the middle of January, i.e. three months after the due date. It urges the Government to supply its future reports in time.

*Colombia.* In 1961 the Committee had noted that a comprehensive revision of the Labour Code had been placed before the Congress in October 1960 and that the Government hoped in this way to give effect to the Conventions ratified by Colombia. As this revision has not yet been completed the Committee has had to draw attention once again this year, under the instruments concerned, to the cases where divergencies continue to exist with certain of these Conventions.

It trusts that the early enactment of the new Labour Code will permit the elimination of these divergencies.

*Cuba.* The Committee notes with regret that the reports for the current period have not yet been received and that its examination must therefore be limited to the reports for the preceding period which arrived only at the beginning of the 1961 Session of the Conference. Moreover, these previous reports contained no information in response to the Committee's requests on Conventions Nos. 52, 78, 79 and 94.

The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Czechoslovakia.* The Committee notes with regret that the report on the Forced Labour Convention, 1930 (No. 29), has not arrived and that the reports on two other Conventions (Nos. 19, 52) did not contain any new information. The Committee's previous observations and requests on these three instruments must therefore be repeated.

The Committee urges the Government to include all the information requested in its future reports.



*Dahomey.* The Committee notes with regret that the reports did not arrive until February, i.e. almost four months after the due date, and that most of them contain no new information. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Denmark.* The Committee notes that most of the reports received contain no new information. It trusts that future reports will contain all the information requested.

*Dominican Republic.* The Committee notes that over half the reports received contain no new information. No reports have moreover arrived on three Conventions (Nos. 29, 45, 79) in respect of which requests had previously been made and these requests must therefore be repeated.

The Committee urges the Government to supply in future all the information requested.

*Ecuador.* The Committee notes that copies of the reports have been communicated only to the representative organisations of workers. Under article 23, paragraph 2, of the I.L.O. Constitution such copies must also be communicated to the representative organisations of employers.

*Gabon.* The Committee notes with regret that none of the reports due has arrived and that the requests on Conventions Nos. 4, 6, 13, 33 and 85 must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Guinea.* In 1961 the Committee had expressed the hope that the Government would indicate in future reports whether copies thereof have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. As again this year no reference is made to such communication, the Committee urges the Government to comply with this obligation in future.

*Iceland.* No reports have arrived on Conventions Nos. 2 and 29 in respect of which requests had previously been made and these requests must therefore be repeated.

*Indonesia.* The Committee notes with regret that the four reports due have not arrived. It urges the Government to supply its reports in future.

*Iran.* No report has arrived on the Forced Labour Convention, 1930 (No. 29), in respect of which a request had previously been made, and this request must therefore be repeated.

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

*Israel.* The Committee notes with regret that a substantial proportion of the reports did not arrive until the middle of January, i.e. over three months after the due date, including in particular two first reports (Conventions Nos. 88, 95), the examination of which had therefore to be postponed to the next session. The Committee urges the Government to supply its future reports in time.

*Liberia.* The Committee notes with regret that the reports received (Conventions Nos. 53, 55, 58) provide no information in response to the previous requests

and do not indicate whether copies have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee urges the Government to include in its future reports all the information requested.

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

*Luxembourg.* The Committee notes with regret that once again this year the Government has failed to supply four first reports (Conventions Nos. 26, 87, 89, 98) which have been due since 1960. Moreover, the first reports on Conventions Nos. 30 and 78 arrived only after the opening of the present session.

The Committee urges the Government to supply the first reports due without further delay.

*Malaya.* The Committee notes that over half of the reports contain no new information. It urges the Government to include in its future reports all the information requested.

*Republic of Mali.* The Committee notes with regret that only one of the 11 reports due has been received. It urges the Government to supply its future reports in time.

*Nicaragua.* For some years past the Committee has had to note that very little progress has been made in giving effect to many of the 26 Conventions by which this country is bound. The Government's failure to supply any of the reports due this year would seem to indicate that no material change has occurred in the situation during the past year. In these circumstances the Committee must repeat its previous observations as well as the requests made in respect of Conventions Nos. 10, 17, 18, 19, 24 and 25.

The Committee must draw the special attention of the Conference to the seriousness of the situation created by Nicaragua's disregard of its obligations under the Conventions it ratified almost 30 years ago.

*Nigeria.* The Committee notes that the great majority of the reports contain no new information even in those cases where requests had previously been made (Conventions Nos. 95, 105). The Committee trusts that the Government's future reports will include all the information requested.

*Pakistan.* The Committee notes with regret that the great majority of the reports contain no new information even in those cases where requests had previously been made (Conventions Nos. 89, 90, 96). The Committee trusts that the Government's future reports will include all the information requested.

*Panama.* The Committee had noted in 1961 that only one of the first reports due had been received. This year no reports whatever have been supplied, although first reports on three Conventions (Nos. 3, 12, 17) have been due since 1959, on three further Conventions (Nos. 52, 87, 100) since 1960 and are due on three more (Nos. 30, 42, 45) for the current period.

The Committee greatly regrets the Government's persistent disregard of its reporting obligations, which prevents the Committee from examining the effect given to the above instruments. It urges the Government to supply its reports without further delay.

*Peru.* The Committee notes with regret that the reports arrived only two weeks before the opening of its session, thus preventing it from examining the first reports

on two Conventions (Nos. 10, 25). The Committee urges the Government to supply its future reports in time.

*Portugal.* In a letter dated 30 November 1961 the Government informed the Director-General that "as regards the application of ratified Conventions it considers the Portuguese overseas provinces to constitute an integral part of the national territory of the Portuguese State". As the Committee has indicated in the past, it considers in such cases that all Conventions ratified by a member State become applicable *ipso jure* to the whole of the national territory, including those parts which had previously been considered non-metropolitan territory.

In its direct requests the Committee has asked for fuller information on the legislation and practice which give effect to the Conventions ratified by Portugal. It hopes that it will be in a position, on the basis of the Government's replies, to gain a full picture of the position following the Government's declaration of 30 November 1961. The Committee trusts that in those cases where complete conformity with a ratified Convention is not as yet ensured in all provinces of Portugal the necessary measures will be taken to this end.

The Committee notes, moreover, with regret that the reports did not arrive until later in January, i.e. over three months after the date due, and that three of these were first reports (Conventions Nos. 7, 12, 26) the examination of which could thus not be completed at this session. The Committee hopes that the future reports will be supplied in time.

*Rumania.* The Committee notes with regret that the reports did not arrive until late in February, i.e. over four months after the due date and that in two cases no information is provided in response to a previous observation or request (Conventions Nos. 87, 89). The Committee urges the Government to supply its future reports in time and to include all the information requested.

*El Salvador.* The Committee notes with regret that the reports due have not arrived and that the requests made in respect of the Conventions concerned (Nos. 12, 104, 105) must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Somali Republic.* The Committee notes with regret that the reports due have not arrived and that the requests made in respect of two Conventions (Nos. 94, 95) must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Sudan.* The Committee notes with regret that the reports due have not arrived and that the requests made in respect of the Conventions concerned (Nos. 12, 19, 29) must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Togo.* The Committee notes with regret that the reports due have not arrived and that the request previously made in respect of the Night Work of Young Persons (Industry) Convention, 1919 (No. 6), must therefore be repeated. The Committee urges the Government to supply its future reports in time and to include all the information requested.

*Ukraine.* The Committee notes with regret that no information is provided in response to its previous requests on Conventions Nos. 77 and 78. The reports do not indicate, moreover, whether copies thereof have been communicated to the representative organisations of employers and workers in accordance with article 23, paragraph 2, of the Constitution. The Committee urges the Government to include all the information requested in its future reports.

*U.S.S.R.* In 1961 the Committee had urged the Government to communicate as soon as possible the text of the Labour Codes in force in the various republics of the Union. In reply, a Government representative had informed the Conference Committee that these Codes had not been supplied because they were to be amended shortly to take account of the new basic principles of labour legislation, in the course of adoption. The Codes would be communicated as soon as the new texts were available.

These new Codes having not yet been received, the Committee is bound to point out that in the meantime it remains without the text of the legislation currently in force in the republics concerned. As the Committee has asked for this information since 1959 it urges the Government to comply with its request without further delay.

*United Arab Republic.* The Committee notes with regret that once again this year the Government has failed to supply the first reports on Conventions Nos. 96, 105 and 106 which have been due since 1960. Moreover, the first reports on Conventions Nos. 1, 14, 17, 18 and 107, which are due for the current period, have also not arrived. Finally, the reports received do not provide any information in response to the observation and requests made in respect of Conventions Nos. 29, 45, 52, 81, 88 and 101. The Committee urges the Government to supply all its reports in future and to include therein all the information requested.

*Uruguay.* In 1961 the Committee had noted with regret that none of the reports due had been received. It deplores all the more that once again this year the Government has failed to discharge its reporting obligation and that no information whatever has thus been made available for the past two years on the effect given by Uruguay to the 47 Conventions by which it is bound.

The Committee was informed in a letter received shortly before the opening of its present session that certain administrative measures are under consideration to facilitate the preparation of reports and to overcome the difficulties which in the past have delayed compliance with Uruguay's obligations as a Member of the International Labour Organisation. While taking due note of the Government's intentions, the Committee can only at this stage repeat its previous observations and requests regarding the following instruments: Conventions Nos. 1, 13, 17, 19, 24, 25, 27, 30, 32, 42, 43, 45, 52, 63, 67, 77, 78, 95, 97, 99, 101, 103.

The Committee draws the special attention of the Conference to this very serious situation.

*Venezuela.* The Committee notes with regret that no information is provided in response to previous requests regarding Conventions Nos. 6, 13, 22, 29, 41 and 45. The Committee trusts that future reports will contain all the information requested.

*Yugoslavia.* The Committee notes with regret that those reports which were received did not arrive until early in February, i.e. almost four months after the due date. Moreover the reports on Conventions Nos. 45 and 90 do not reply to the Committee's previous observation and request. Finally, no reports have arrived on two Conventions (Nos. 22, 48) in respect of which requests had previously been made and these requests must therefore be repeated.

The Committee must moreover refer once again to the points raised since 1959 as regards the application of ratified Conventions (1) by means of collective agreements in the case of workers employed by private employers (section 377 of the Act respecting Employment Relationships, 1957); (2) by means of legislation in the various republics in the case of domestic help, caretakers of buildings, workers engaged in local crafts, agricultural workers employed by private employers and other similar types of workers to whom under section 415 of the above Act its provisions cannot be

applied directly. The Committee greatly regrets the Government's repeated failure to provide this information.

The Committee urges the Government to supply its future reports in time and to include all the information requested.

## B. INDIVIDUAL OBSERVATIONS

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

*Colombia* (ratification: 1933). The Committee notes that the proposed comprehensive revision of the Labour Code—mentioned by the Government in several of its previous reports—has not yet been completed. It must therefore draw the Government's attention to the following points.

The Committee notes the Government's statement that no list has been established to specify the processes considered as necessarily continuous and where, in virtue of section 166 of the Labour Code, a 56-hour week may be worked. Since section 166 has been interpreted as applying to the loading and unloading of vessels (see the Government's statement to the Conference in 1957), and since such work cannot be considered as a necessarily continuous process for the purposes of Article 4 of the Convention, the Committee must ask the Government to take steps with a view to ensuring that the 56-hour week is permitted only in those "processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts" (Article 4 of the Convention).

The Committee notes that no provision appears to be made for the keeping of records of additional hours worked. It points out that Article 8, paragraph (1) (c), of the Convention specifically requires that the law or regulations shall fix the form of the records of additional hours to be kept by employers; it hopes therefore that the Government will take the necessary steps to ensure that this provision of the Convention shall be applied without delay, in all categories of industrial undertakings.

*Dominican Republic* (ratification: 1933). The Committee takes due note of the statement made by the Government to the Conference in 1961, and confirmed in a letter addressed to the I.L.O. on 28 July 1961, that every effort is to be made to take account of the Committee of Experts' observations in making the current revision of the Labour Code. As no further reference is made in the Government's report to the proposed revision of the Code, the Committee recalls that the observations already addressed to the Government read as follows:

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

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

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

(iv) The Government should supply a list of processes deemed to be necessarily continuous, as required under Article 7 (a) of the Convention.

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

The Committee recalls that the observations in question relate to divergencies to which attention was originally drawn in 1953, and trusts that all necessary measures are now being taken to ensure full conformity with the Convention.

*Greece* (ratification: 1920). The Committee recalls that observations have been addressed to the Government over the past 13 years as regards certain categories of railway workers who are required to work longer hours than those laid down in the Convention; it also recalls that the Government has repeatedly given undertakings to eliminate this discrepancy with the Convention and that it even went so far as to prepare a draft Royal Decree in 1958 providing for the extension of the hours of work provisions to the railway workers in question.

The Committee notes that at the Conference in 1961 the Government representative merely stated that it was not possible to give a formal promise that the necessary changes would be made by 1962, but that the attention of the Government would be drawn to the necessity of making every effort to find a rapid solution. The Committee now finds that, in its latest report, the Government makes no reference to this question.

The Committee must express its surprise and regret at the attitude thus adopted by the Government in regard to the observations which both the Committee of Experts and the Conference Committee have had to make since 1949, and which the Government itself has recognised to be well founded. It can only reiterate its deep regret that neither its own repeated observations over the past 13 years, nor the numerous calls addressed to the Government by Government, Employers' and Workers' representatives at the Conference, nor the definite undertakings given by the Government during this period, have resulted in measures ensuring the application of the Convention to all categories of railway workers.

In these circumstances the Committee considers that, unless appropriate action is taken by the Government before the next session of the Conference in June 1962, it will be necessary to draw the special attention of the Conference to this long-standing and regrettable violation of a ratified Convention.<sup>1</sup>

*Haiti* (ratification: 1952). The Committee finds that in the Labour Code adopted on 6 October 1961 no account has been taken of the observations made in recent years regarding divergencies between the national legislation and the terms of the Convention.

The Committee must express its regret at the Government's failure to take steps with a view to fulfilling its obligations in respect to this Convention, or to clarify certain aspects of its legislation and practice. Consequently it finds it necessary to repeat its previous observations which were as follows (subject to modifications in the references to legislation):

Article 1 of the Convention. As regards section 105 of the Labour Code of 6 October 1961 (according to which the provisions restricting hours of work in sections 98 and 100 of the Code do

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

not apply to land transport services and to a number of other undertakings) the Government states (a) that these undertakings are not excluded from the provisions fixing maximum daily and weekly hours of work since section 105 contains the following proviso: "Provided that the said establishments shall either draw up a duty roster for the staff or else pay overtime"; and (b) that the undertakings in question are merely authorised to pursue their activities beyond the legal closing time but their staff is not in any way excluded from the protective measures regarding hours of work which are prescribed by law.

The Committee points out in this connection that section 105 of the Code as presently drafted clearly excludes the transport and other undertakings from section 98 (which fixes the 8 and 48-hour maxima) and section 100 (which fixes the maximum number of overtime hours) and that neither of these sections refers, to the legal closing time. As regards the Government's affirmation that the proviso to section 105 ensures the application to the undertakings in question of the hours of work provisions, the Committee points out that neither the obligation to draw up a duty roster nor the obligation to pay overtime can be considered as sufficient, in the absence of any other obligatory provision, to ensure that hours shall not exceed 8 a day or 48 a week, as required by Article 2 of the Convention.

The Committee hopes, therefore, that the Government will take steps to modify section 105 of the Code of 1961 so as to ensure that the undertakings, such as land transport services, which are specifically covered by the Convention, are no longer excluded from the provisions restricting hours of work in sections 98 and 100 of the Code.

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

Article 6. The Committee notes the Government's statement that abuses as regards the number of additional hours worked were prevented by section 100 of the Code, which provides that recourse may be had to overtime with the approval of the labour inspector and after consultation with the workers' organisations and that hours of overtime may be prohibited in periods of unemployment. The Committee appreciates the restrictive value of this provision but points out that Article 6, paragraph 2, of the Convention specifically requires that regulations made by public authorities shall fix the maximum number of additional hours. It hopes, therefore, that steps will be taken to ensure the application of this provision of the Convention by the adoption of appropriate regulations for industrial undertakings.

Article 7, paragraph (a). The Government indicates the categories of undertakings authorised to operate continuously; the Committee would be glad to know whether these are the only undertakings falling under section 105 of the Code, which authorises a 56-hour week in certain processes required to be carried out continuously.

Article 8, paragraph 1. The Committee would be glad if the Government would supply specimen copies of the notices to be posted up by employers in virtue of section 109 of the Code, as requested in the report form.

Article 8, paragraph 2. The last paragraph of section 109 of the Code provides that "it shall be unlawful to employ a person outside the hours fixed in virtue of paragraph (b) of this section". As paragraph (b) refers to rest periods, the Committee wonders whether it was not the intention of the legislature to prohibit employment outside the established working hours, i.e. outside the hours fixed in virtue of paragraph (a) of section 109 of the Code.

The Committee notes that section 44 of the Appendix to the Labour Code provides for the repeal of all Acts or provisions of Acts which are contrary thereto. It would be glad to know whether section 1, fifth paragraph, of the Act of 5 May 1948 is now considered as repealed (this clause provided that time spent by an employee in rectifying errors for which he was responsible should not be counted as overtime).

The Committee trusts that the Government's next report will show that measures have been taken to ensure the full application of the Convention and will contain detailed information on all the above points.<sup>1</sup>

*Spain* (ratification: 1929). The Committee notes with interest that, following observations made on hours of work in road transport, an order was issued on 22 May 1961 to modify the National Labour Regulations respecting Road Transport so as to ensure that normal working hours should be reduced from 72 to 48 per week,

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

that the number of additional hours permitted should be strictly limited and that overtime pay should be increased (a direct request regarding certain excluded categories of workers is being addressed to the Government).

The Committee also notes that the Government again refers in its report to the adoption of new general legislation on the subject of hours of work, and that it indicates that the supply by the Committee of full information on any differences between the national legislation and the Convention would prove useful in this connection.

The Committee considers that, in these circumstances, it may be appropriate for it to indicate the difficulties it has experienced in attempting to ascertain the exact position as regards hours of work in Spain. Briefly, the position would seem to be as follows. In the first place the Acts of 9 September 1931 and 13 July 1940 provide, respectively, for maximum daily working hours and for weekly rest, and the exceptions which may be authorised in given circumstances and subject to certain conditions. In the second place, labour regulations of national, provincial, district or local application lay down prescriptions regarding hours of work, remuneration for and calculation of overtime, rest periods, etc; these labour regulations must be approved by the General Directorate of Labour (Decree of 29 March 1941 respecting labour regulations).

The Committee finds, however, that there is no strict hierarchy between the general labour legislation and the labour regulations so that even if the Acts of 1931 and 1940 ensured full conformity with Conventions Nos. 1 and 30, it would still not be possible to conclude that the Conventions were in fact applied. In reply to observations on this point, the Government has indicated that in case of any divergency between the law and the labour regulations, it is the provisions ensuring the more favourable conditions for workers which prevail, whether they are contained in an Act or in labour regulations. Whilst appreciating the validity of this principle, the Committee must point out that in the absence of any possibility of appealing against the validity of labour regulations, it seems that even labour regulations providing for less favourable conditions than those prescribed by law cannot be questioned and will necessarily be enforced.

There would, therefore, seem to be no alternative to the procedure, suggested by the Government, that the Committee should examine all labour regulations with a view to ascertaining whether they are in conformity with Conventions Nos. 1 and 30. This procedure would appear, at first sight, to be reasonable and the Committee has already had occasion to note that in a great many cases the labour regulations ensure conditions as good as, or even better than, those laid down in Conventions Nos. 1 and 30. Similarly the Committee has no doubt that if certain labour regulations were shown to contain provisions contrary to the Conventions the Government would, as on past occasions, take the necessary steps with a view to ensuring conformity.

In these circumstances the Committee regrets all the more that it is not materially possible for it to examine all labour regulations. Thus if it is borne in mind that, on the national level alone, there are separate regulations for each industry, that these regulations appear to be modified regularly, and that in addition there are a large number of provincial, district and local regulations (not published in the State Official Bulletin and not available in the I.L.O.), it will be understood that the Committee cannot undertake to ascertain, on the basis of these texts, the extent to which effect is given to the Conventions.

Consequently the Committee trusts that measures will be taken to specify clearly, either in the proposed new text respecting hours of work, or otherwise, that certain minimum requirements respecting hours of work—corresponding with those of Con-



ventions Nos. 1 and 30—must be respected in the national, provincial, district and local labour regulations, it being understood, of course, that the authorities issuing the regulations may prescribe more favourable conditions within the framework of the general legislative text.

Finally, in so far as the explanations supplied in respect to the requests addressed directly to the Government do not show full conformity between the legislation and Conventions Nos. 1 and 30, the Committee hopes that full account will be taken of its comments on these points in preparing the comprehensive text on hours of work.

The Committee expresses the earnest hope that the above brief review of its difficulties in ascertaining the position as regards hours of work in Spain will prove useful, that the Government will be able to proceed without delay with the preparation of the proposed new text on hours of work and that the full application of Conventions Nos. 1 and 30 will thereby be assured.<sup>1</sup>

\* \* \*

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

#### Convention No. 2: Unemployment, 1919

*Austria* (ratification: 1924). The Committee thanks the Government for its detailed report on various aspects of employment of nationals and foreigners but notes with regret that, in spite of the assurances given since 1956, the necessary legislative action with a view to giving effect to Article 2, paragraph 2, of the Convention (co-ordination of the operations of public and private employment agencies) has not yet been taken.

The Committee urges the Government to take appropriate measures in the near future so that this provision of the Convention may be applied without further delay.

*Bulgaria* (ratification: 1922). The Committee notes that the Government denounced this Convention in July 1960.

*Chile* (ratification: 1933). The Committee notes from the Government's reply to its observation of 1961 that except for the setting up of a pilot employment service in Santiago no progress has been made towards the full application of Article 2 of the Convention providing for the establishment of a system of free public employment agencies under the control of a central authority. The reasons pointed out by the Government are the difficult economic situation and the lack of personnel. The Committee recalls that in previous years the adoption of practical measures was delayed by the need for technical assistance which was provided by the I.L.O. in 1956.

As sections 11 and 39 of the Legislative Decree No. 308 of 6 April 1960 provide the basis for the setting up of a system of free public employment agencies and the adoption of additional measures for the appointment of advisory committees, as the Convention was ratified 28 years ago and as the question of its application has been the subject of observations since 1950, the Committee urges the Government to take measures to give full effect to the Convention, by setting up a system of free public

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

employment agencies, and by the appointment of advisory committees including representatives of employers and workers.<sup>1</sup>

*Uruguay* (ratification: 1933). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee has taken note of the legislative texts attached to the report for 1958-59. It notes that a Bill relating to the setting up of employment agencies was to be submitted by the Executive to the General Assembly in virtue of section 24 of the Act of 23 October 1958 within 120 days of the date of this Act. However, since no information has been supplied regarding the measures taken under this section, the Committee can only refer to its previous observations and urge that the application of the provisions of the Convention concerning the setting up of an employment service should finally be ensured, both by legislation and in practice.

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

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Finland, Iceland, Ireland, Rumania, Sudan, Venezuela*.

#### Convention No. 3: Maternity Protection, 1919

*Colombia* (ratification: 1933). The Committee noted the information supplied by the Government in its report and learned with interest that the new Labour Code, the draft of which is being considered by the Chamber of Deputies, is aimed at amending some of the discrepancies pointed out in previous observations, particularly with regard to Article 3, paragraphs (a) and (b) (period of maternity leave increased to 12 weeks) and paragraph (d) (two interruptions for nursing increased to half an hour each).

With regard to Article 3, paragraph (c), the Committee notes that the draft Labour Code (section 94) still provides that the cost of maternity benefit shall be borne by the employer, contrary to the Convention, which provides that such benefit shall be payable out of public funds or by means of a system of insurance.

With regard to Article 4, the draft Labour Code would seem to allow dismissal of a woman worker because of pregnancy, confinement and nursing, subject to the authorisation of the Labour Inspector or, lacking that, of the competent municipal authorities (sections 99 and 100). This is contrary to the Convention, which provides that it shall not be lawful to give a woman worker notice of dismissal during her absence arising out of pregnancy or confinement or as a result of illness medically certified to arise out of pregnancy or confinement, or to give her notice of dismissal at such a time that the notice would expire during such absence.

The Committee draws the Government's attention once again to these discrepancies and trusts that full account of the above observations will be taken in the draft Labour Code in question. The Committee also hopes that the draft Labour Code, amended as indicated above, will be adopted very shortly and that the Government will not fail to supply information on the progress made to this effect in its next report.

\* \* \*

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

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

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

*Albania* (ratification: 1932). In its report for the period 1959-60, which was received too late to be examined in 1961, the Government stated, in reply to the Committee's observation, that it was examining the problems arising from the divergencies existing between the Convention and the legislation in force. The Committee regrets all the more that the report for 1960-61 has not been received and is bound therefore, to repeat its previous observation, which was as follows:

The Committee takes note of the statement made by a Government representative to the Conference Committee in 1958 that night work by women had been permitted as an exceptional measure in one textile factory and that efforts were being made to replace women workers by men. The Committee wishes to point out that the Convention prohibits night work for all women employed in undertakings specified in Article 1 except in cases of *force majeure* and where the work has to do with materials which are subject to rapid deterioration (Article 4).

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

*Austria* (ratification: 1924). See under Convention No. 89.

*Chile* (ratification: 1931). A Government representative informed the Conference Committee in 1960 that a Bill to extend section 48 of the Labour Code to private employees had been submitted to the Executive. Since the report contains no information on any progress made in this connection, the Committee must repeat its previous observation, which was as follows:

Chilean legislation is not in conformity with the Convention, as the prohibition of night work contained in Part II, section 48, of the Labour Code of 1931 applies only to wage earners defined in section 2, paragraph 3, of the Code as manual workers, while Article 3 of the Convention relates to all women employed in industrial undertakings, whether they are engaged on manual work or not. The first observation on this point was made by the Committee of Experts over 20 years ago.

The Committee once again draws attention to the need for giving full effect to the Convention without further delay.<sup>1</sup>

*Colombia* (ratification: 1933). The Committee notes from the report that the draft Labour Code which has been submitted to Parliament contains a provision for the prohibition of night work of all women. The Committee trusts that this Code will be enacted at an early date, thus giving effect to a Convention which hitherto has not been applied in Colombia.

*Czechoslovakia* (ratification: 1950). See under Convention No. 89.

*Morocco* (ratification: 1956). The Committee notes with satisfaction from the Government's reply to its request of 1960 that the second paragraph of section 15 of the Decree dated 2 July 1947 (which provided for the possibility of making exceptions from the prohibition of night work other than those specified in Article 4 of the Convention) has been repealed by the Decree of 16 January 1962.

*Nicaragua* (ratification: 1934). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

The Committee notes that a draft Bill designed to prohibit the employment of women at night in industrial undertakings has been prepared and is ready for submission to Parliament.

The Committee can only express the hope once again that legislation giving effect to the provisions of the Convention will be adopted without further delay.<sup>1</sup>

*Peru* (ratification: 1945). The Committee notes with regret that, in spite of repeated observations, the Government has failed to take any measures to eliminate the discrepancy which exists between section 10 of Act No. 2851 of 1918 and Article 6 of the Convention. The Committee is therefore bound to point out once more that the extension of hours of work of women to ten in each day (on not more than 60 days of the year) permitted under the Act may involve a reduction of their night rest to a period less than the ten hours prescribed by Article 6 of the Convention as a limit to which the night period may be reduced (only in seasonal undertakings and in exceptional circumstances).

The Committee urges the Government to take the necessary measures to bring its legislation into full conformity with the Convention on this point without further delay.

*Spain* (ratification: 1932). Further to its observation of 1960, the Committee notes with satisfaction that a resolution of 10 May 1960 requires a nightly rest period of 11 hours for women employed in textile undertakings, including a prohibited interval between 10 p.m. and 5 a.m. (Article 2 of the Convention).

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Central African Republic, Chad, Congo (Brazzaville), Czechoslovakia, Gabon, Portugal, Tunisia*.

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

*Albania* (ratification: 1932). See under Convention No. 59 (keeping of registers).

*Haiti* (ratification: 1955). The Committee takes note of the provisions of the Labour Code of 6 October 1961 relating to the employment of minors. While section 396 of this Code prohibits the employment of persons under the age of 18 years in unhealthy or dangerous work, there appears to be no provision which, as required by Article 2 of the Convention, specifically prohibits the employment of children under the age of 14 years in public or private industrial undertakings.

The Committee recalls the observations which it made in 1959, 1960 and 1961 and the Government's statement in its reports for 1958/59 and 1959/60 that the discrepancy which exists between the national legislation and the main provision of the Convention would be removed. The Committee hopes that an amendment of the Labour Code will be passed at an early date to secure conformity with the requirements of the Convention.<sup>1</sup>

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

*Albania* (ratification: 1932). The Committee noted with interest from the report for the period of 1959-60, which unfortunately was received too late to be examined in 1961, that the Government was examining the measures to be taken to ensure in the

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

near future the complete application of the Convention which prohibits any kind of night work in industry by young persons under 18 years of age, except work to be carried on continuously in the five categories of industries specified in Article 2, paragraph 2.

Since no further report has been received, the Committee must once again urge the Government to amend its legislation, and in particular, section 56 of the Labour Code, to bring it into full conformity with the above-mentioned requirements.<sup>1</sup>

*Chile* (ratification: 1925). The Committee notes with interest from the information supplied in reply to the direct request of 1960 that a Bill has been prepared to ensure application of the Convention to all young persons in industrial undertakings, whether engaged on manual work or not. The Committee trusts that this legislation will soon be adopted.

*France* (ratification: 1925). The Government stated in the Conference Committee in 1960 that it was considering what administrative measures might be taken, as suggested in the observation of 1960, to bring to the notice of all concerned (workers, employers and the labour inspectorate) that all bakeries are covered by the provisions of sections 21, 22 and 23 of Book II of the Labour Code, and to revoke the circular of 4 July 1894 informing the labour inspectorate that under the opinion given by the Council of State, small-scale food industries, including bakeries, were not industrial in character and therefore not covered by the provisions of the above sections.

The Committee notes with regret that the report for 1959-61 contains no information whatever on any measures taken to this effect. It trusts that the Government will make every effort to ensure that full effect is given to the Convention in the above-mentioned industries.

*Hungary* (ratification: 1928). The Committee notes the statement made by a Government representative to the Conference Committee in 1961, indicating that there was a constant decrease in the number of young persons between 16 and 18 years of age who were employed at night, that the Government was making every effort to ensure further progress in this field and that a strict medical examination of the young persons working at night had been introduced. The Committee regrets however that the report contains no new information whatever. As the night work of young persons between 16 and 18 years of age is not formally prohibited, as provided for in Article 2 of the Convention (subject to exceptions in a limited number of industries), the Committee urges the Government to take, in the near future, the measures to which it has referred since 1957 in order to ensure strict conformity between the national law and practice and the Convention.<sup>1</sup>

*Nicaragua* (ratification: 1934). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its observation of 1960, which was as follows:

The Committee must note once again that legislation prohibiting night work of young persons has not been adopted as yet. The Convention continues thus not to be applied 26 years after its ratification. The Committee urges the Government to take the necessary measures at an early date with a view to giving effect to the Convention.

*Rumania* (ratification: 1921). The Committee notes that the report does not indicate any progress in removing the discrepancies between the legislation and the Convention as to section 50 of the Labour Code (which defines "night" as an

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

eight-hour period only) and as to section 85 (exceptions from the night work prohibition). The Committee must therefore reiterate the observations made since 1957 and urges the Government to take the necessary measures to bring the legislation into full conformity with the Convention.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Burma, Cameroun, Dahomey, Denmark, France, Gabon, Guinea, Ireland, Malagasy Republic, Mauritania, Portugal, Rumania, Senegal, Spain, Togo, Tunisia, Upper Volta, Venezuela, Viet-Nam.*

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

*Belgium* (ratification: 1925). See under Convention No. 58.

\* \* \*

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

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

*Colombia* (ratification : 1933). The Committee has noted that the reports on Conventions Nos. 8, 9, 16, 22 and 23 make no mention of the draft Labour Code which is to bring the national legislation into harmony with the provisions of the Conventions ratified by Colombia, a draft to which the Government has referred several times since 1958.

Furthermore, the Committee has noted from the Government's reports that no new measure has been introduced making any change in the existing situation with regard to the application of the above Conventions. Only the report on Convention No. 8 mentions a collective agreement concluded in June 1961 between the *Flota mercante grancolombiana* and the Union of Seamen of the Colombian Mercantile Marine, which is the subject of a direct request made to the Government.

The reports on Conventions Nos. 22 and 23 refer to certain provisions of the Maritime Commercial Code of 1936, which had not been mentioned in previous reports but which appears to give effect only partially to some of the provisions of these Conventions. Lastly, the reports on Conventions Nos. 9 and 16 do not contain new information on the adoption of the legislative provisions called for by the Convention.

Consequently, the Committee can only insist once again that the Government take measures as soon as possible to introduce legislation giving effect to the provisions of the above-mentioned Conventions which were ratified by Colombia about 30 years ago.<sup>1</sup>

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

*Mexico* (ratification: 1937). The Committee has noted with regret that, unlike the report for the period 1958-60, the Government's reply to the observation made in 1961 does not mention the Government's intention of amending section 126, paragraph XII, of the Federal Labour Act with a view to bringing it into conformity with the Convention. According to this section, the payment of unemployment benefit to seafarers whose contract of employment is terminated due to fortuitous circumstances or *force majeure* is made dependent on the existence of insurance coverage and the effective payment of his claim to the employer, neither of which conditions is provided for under Article 2 of the Convention.

It would appear from the Government's reply to the observation made in 1961 that, in actual fact, section 126, paragraph XII, of the Federal Labour Act is applied by the maritime authorities without making the payment of unemployment benefit dependent on the above-mentioned conditions. In the circumstances, the Committee must once again urge the Government to take steps finally to eliminate the discrepancy between the present wording of section 126, paragraph XII, of the Federal Labour Act and the provisions of Article 2 of the Convention, which was ratified by Mexico 25 years ago.<sup>1</sup>

\* \* \*

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

#### Convention No. 9: Placing of Seamen, 1920

*Colombia* (ratification: 1933). See under Convention No. 8.

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

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

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

*Chile* (ratification: 1925). The Committee notes that a Bill to amend the legislation relating to agricultural workers' unions is now before the Senate. It notes with interest that this text, as at present drafted, accords to organisations of agricultural workers rights equivalent to those of other workers with respect to the protection of trade union officers and the right of occupational organisations to set up federations and confederations.

The Committee notes with regret, however, that the Bill does not affect the majority of the restrictions which the legislation has placed on the rights of agricultural workers since 1947.

1. While the Bill now under discussion eases the requirements laid down in section 443 of the Labour Code with respect to the constitution of agricultural workers' trade unions, it still prescribes the two following conditions: that the

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

founders of the union shall have had a minimum period of continuous service on the estate whose workers are represented and that they must represent at least 40 per cent. of the workers on that estate. These conditions, as the Committee has pointed out for several years, result in denying to seasonal or casual agricultural workers the right to set up trade unions and even make it impossible to form a trade union on estates which employ a large proportion of seasonal or casual workers.

2. According to section 426 of the Labour Code, agricultural workers can constitute a trade union only within the limits of the agricultural undertaking; agricultural workers, therefore, are deprived by law of the right to set up trade unions extending beyond the limits of one undertaking, whereas section 366 of the Code permits workers in industry to set up occupational trade unions as well as works unions.

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

4. In these circumstances, the Committee, noting further that the commission set up to study the revision of the Labour Code and, especially, of the provisions relating to the right of association of agricultural workers, has not yet finished its work, observes that little progress has been made towards putting an end to the divergencies which have existed for many years between the legislation and the Convention. It can only express the hope, once again, that the Government will make every effort to fulfil the international obligations which it undertook on ratifying the Convention and will indicate, at the 46th Session of the Conference, if any progress has been achieved in this connection.<sup>1</sup>

*Nicaragua* (ratification: 1934). The Committee notes with regret that the report for 1959-61 has not been received. Consequently, it finds itself obliged to repeat its earlier observation, which was in the following terms:

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

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.



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

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

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

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

\* \* \*

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

#### Convention No. 12: Workmen's Compensation (Agriculture), 1921

Requests regarding certain points are being addressed directly to the following States: *Argentina, Colombia, Portugal, El Salvador*.

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

*Argentina* (ratification: 1936). Following the observations and requests which it has been making for many years, the Committee takes note of the Government's statement in its report to the effect that the committee appointed to study ways and means of bringing the national legislation into conformity with the provisions of the Convention is carrying on its work in consultation with the employers' and workers' organisations concerned in accordance with the provisions of Article 1, paragraph 1, of the Convention.

The Committee, therefore, hopes that the Government will adopt as soon as possible legislation giving full effect to this Convention which was ratified in 1936—

- (a) defining, as regards areas of Argentina other than the city of Buenos Aires (where the use of paint containing white lead is generally prohibited) paint operations in which the use of white lead, sulphate of lead and any product containing these pigments is necessary;
- (b) prescribing detailed provisions corresponding to those of the Convention for operations where the use of such substances is not prohibited (Articles 5, 6 and 7 of the Convention).

*Bulgaria* (ratification: 1925). The Committee notes with interest that an ordinance containing a general prohibition of the use of white lead in painting is being prepared. It hopes that this ordinance will be adopted in the near future.

*Colombia* (ratification: 1933). The Committee takes note of the report on the period 1958-60, which arrived too late to be examined in 1961, and notes that, once the draft Labour Code now under consideration by Parliament is adopted, section 296 of the draft will give effect to Article 3 of the Convention (prohibition of employment of women and young persons under the age of 18 years in painting work of an industrial character). On the other hand, the report gives no indication as to the intentions of the Government regarding the adoption of legislative measures to ensure the application of the other Articles of the Convention to which effect has not been given up till now.

The Committee is therefore obliged to draw the Government's attention once again to the need for positive measures to be taken as soon as possible to bring the national legislation into conformity with all the provisions of the Convention, whose ratification by Colombia dates back to 1933.

*Guinea* (ratification: 1959). The Committee notes with interest that the Government is contemplating the issue of regulations to oblige heads of undertakings to supply suitable clothing for painters to wear during the whole of the working period (Article 5, II (b), of the Convention).

The Committee hopes that the Government will also take the necessary steps to prohibit the employment of young persons and women in painting work of an industrial character (Article 3 of the Convention) since, according to the report, such work, which is not widely performed at present, is to be systematically developed in the future.

*Italy* (ratification: 1952). The Committee takes note with satisfaction of Act No. 706 dated 19 July 1961 respecting the use of white lead in painting, which was promulgated following the observations and requests formulated by the Committee in previous years.

*Mexico* (ratification: 1938). The Committee takes note of the detailed report of the Government and the explanations given in reply to the observation made in 1960. The Government refers to Article 6 of the Convention which, it feels, leaves full latitude to employers to regulate the application of Articles 1 to 5 as they think fit. Hence it concludes that, white lead not being in use in Mexico, no additional regulations are necessary and that its obligations with regard to the Convention have been fulfilled.

The Committee wishes to draw the Government's attention to the fact that, as its wording clearly shows, Article 6 of the Convention is not intended to leave States having ratified the Convention the choice between adopting or not adopting regulations giving effect to Articles 1 to 5. In fact, under Article 1, "Each Member of the International Labour Organisation ratifying the . . . Convention undertakes to prohibit . . . the use of white lead", etc., and Articles 3 and 5 lay down similar obligations. The purpose of Article 6 is "to ensure the observance of the regulations prescribed by virtue of the foregoing Articles"; the competent authority must take such steps as it considers necessary to that end, after consultation with the employers' and workers' organisations concerned.

Consequently, the Committee must again urge the Government to reconsider the matter with a view to preparing regulations prohibiting the use of white lead in all painting operations without exception, as a Government representative had assured the Conference Committee in 1960 would be done.<sup>1</sup>

\* \* \*

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

In addition, requests regarding certain other points are being addressed directly to the following States: *Central African Republic, Chad, Congo (Brazzaville), Dahomey, Finland, Gabon, Hungary, Italy, Ivory Coast, Malagasy Republic, Mauritania, Niger, Poland, Rumania, Senegal, Spain, Upper Volta, Uruguay, Venezuela.*

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

Requests regarding certain points are being addressed directly to the following States: *Congo (Leopoldville), Gabon, Republic of Mali.*

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

Requests regarding certain points are being addressed directly to the following States: *Colombia, Cuba, Switzerland.*

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

*Ceylon* (ratification: 1951). The Committee has noted from the Government's reply to its direct requests made in 1959 and 1960 that steps have been taken to prepare rules under the Merchant Navy Act, No. 7 of 1953, in order to give effect to Articles 2 and 3 of the Convention. The Committee hopes that the new rules will be brought into force in the near future.

*Colombia* (ratification: 1933). See under Convention No. 8.

*Nicaragua* (ratification: 1934). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee regrets to note that, in spite of repeated promises made by the Government that the Ministry of Social Welfare would issue regulations to give effect to the Convention, the latter is still not applied, as there exist no provisions making the employment of persons under 18 years on vessels subject to the production of a medical certificate (Article 2 of the Convention) and requiring the renewal of the medical examination at intervals of not more than one year (Article 3).

The Committee insists once again that the necessary legislation be adopted to give effect to the Convention.

The Committee hopes that the Government will make every effort to take the necessary action without further delay in order to give effect to the Convention, which was ratified 27 years ago.<sup>1</sup>

\* \* \*

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

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

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

*Chile* (ratification: 1931). The Committee notes with regret that the last report of the Government makes no mention of the Bill to establish compulsory employment injury insurance in Chile, which was to amend section 276 of the Labour Code and which, according to the report for 1959-60, had been submitted to the National Congress. In the circumstances, the Committee can only urge the Government again to bring section 276 (relating to compensation for partial permanent incapacity) into conformity with Article 5 of the Convention, which provides for payment of a pension in the case of permanent incapacity. The Committee must remind the Government that the Convention was ratified in 1931 and that this discrepancy has been repeatedly pointed out since 1934.<sup>1</sup>

*Colombia* (ratification: 1933). The Committee has taken note with interest of the information supplied by the Government, particularly as regards the adoption of Decree No. 1698 of 1960 to approve the general regulations on compulsory insurance for employment injury and occupational disease. The Committee has noted that, by virtue of section 48 of these regulations, the Colombian Social Insurance Institute "will gradually take over employment injury and occupational disease insurance for the various sectors of activity and categories of undertakings and for the various areas of the country, following a procedure to be determined by special regulations". The Committee would be grateful if the Government would indicate the extent to which these regulations are at present applied and whether the special regulations referred to have been adopted; if so, it would be glad to have the text thereof.

In previous years, the Committee has pointed out the various divergencies between the national legislation and the provisions of this Convention. The above-mentioned regulations eliminate some of these divergencies but allow others to remain. Moreover, as they are to be applied in stages, the Committee understands that the earlier situation subsists in a great part of the country. The Committee therefore outlines below, for each of the Articles of the Convention, the situation under the general legislation and the above-mentioned regulations.

Article 2 of the Convention. A series of exceptions are established under sections 225 to 228 of the Labour Code which exceed those allowed under Article 2 of the Convention: handicraft undertakings which employ no more than five workers and undertakings whose capital is less than 10,000 pesos (in this case the employer's liability is limited to first aid); undertakings whose capital is between 10,000 and 50,000 pesos and between 50,000 and 125,000 pesos (in these two categories of undertakings the employer's responsibility is limited to first aid in case of employment injury and to a certain amount of medical aid in case of incapacity; undertakings in the latter category must also pay 50 per cent. of the cash benefit provided for under the general legislation).

Decree No. 1698 also establishes an exception for workers who work less than 90 days during the year, whereas Article 2 of the Convention allows an exception for "employment of a casual nature" only in the case of persons who are employed "otherwise than for the purpose of the employer's trade or business".

Article 3. The Committee has noted that workers in public administration and state undertakings are at present covered by the Sixth Act of 1945 until such time as special provisions regulating conditions of employment—now being prepared—

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

shall be prescribed for these categories of workers. Since the provisions of this Act are substantially the same as those of the Labour Code, the Committee hopes that the points raised will be taken into account and that the text eventually adopted will guarantee that such workers are covered by a "special scheme, the terms of which are not less favourable than those of the Convention", as provided for under this Article.

Article 5. Under section 206 of the Labour Code, compensation for employment injury is payable only in the form of a lump sum, whereas this Article of the Convention provides that "the compensation payable to the injured workman, or his dependants where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments" and may be paid wholly or partially in a lump sum only "if the competent authority is satisfied that it will be properly utilised".

Decree No. 1698 although it uses the term "renta" under section 13 relating to permanent partial incapacity, contains no provision equivalent to that of Article 5 of the Convention, since it establishes that an injured workman suffering from permanent incapacity "shall be entitled for up to *two (2) years* to a monthly pension proportionate to his incapacity to earn a living and calculated on the basis of two-thirds of his basic wages". This restriction placed on the period during which benefits are paid for permanent partial incapacity runs counter to Article 5 of the Convention, which provides for no such limitation. Even though section 14 provides that the pension may be prolonged for more than two years, if the Technical Committee of the Occupational Hazards Department thinks fit, the Committee considers that this provision leaves it open to the said body to decide whether or not to prolong the pension, whereas the Convention stipulates that such compensation "shall be paid" to the injured workman or his dependants "in the form of periodical payments" and allows no scope for discretionary powers to be exercised by anybody whatsoever.

Articles 9 and 10. By virtue of section 206 of the Labour Code, medical, surgical and pharmaceutical aid and hospitalisation, as well as assistance connected with artificial limbs and surgical appliances, are restricted to two years from the time of the injury. This limitation is not in accordance with Articles 9 and 10 of the Convention, which require these two kinds of assistance to be granted so long as they are "recognised to be necessary".

Decree No. 1698 refers, under sections 7 and 38, to medical, surgical, orthopaedic and hospital aid and to the supply of the necessary artificial limbs, and provides that this is to be governed "by the relevant regulations". The Committee would like to have the text of these regulations; should they not yet have been adopted, it points out that under Article 10 of the Convention, injured workmen are entitled not only to the supply but also to the renewal of artificial limbs and surgical appliances, and that supervisory measures must be provided to prevent abuses in connection with the renewal of such appliances and to ensure that any additional compensation provided for this purpose is properly used.

Article 11. The fact that debts arising out of employment contracts are privileged debts under section 2494 of the Civil Code is not sufficient to guarantee "in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents, or, in the case of death, to their dependants".

With regard to Decree No. 1698, the Committee would be grateful if the Government would indicate what measures exist to cover the event of the Colombian Social Insurance Institute's insolvency and to guarantee "in all circumstances" that the proper compensation will be paid to injured workmen or their dependants.

The Committee hopes that the Government will take the necessary measures to bring the national legislation into conformity with the provisions of the Convention, which it ratified in 1933.

*Haiti* (ratification: 1955). The Committee notes with satisfaction that the sections relating to social security of the newly promulgated Labour Code have amended several provisions which had been the subject of direct requests by the Committee. The amended text no longer excludes from the scope of the Social Security Act alien technical workers having resided in Haiti for less than one year; it also provides guarantees regarding the conversion into a lump sum of pensions awarded to injured workers and provides for the renewal of artificial limbs and surgical appliances.

*New Zealand* (ratification: 1938). The Committee has taken note of the information supplied by the Government in reply to the various points raised in the observation made in 1960, and has the following comments to make.

Article 5 of the Convention. The Government considers that this Article calls only for compensation to be paid in the form of periodical payments or a lump sum, without reference to the duration of the periodical payments and that hence there is no discrepancy between the Employment Injury Compensation Act in force in New Zealand and this Article of the Convention. The Committee must repeat, however, that this provision of the Convention has always been understood to refer to a life pension (in case of permanent incapacity) or a pension for the duration of the contingency, so that the limitations established by section 11, paragraph 1 (a) (274 weeks in the case of death) and section 14 (5) (six years in the case of incapacity) of the above-mentioned Act are incompatible with the Convention. Moreover, as the Committee had already observed, the invalidity benefits payable under the Social Security Act of 1938 are not sufficient to close the existing gap, because of the special requirements imposed (financial resources, residence, conduct). The Committee therefore wishes to urge the Government again to reconsider the problem with a view to bringing the national legislation into conformity with the Convention.

Article 9. The Committee notes with interest that the obligation to reside in the country in order to continue to receive medical benefits refers only to the Social Security Act, and that benefits under the Employment Injury Compensation Act are not subject to any such condition.

Article 10. The Committee has taken note of the fact that the Government considers it unnecessary to amend its legislation on this point; it is of the opinion that the contribution required from insured persons to the cost of artificial limbs and surgical appliances (after the first three years during which such appliances are provided free of charge by virtue of the Employment Injury Compensation Act), fixed at 20 per cent. of their cost and £1 every time they are repaired, constitutes a guarantee against abuses, is not very onerous for injured persons, and is in conformity with paragraph 2 of Article 10 of the Convention, which refers to "measures . . . necessary . . . to prevent abuses". The Committee points out that the measures referred to in Article 10 of the Convention are *supervisory* measures, a very different thing from exacting a contribution which, while it might prevent abuses, imposes a burden on the insured person that may be acceptable in regard to sickness insurance but cannot be so in regard to employment injury compensation. Article 10 of the Convention is quite clear in this respect and does not provide for the possibility of injured workmen bearing part of the cost of the supply and renewal of artificial limbs and surgical appliances. The Committee hopes that in this case too, the Government will reconsider the possibility of bringing its legislation into conformity with the Convention.

*Sweden* (ratification: 1936). The Committee takes note of the Government's reply to the request made in 1961, indicating that the two committees which were set up to study the material co-ordination of various insurance schemes have now completed their work, and that these committees are inclined to maintain the present position as regards the divergency existing between the national legislation and Article 9 of the Convention, resulting from the fact that insured persons who have suffered from an industrial accident must bear part of the cost of medical aid.

The Committee also notes that another committee has been set up and is to review the present employment injury insurance scheme, and is to take into account the Conventions ratified by Sweden.

However, it would appear that the Government does not expect that the review to be carried out by the said committees will result in a change in the legislation, eliminating the discrepancy noted, since it is indicated in the report that the Government might ultimately be faced with the necessity of denouncing the Convention.

The Committee feels that it might not be expedient to consider such extreme measures. It hopes, therefore, that the Government will find it possible to re-examine this whole matter with a view to finding some means of bringing the legislation into conformity with Article 9 of the Convention and thus avoid the need for denunciation.

*United Kingdom* (ratification: 1949). In reply to the observations regarding the application of Articles 9 and 10 of the Convention, the Government indicates again that it does not consider that it would be appropriate at present to take any action with a view to eliminating the existing discrepancies since, as already indicated in previous reports, the Committee of Social Security Experts has recommended the revision of this Convention. The Committee notes, moreover, that the sharing of injured persons in certain medical expenses has been increased.

In these circumstances the Committee finds that it must once again refer to the observations made since 1957 on the need for the taking of measures with a view to giving effect to Articles 9 and 10 of the Convention, which do not permit any part of the cost of medical or surgical aid, etc., or of the supply and renewal of artificial limbs and surgical appliances to be borne by persons who have suffered employment injuries.<sup>1</sup>

*Uruguay* (ratification: 1933). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee regrets to note that the Bill intended to bring national legislation into conformity with Article 11 of the Convention (safeguards against the risk of insolvency of the employer or insurer) has not yet been adopted. As this discrepancy had already been pointed out several years ago, the Committee can only urge the Government to take at last the necessary steps with a view to adoption of the new legislation.

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

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Burma, Greece, Malaya, Mexico, Nicaragua, Philippines, Poland, Portugal, Sierra Leone, Tunisia, Uruguay.*

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

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

*Austria* (ratification: 1928). See under Convention No. 42.

*Colombia* (ratification: 1933). The Committee notes with regret that no measures have yet been taken to bring the national legislation into conformity with the Convention as regards processes corresponding to *anthrax infection* (in particular the handling of animal carcasses and the loading and unloading or transport of merchandise).

The Government refers again in its report to section 201 of the Labour Code of 1950 and makes no mention of the new Labour Code which was to have eliminated existing divergencies and was to have been adopted in 1958.

The Committee trusts that this text will be adopted in the near future and that the Government will not fail to indicate in its next report what progress has been made in this connection.

*Czechoslovakia* (ratification: 1932). See under Convention No. 42.

*France* (ratification: 1931). See under Convention No. 42.

*Federal Republic of Germany* (ratification: 1928). See under Convention No. 42.

*Italy* (ratification: 1934). See under Convention No. 42.

*Morocco* (ratification: 1956). The Committee takes note of Order No. 046-61 dated 24 January 1961 which supplements the list of occupational diseases. It notes with satisfaction that loading and unloading or transport of merchandise in general have been added to the processes likely to cause anthrax infection, in conformity with the Convention.

*Poland* (ratification: 1937). See under Convention No. 42.

*Switzerland* (ratification: 1927). The Committee notes with satisfaction that the new ordinance dated 23 December 1960, which came into force on 1 January 1961, has added to the list of processes liable to cause anthrax infection loading and unloading or transport of merchandise in general, so as to bring this list into conformity with the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Australia, Belgium, Bulgaria, Ceylon, Cuba, Czechoslovakia, Dahomey, Denmark, Finland, Federal Republic of Germany, Guinea, India, Ivory Coast, Japan, Luxembourg, Morocco, Nicaragua, Niger, Norway, Pakistan, Portugal, Senegal, Spain, Switzerland, Tunisia, Upper Volta, Yugoslavia.*

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

*Austria* (ratification: 1928). The Committee takes due note from the Government's reply to its request of 1960 that the Central Association of Austrian Social Security Institutions recognises the validity of the Committee's comments and is taking the necessary steps to ensure that the nationals of States which have ratified the Convention should in future enjoy the same treatment in respect of workmen's compensation as Austrian nationals.



*Haiti* (ratification: 1955). See under Convention No. 17 the part of the Committee's observation referring to the elimination of the discrepancy which consisted of the exclusion of certain categories of aliens from the scope of the Social Insurance Act.

*Italy* (ratification: 1928). The Committee takes note with satisfaction of the letter dated 8 March 1960, of which a copy was attached to the Government's report and in which the General Directorate for Welfare and Social Assistance of the Ministry of Labour issued the necessary instructions to the Institute for Employment Injury Insurance to guarantee that nationals of countries which have ratified Convention No. 19 receive not only the treatment provided for under Italian legislation but also that prescribed by the international Conventions to which Italy is a party.

It thanks the Government for the information supplied and for the progress thus achieved in the application of the Convention.

*Spain* (ratification: 1929). Since 1957 the Committee has drawn the Government's attention every year to a discrepancy between Article 1 of the Convention and the provisions of section 11, paragraph 3, of the regulations under the Industrial Accidents Acts, which provide that the dependants of a foreign worker who are no longer resident in Spanish territory may continue to receive benefit only if—(1) the legislation of their country grants similar treatment to Spanish nationals, (2) their present country of residence has ratified the Convention or special agreements have been concluded to this effect.

It has come to the knowledge of the Committee that Decree No. 677/1961, dated 13 April 1961, was published in the Official Gazette of 24 April 1961, amending the paragraph in question to bring it into conformity with the Convention. These new provisions no longer impose any condition for the payment of benefits to the dependants of a foreign worker who ceased to reside in Spanish territory.

The Committee would be grateful if the Government would indicate in its next report whether the above-mentioned text has effectively come into force. It would also be glad if the Government would specify in what cases it has been considered necessary to conclude agreements, as provided for in the second sentence of the amended paragraph, and would supply the texts of the agreements so concluded.

\* \* \*

In addition, requests regarding certain other points are being addressed to the following States: *Australia, Brazil, Burma, China, Colombia, France, Ghana, Israel, Luxembourg, Malaya, Nicaragua, Sudan, Uruguay.*

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

*Bulgaria* (ratification: 1929). The Committee notes with regret that there are still no legislative provisions in Bulgaria ensuring the application of this Convention. It recalls that the Government indicated in its report for 1958-59, and again to the Conference Committee in 1961, its intention of issuing at an early date an ordinance by which effect would be given to the Convention.

As no report has been received for the period 1959-61 the Committee must again urge the Government to take immediate steps for the issue of provisions prohibiting night work in bakeries and ensuring full conformity with Articles 1 to 4 of the Convention.<sup>1</sup>

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

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

*Argentina* (ratification: 1937). The Committee had noted in 1961, from the statement made by a Government representative to the Conference Committee in 1960, that the Joint Ministerial Committee which since 1957 has been in charge of harmonising national legislation with Conventions Nos. 8, 22 and 23 had transmitted its first report to the Executive which had drafted the corresponding Bills in order to place them before the legislature.

The Committee recalls that the Government informed the Conference Committee in 1961 that a new Committee had been set up by Decision No. 383, dated 22 May 1961, with substantially the same terms of reference as that of the above-mentioned Committee, namely to study and propose the measures needed to bring the current legislation into conformity with the international labour Conventions ratified by Argentina. It is bound to note with regret that there has in fact been further delay.

In the absence of any other information in the report on the result of the present studies, the Committee must again urgently request the Government to take the necessary steps to eliminate the divergencies between the legislation and Conventions ratified 25 years ago as soon as possible, through the adoption of appropriate legislative instruments.<sup>1</sup>

*Belgium* (ratification: 1927). Following its previous observations the Committee has noted with satisfaction the promulgation of an Act dated 15 June 1961 which provides that if an agreement is entered into for an indefinite period, it may be terminated by either party in any port where the vessel loads or unloads subject to notice being given to the other party.

Article 9, paragraph 1, of the Convention is thus given full effect.

*China* (ratification: 1936). The Committee has taken note of the information supplied by the Government, according to which the revised text of the Merchant Shipping Act is awaiting final approval by the Legislative Council after having been approved by the Judicial Commission for Communications and Economic Affairs of that Council.

Since this draft legislation has been under consideration since 1958 and is to give effect to several Articles of the Convention, which was ratified 26 years ago, the Committee hopes that it will be adopted shortly.

*Colombia* (ratification: 1933). See under Convention No. 8.

*Federal Republic of Germany* (ratification: 1930). The Committee has taken note of the Government's reply to the observation made in 1960. It notes with regret that the Government still maintains its view that there is no discrepancy between Article 9 of the Convention and section 63 of the Seamen's Act, 1957, in which an agreement for an indefinite period remains valid, after the expiry of the period of notice stipulated therein (but not for more than six months), until the vessel touches a port of the Federal Republic of Germany.

The Committee can only reiterate its view, already expressed many times, that such a measure is incompatible with the provisions of the Convention, since, on the one hand, the Convention expressly provides that "an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

unloads . . .” and, on the other hand, the presence of the vessel in a foreign port cannot be considered as an “exceptional circumstance” in the sense of Article 9, paragraph 3.

In view of the importance of the rule established by Article 9 of the Convention, and the fact that many countries have already amended their legislation to bring it into conformity with this rule, the Committee trusts that the Government of the Federal Republic of Germany will not fail to take the necessary steps to ensure the full application of Article 9, paragraph 1, which is a key provision of the Convention. Such measures appear all the more desirable as the legislation in force before the adoption of the 1957 Act (the Seamen’s Code, 1902) was in full accord with this Article.

*Mexico* (ratification: 1934). The Committee takes note of the reply to its observation of 1960 regarding Article 9, paragraph 1, of the Convention, which provides that an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, on condition that at least 24 hours’ notice is given.

The Government indicates in the first place that sections 145 and 146 of the Federal Labour Act, which the Committee has previously deemed to be incompatible with the above provision of the Convention, merely prohibit the cancellation (*rescisión*) of a contract in a foreign port and not its termination. The Government adds that the termination of a contract abroad is not contrary to the law, but it cites no legislative provision authorising termination in the circumstances specified by the Convention. The Committee must therefore continue to entertain various doubts whether seamen on Mexican vessels—(a) benefit in fact from the protection afforded by the above-mentioned requirement of the Convention and, if so, (b) are clearly aware, as are their employers, of the existence of this protective provision.

This doubt is not dispelled by the Government’s further statement, in reply to the Committee’s observation, that the minimum notice of 24 hours also specified by the above provision of the Convention in case of termination of a contract is ensured in Mexico by virtue of the ratification of the instrument. No specific legislation would thus appear to exist in this case either, although under Article 9, paragraph 2, of the Convention “national law shall provide such manner of giving notice as is best calculated to preclude any subsequent dispute between the parties on this point”.

The Government affirms, in conclusion, that the prohibition of the cancellation of a contract in a foreign port constitutes a measure for protecting the weaker of the two parties to the contract—the worker; and that under article 19, paragraph 8, of the I.L.O. Constitution this more favourable provision may in no case be affected by the ratification of the Convention. The Committee must stress, however, that the cancellation or termination of a contract for an indefinite period is by no means in all cases detrimental to the seaman. As pointed out in the past in connection with the effect given to this provision of the Convention by other ratifying States, the Committee considers, on the contrary, that the relevant paragraph is more advantageous to the seaman than Mexican law, as it grants him the right to terminate a contract for an indefinite period in any port where the vessel loads and unloads, thus guaranteeing his freedom of choice and movement.

Taking into account all the factors described above, the Committee concludes that additional measures clearly are called for in order to ensure the full application on Mexican vessels of Article 9, paragraph 1, of the Convention. As it has had to raise this matter ever since 1936, the Committee must voice its concern and urge the Government to take the necessary action in the very near future so that Mexico

will, as have several other States in recent years, ensure full compliance in law and in practice with one of the key requirements of this Convention.<sup>1</sup>

*Nicaragua* (ratification: 1934). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

... the Committee can only refer to the observations made in previous years and insist once again that the Government take the necessary steps for the enactment of the draft legislation referred to since 1958 which is to give effect, *inter alia*, to the various provisions of the Convention (Articles 3, 4, 5, 6, 9, 13, 14) not hitherto applied in Nicaragua.

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

*Uruguay* (ratification: 1933). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee can only note with regret that its observations appear to be totally ignored and, as in previous years, insist that the Government take the necessary steps to give full effect to Articles 3 (paragraph 2), 8 and 13 of the Convention.

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

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, India, Mexico, Morocco, New Zealand, Pakistan, Sierra Leone, Spain, Venezuela, Yugoslavia*.

#### Convention No. 23: Repatriation of Seamen, 1926

*Argentina* (ratification: 1933). See under Convention No. 22.

*China* (ratification: 1936). The Committee has noted with interest from the Government's reply to the request made in 1960 that the Merchant Navy Bill submitted to the Legislative Assembly provides, *inter alia*, that a seaman repatriated as a member of a crew is entitled to remuneration for work done during the voyage (Article 5, paragraph 2, of the Convention).

The Committee expresses the hope that this Bill will be passed in the near future.

*Colombia* (ratification: 1933). See under Convention No. 8.

*Nicaragua* (ratification: 1934). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation which was as follows:

... the Committee can only refer to the observations made in previous years and insist once again that the Government take the necessary steps for the enactment of the draft legislation referred to since 1958 which is to give effect, *inter alia*, to the various provisions of the Convention (Articles 3 (paragraphs 2, 3 and 4), 4 and 5) not at present applied in Nicaragua.

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

*Uruguay* (ratification: 1933). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

... the Committee can only note with regret that its observations appear to be totally ignored and, as in previous years, insist that the Government take the necessary steps to give full effect to Articles 3, 4 and 5 of the Convention.

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

\* \* \*

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

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

*Austria* (ratification: 1929). The Committee thanks the Government for the information supplied in answer to the request made in 1960. The Committee notes with satisfaction that new legislation was enacted to meet the requirements of Article 3, paragraph 3 (c), of the Convention.

*Colombia* (ratification: 1933). The Committee noted repeatedly since 1951 that sickness insurance was not yet functioning throughout the country. On these occasions the Committee expressed the hope that application of the Convention would be extended throughout the country as quickly as possible and requested the Government to report on the progress achieved in this field. A Government representative stated in 1951 that the application of the social insurance scheme was taking place by stages. In 1955 the Government proposed to extend in that year the application of the Convention to new regions of its territory.

The Committee understands that the application of the Convention has not been extended (1) throughout the country, since it seems to be applied only in four territorial zones, and (2) to all categories of workers specified in the Convention. Furthermore, the Committee notes that as far as the progressive extension provided for under the social insurance scheme of 1946 is concerned the rate of progress has been very slow. In these circumstances the Committee must express its deep regret, and insist that the application of the Convention shall be extended throughout the country and to all categories of workers specified in the Convention as soon as possible.

The Committee would be grateful if the Government would indicate in its next report the regions and the categories of workers in respect of which there is as yet no sickness insurance and the action which the Government proposes to take with a view to extending the application of the Convention to the whole territory and to all classes of workers specified in the Convention.

*France* (ratification: 1948). The Committee takes note of the Government's reply to the direct request made in 1960.

Article 4 of the Convention. In a direct request made in 1959 the Committee drew the attention of the Government to section 249 of the Social Security Code of 1956, which imposes certain conditions regarding the qualifying period to be satisfied by an insured person in order to be entitled to medical benefits. The Committee observed that such a provision is not compatible with Article 4 of the Convention, which provides for the granting to an insured person of medical benefits from the commencement of his illness and without any qualifying period. In reply to this request in 1960 the Government stated that the purpose of section 249 of the Social

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

Security Code was to prevent abuses. In a subsequent direct request the Committee called the Government's attention to the fact that, whatever may be the reasons for them, the provisions in question are not in conformity with Article 4 of the Convention and that it must be possible to adopt appropriate measures to prevent abuses without weakening the application of the Convention. The Government replies that, for the reasons already stated, it considers the above provision to be in conformity with the Convention.

The Committee considers that the above-mentioned provision provides for a qualifying period, albeit of limited duration, which is incompatible with Article 4 of the Convention. The Committee hopes, therefore, that the Government will re-examine this question with a view to removing this discrepancy and will propose other appropriate means of eliminating the abuses which were envisaged when the above-mentioned provision of the Social Security Code was adopted.

*Haiti* (ratification: 1955). The Committee thanks the Government for the information supplied concerning the observation made in 1960. The Committee notes with interest that the 1961 Labour Code has removed certain discrepancies between national legislation and the provisions of the Convention, in particular as regards (1) limitation to three days instead of seven of the waiting period for payment of cash benefit to insured persons rendered incapable of work by reason of the abnormal state of bodily or mental health, (2) application of the compulsory sickness insurance to foreign technicians who were previously excluded from the application of the compulsory sickness insurance Act of 1951, and (3) withholding of cash benefits in certain cases (Articles 2 and 3 of the Convention). However, the Committee deems it necessary to call the Government's attention to the following discrepancy existing between the Code and the provisions of the Convention.

Article 4 of the Convention. Section 602 of the Labour Code provides that medical assistance shall be granted to insured persons from the first day of illness, for a period of 27 weeks, and to their dependants for 13 weeks, provided that the conditions laid down under paragraph 2 of section 604 are complied with. Paragraph 2 of section 604 makes payment of such assistance subject to 26 weeks' insurance payments. The Committee calls the attention of the Government to the fact that the Convention does not allow for any waiting period before medical assistance may be granted to the insured persons. Hence the Committee hopes that the Government will take the necessary action to bring its legislation into conformity with the requirements of this Article of the Convention, e.g. by deleting the following words, "which fall within the conditions laid down in section 604, paragraph 2, of the present Act," from section 602 of the Labour Code.

The Committee notes with regret from the Government's report that the sickness insurance scheme provided for under the Act of 12 September 1951 has not yet been brought into operation. The Committee must urge the Government to spare no effort to ensure the implementation of the sickness insurance scheme, in accordance with the obligation it assumed in ratifying this Convention seven years ago.

*Peru* (ratification: 1945). The Committee notes with regret that the Government has not replied to the direct request made in 1960. The Committee repeatedly noted since 1950 that, contrary to the terms of Article 2, paragraph 1, of the Convention, sickness insurance in Peru was not compulsory for domestic servants in private employment. In 1951 the Government representative stated that it was hoped that it would soon be possible to include domestic servants in the scope of legislation governing sickness insurance. In 1957 the Committee noted from the Government's report (for the period 1954-55), that the National Social Security Fund had begun a technical study with a view to revising the present legislation. The Committee expressed the hope that this study will enable the Government to eliminate in a short

time the discrepancies between Peruvian legislation and the provisions of the Convention. In 1959 the Committee noted that at the request of the National Social Security Fund the Government had appointed a commission to look into possible changes in the present legislation and again expressed the hope that this study will enable the Government to eliminate at an early date the discrepancies between Peruvian legislation and the provisions of the Convention. In 1960 the Committee noted that the Government's report did not contain any new information concerning the work of the committee set up to study the revision of social security legislation and expressed the hope that the Government would indicate what stage the work of the committee had reached and the measures contemplated to eliminate the discrepancies existing between the national legislation and the Convention.

The Committee regrets that the application of the Convention has not yet been extended to domestic servants in private employment and trusts that measures will soon be taken to include domestic servants in the scope of legislation governing sickness insurance.

The Committee notes from the Government's report that the sickness insurance scheme has been extended, since 1960, to another province, namely the province of Cuzco. Since a representative of the Government informed the Conference Committee in 1951 that the Government had established a plan and hoped to include all the workers of the country in a social insurance system within six years, the Committee, noting the progress made in this respect, trusts that the Government will soon extend the scope of the sickness insurance scheme to include all the workers of the country, as required under Article 2 of the Convention.

*Rumania* (ratification: 1929). The Committee notes with regret that the Government has failed to reply to the direct request of 1959 and 1960 on the following points. In 1959 the Committee asked the Government (1) to state the texts of legislation which ensures payment of cash benefits in the event of temporary incapacity (Article 3 of the Convention) and (2) to supply, in conformity with Part IV of the Report Form, statistical information, etc., concerning the practical application of the Convention. The Government having failed to supply the necessary information the Committee repeated the same request for information in 1960.

The Committee expresses the hope that the Government will not fail to include information in its next report in these respects.

*Uruguay* (ratification: 1933). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee took note of the legislative provisions enacted to grant sickness benefits to several new categories of workers. It notes, however, that the great majority of workers covered by the Convention are not protected, and that no information has been supplied concerning the general Bill on sickness insurance referred to for several years and which, according to information supplied in 1959, had been submitted to Parliament.

The Committee therefore once again urges the Government to take the necessary measures with a view to the enactment of this Bill, and finally to apply in full this Convention, which was ratified more than 25 years ago.

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

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Chile, Colombia, Czechoslovakia, Haiti, Nicaragua, Peru, Spain, United Kingdom, Uruguay.*

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

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

*Austria* (ratification: 1929). See under Convention No. 24.

*Colombia* (ratification: 1933). See under Convention No. 24.

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

*Uruguay* (ratification: 1933). See under Convention No. 24.<sup>1</sup>

\* \* \*

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

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

Requests regarding certain points are being addressed directly to the following States: *Colombia, Ecuador, Ghana*.

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

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

**Convention No. 29: Forced Labour, 1930**

*Bulgaria* (ratification: 1932). The Committee notes that at the Conference in 1961 a Government representative stated that there was no compulsory labour in Bulgaria and no divergency between the Convention and national legislation and practice, and that the next report would contain a reply to the observations made by the Committee. As no report has been received, the Committee must renew its previous observations, which were drafted as follows:

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

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

2. The Committee notes that, under the Act of 6 February 1958 respecting the self-taxation of the population and the Ordinance issued thereunder on 14 February 1961 by the State Planning Commission and the Bulgarian Investment Bank, labour may be exacted as a tax for the execution of public works. In effect, section 1 of the Ordinance of 14 February 1961 provides that capital investment projects not covered by the national economic plan shall be carried out in this manner, and lists such schemes as the electrification of villages, water supplies, local improvement schemes,

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.



schools, reading rooms, bakeries, baths, roads, drainage, trade union homes, etc. Under section 8 of the Act of 6 February 1958 all men between 18 and 60 years and all women between 18 and 55 years are liable to contribute annually 40 hours of labour (or, in certain cases, 80 hours of labour), although this liability may be commuted by cash payments.

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

The Committee trusts that the Government will make every possible effort to adopt measures with a view to eliminating the above-mentioned discrepancies.

*Congo (Brazzaville)* (ratification: 1960). The Committee notes with interest the detailed information supplied by the Government in its report. It notes with the strongest regret that various new legislative provisions have the effect of re-establishing a number of forms of forced labour which had previously been abolished. This is clearly contrary to the provisions of Article 1, paragraph 1, of the Convention, under which the Government undertook "to suppress the use of forced or compulsory labour in all its forms within the shortest possible period".

1. Section 3 of Act No. 24/60 has the effect of re-establishing a system of compulsory portage without even providing for the conditions and guarantees which are required by the various Articles of the Convention for the forms of forced labour which were permitted "during the transitional period" and "as an exceptional measure". This section of the Act provides that in areas permanently or seasonally lacking in mechanical transport, the inhabitants can be required either singly or collectively to perform tasks in the public interest which appear indispensable, either for the benefit of the Government or its representatives or for the fulfilment of the economic, health or social needs of the inhabitants themselves (see the comments in Part Three of the Committee's report, paragraph 96).

2. The general character of the terms employed in the above-mentioned provision, which refers to "tasks in the public interest which appear indispensable", seems also to permit the exaction of various other forms of forced labour which were formerly used and recourse to which "during the transitional period" and "as an exceptional measure" was authorised by the Convention only subject to the conditions and guarantees laid down in several Articles (public works of general or local interest, etc.).

3. Section 1 of Act No. 24/60 of 11 May 1960 permits the requisition of the services of all or some of the employees of an undertaking or service whose efficiency is endangered, "when circumstances so demand", which clearly goes beyond cases of "emergency" as envisaged in Article 2, paragraph 2 (*d*), of the Convention. If systematically and abusively applied, this provision would permit the establishment of a generalised system of forced labour (see the comments in Part Three of the Committee's report, paragraphs 58 to 64).

4. According to Acts Nos. 16/61 and 17/61 of 16 January 1961, part of the young persons who are conscripted under the compulsory military service laws may be assigned to the performance of "national works". Such provision is inconsistent with Article 2, paragraph 2 (*a*), of the Convention, which requires that "any work or service exacted in virtue of compulsory military service laws" shall be "for work of a purely military character" (see the comments in Part Three of the Committee's report, paragraphs 40 to 43 and 75 to 79).

5. Finally, the provisions of Act No. 44/59 of 2 October 1959, which provide that all young persons between the ages of 18 and 23 who have been resident for more than six months in urban centres and who cannot give proof of regular employment are "liable to compulsory service" (section 2), and prescribe penal sanctions

in respect of persons evading registration or deserting after call-up for such service (section 5), obviously lead to the establishment of a system of forced labour not permitted under the Convention even "during the transitional period" (see the comments in Part Three of the Committee's report, paragraphs 78 and 79).

The Committee expresses the hope that the Government will indicate the measures which it intends to take to repeal or amend the various provisions referred to above with a view to suppressing "the use of forced or compulsory labour in all its forms within the shortest possible period", in fulfilment of its international obligations.

*Congo (Leopoldville)* (ratification: 1960). The Committee notes with interest that the Legislative Decree of 1 February 1961 and the order concerning contracts of employment have repealed certain provisions which permitted compulsory portage.

*Ecuador* (ratification: 1954). The Committee regrets to note that the Government's report for 1958-60 merely repeated textually information previously given, but did not reply to the direct requests made in 1959 and repeated in 1960 and 1961.

The Committee must express its serious regret at the Government's persistent failure to supply the information in question. It is once more repeating its request, and urges the Government not to fail to provide full particulars on the various points raised.<sup>1</sup>

*Greece* (ratification: 1952). The Committee has taken note of the statement made by a Government representative to the Conference Committee in 1961 and the information supplied in the Government's report.

It has noted with interest that the Ministry of National Defence intends to examine appropriate measures to bring national legislation into full conformity with the Convention as regards the employment of persons liable to compulsory military service, who should be assigned only to work of a purely military character (Article 2, paragraph 2 (a), of the Convention).

The Committee expresses the hope that appropriate measures will be taken very shortly and that the Government will not fail to give information on the progress made to this end.

*Guinea* (ratification: 1959). The Committee notes the statements made by the Government in its report, in reply to the direct request of 1960, that by virtue of section 3 of the Labour Code forced or compulsory labour is absolutely prohibited, that under this provision the Republic of Guinea has undertaken to prohibit forced or compulsory labour and not to use any form of such labour, and that, consequently, the additional information requested by the Committee in this field was and remains irrelevant.

It would appear from these statements that the nature and purpose of the Committee's request have not been clearly appreciated. It related primarily to the scope of the various exceptions to the definition of "forced or compulsory labour" for the purposes of the Convention provided for in Article 2, paragraph 2. The Committee is bound to satisfy itself, in this case, as for all other countries in which the Convention is in force, that the various conditions governing these exceptions are strictly observed.

The Committee is accordingly repeating the questions previously asked. In view of the importance of the subject-matter of this Convention, it requests the Government to supply a detailed report for the period 1961-62, with particular reference to the points raised in the Committee's direct request.<sup>1</sup>

<sup>1</sup> The Government is asked to provide a detailed report for the period 1961-62.

*Liberia* (ratification: 1931). The Committee notes the statements made at the Conference in 1961 by representatives of the three groups in the delegation from Liberia that in fact no forced labour existed in Liberia, that the legislation mentioned in the Committee's observations was out of date and contrary to the national Constitution, that an Act to regulate the recruitment of labour in Liberia, adopted on 24 May 1961, represented a clear improvement over the previous situation, and that no effort would be spared to eliminate the remaining discrepancies between the provisions mentioned by the Committee and the Convention before the next session of the Conference.

The Committee however deplores that, for the third year in succession, the Government has failed to supply any report on the application of this Convention. This renewed failure to submit a report is all the more unfortunate, having regard to the Committee's repeated observations and the request by the Conference Committee last year that full particulars of the measures taken to bring national legislation into conformity with the Convention be supplied.

The Committee notes further that a complaint concerning the observance of the Convention by Liberia has recently been filed under article 26 of the I.L.O. Constitution, and that the Governing Body decided at its 151st Session (March 1962) to refer this complaint to a commission appointed in accordance with that article. In these circumstances, the Committee has decided to defer further consideration of the case until the commission appointed under article 26 has reported.

*Portugal* (ratification: 1956). See under Convention No. 105.<sup>1</sup>

*Tanganyika* (ratification: 1962). The Committee has noted with satisfaction that on 8 December 1960 administrative instructions were issued to discontinue the use of forced labour for portage and the maintenance of existing works and services, and thus to complete the undertaking accepted under the Convention "to suppress the use of forced or compulsory labour . . . within the shortest possible time".

*Venezuela* (ratification: 1944). The Committee expresses the hope that the Government will supply detailed information in reply to its direct requests of previous years. In view of the importance of these questions it asks the Government to supply a detailed report for the 1961-62 period.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Austria, Belgium, Bulgaria, Burma, Byelorussia, Cameroun, Central African Republic, Ceylon, Chad, Congo (Leopoldville), Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Finland, Gabon, Federal Republic of Germany, Guinea, Haiti, Honduras, Iceland, India, Iran, Israel, Ivory Coast, Malagasy Republic, Mauritania, Morocco, Niger, Nigeria, Norway, Pakistan, Portugal, Rumania, Senegal, Sudan, Sweden, Tanganyika, Togo, Ukraine, U.S.S.R., United Arab Republic, Upper Volta, Venezuela, Viet-Nam.*

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

*Spain* (ratification: 1932). See under Convention No. 1.<sup>2</sup>

<sup>1</sup> The Government is asked to report in detail for the 1961-62 period.

<sup>2</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

\* \* \*

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

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

*Argentina* (ratification: 1950). The Committee greatly regrets the fact that the Government has not made any reply to the observation formulated in 1961. It therefore finds itself obliged to repeat this observation, which was as follows:

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

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

The Committee urges the Government to take steps with a view to the adoption of legislation that will be in full conformity with the provisions of the Convention.<sup>1</sup>

*Belgium* (ratification: 1952). The Committee notes with interest the reasons which led the Government to exempt vessels engaged in inland navigation from the scope of section 541 of the General Regulations for the Protection of Workers (Royal Order of 8 May 1959) and hence from the scope of Article 6 of the Convention, regarding the protection of hatchways.

While it recognises that section 42 of the above-mentioned regulations, to which the report refers, assures the protection of dangerous openings generally, the Committee considers that the exclusion of vessels engaged in inland navigation from the scope of the aforementioned section 541 limits the coverage of such vessels by the safety standards in force. Furthermore, as the Committee indicated in 1961, the exemptions permitted under Article 15 of the Convention do not provide for general exemptions such as that allowed by virtue of the Royal Order of 8 May 1959.

The Government indicates in its report that the decision to permit this exemption was taken as a result of a resolution adopted in 1957 by the Central Rhine Commission, which recommended the States bordering on the Rhine as well as Belgium to exempt vessels engaged in inland navigation from certain safety provisions. The Committee considers, however, that such a resolution should not interfere with the application of a duly ratified international labour Convention to an important sector of navigation.

The Committee must therefore repeat the observation made in 1961 and again ask the Government to ensure the application of Article 6 of the Convention to vessels engaged in inland navigation.

*France* (ratification: 1955). The Committee notes that the Government does not refer in its report to the point raised in the observation made in 1961. It must therefore draw the Government's attention again to the fact that Decree No. 55314 by which effect was to be given to the provisions of the Convention, and the enforcement of which is entrusted to the Ministry of the Mercantile Marine, relates solely to the

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

loading and unloading of sea-going vessels, whereas the scope of the Convention includes inland navigation (Article 1 of the Convention).

The Committee trusts that the Government will not fail to take measures with a view to ensuring the protection of workers employed in the loading and unloading of vessels engaged in inland navigation.

*Mexico* (ratification: 1934). The Committee notes the statement made in 1961 by a Government representative to the Conference Committee—confirmed in the report for 1959-61—that new regulations concerning the prevention of work accidents were being adopted, in which account would be taken of workers engaged in the loading and unloading of vessels.

The Committee urges the Government to take all steps to bring about the adoption of these regulations as soon as possible, with a view to ensuring the application of this Convention, which was ratified by Mexico 28 years ago. It hopes that the Government will be in a position to inform the Conference that substantial progress has been made towards the adoption of the draft regulations.<sup>1</sup>

\* \* \*

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

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

*Austria* (ratification: 1936). The Committee notes with regret from the report for the period 1960-61 that it has not yet been found possible to submit to Parliament the Bill which is to amend the Act of 1 July 1948, from the scope of which children are at present excluded.

While taking note of the difficulties which have been encountered in reaching agreement on the definition of "light work", the Committee is nevertheless obliged to insist once more that efforts be made to take measures at the earliest possible date to prohibit occasional work by children or to regulate such work in accordance with Article 3 of the Convention, as pointed out by the Committee since 1949.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Central African Republic, Dahomey, Gabon, Republic of Mali*.

#### Convention No. 34: Fee-Charging Employment Agencies, 1933

*Chile* (ratification: 1935). The Committee regrets that, although a Government representative had promised the Conference Committee in 1960 that detailed information would be supplied in the Government's next report in reply to the observation of that year, this has in fact not been done.

The Committee notes that prohibition of private employment agencies, under sections 2, 62 and 87 of the Labour Code, is confined to those catering to "wage-earning employees" (section 2 of the Code) and does not extend to "salaried employees" and "domestic servants". The Committee further recalls the statement of a Government representative to the Conference Committee in 1959 that at present fee-charging private employment agencies are still in operation.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

The Committee must therefore again urge the Government to take appropriate measures in the near future to abolish fee-charging employment agencies conducted with a view to profit (subject to the exceptions authorised in Article 3 of the Convention) and to regulate such agencies not conducted with a view to profit.

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Ceylon* (ratification: 1950). The Committee regrets to note that the position of national legislation with regard to the Convention remains unchanged although the Government's report for 1957-58 had already stated that as soon as the Employment of Women, Young Persons and Children Act of 1956 had been amended to give full effect to the revised Convention No. 89, this Convention would be ratified, which would involve automatically the denunciation of Convention No. 41.

Pending such ratification of Convention No. 89 and denunciation of Convention No. 41, the Committee is bound to repeat the points stressed in its direct request of 1959, i.e. that the above Act (by virtue of the definition of "night" in section 34 (1)) permits the employment of women as from 4 a.m., which is not in conformity either with Convention No. 41 (Article 2) or with Convention No. 89 (Article 2). Further-

more, under section 3 (b) of the Act, women may be authorised to work up to 11 p.m., which is contrary to Article 2 of Convention No. 41.

The definition of "woman" in section 34 of the Act (a female person over 18 years of age) makes it moreover possible to authorise exceptions from the night work prohibition for the purposes of apprenticeship or vocational training (sections 3 (3) and 34 (1) of the Act) not only in respect of male young persons but also in respect of female young persons under 18 years of age, which is not in conformity with either of the two Conventions.

The Committee hopes that the Government will take in the near future appropriate measures to bring the national legislation into full conformity either with Convention No. 41 or with Convention No. 89, should the ratification of the latter instrument still be under consideration.

*Hungary* (ratification: 1936). The Committee notes from the report that progress has been made to abolish night work by women in certain industrial sectors.

As no information is provided, however, on the legislative measures contemplated by the Government for several years past to prohibit the employment at night of women in industry, the Committee is obliged to insist once more that the national legislation be without further delay brought into full conformity with the Convention which prohibits night work by women in industrial undertakings, except in cases specified in Article 4 of the Convention.<sup>1</sup>

*Peru* (ratification: 1945). See under Convention No. 4.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Congo (Brazzaville)*, *Hungary*, *Iraq*, *United Arab Republic*, *Venezuela*.

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

*Austria* (ratification: 1936). The Committee notes once again with regret that the amendments to the list of occupational diseases, aimed at bringing the latter into conformity with the Convention, particularly with regard to *lead alloys*, *amalgams of mercury* and *epitheliomatous cancer of the skin* caused by *bitumen* and *mineral oil*, have not yet been introduced.

The Committee hopes that the Act to amend the Basic Law respecting social insurance, which is to contain the amendments in question, will be promulgated shortly and that the Government will not fail to indicate in its next report the progress made to this effect.

*Czechoslovakia* (ratification: 1949). The Committee regrets that the Government has not yet taken the necessary measures to bring the national legislation into conformity with the Convention as regards the list of cancerogenous substances liable to cause *epitheliomatous cancer of the skin* and as regards certain processes corresponding to *anthrax infection*. These points have been dealt with in detail in the direct requests to the Government and were also mentioned in observations made in previous years.

However, the Committee notes that the Government intends to examine the suggestions made in this connection and it expresses the hope that the Government

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

will be able to indicate, in its next report, together with the results of its study, the measures which it contemplates taking to eliminate the existing divergencies.

*France* (ratification: 1948). The Committee takes note of the Government's reply to its observations and requests of preceding years and regrets to note once more that no measures have been taken to bring national legislation into conformity with the Convention.

The Committee therefore feels bound to refer again to the points raised in previous years, supplying some additional indications:

1. As regards the more general question of the scope of French legislation which, unlike the Convention, only makes provision for some of the pathological manifestations likely to be caused by the diseases or toxic substances listed in the Convention, the Government seems to refer in its report to practical modes of compensation and states that in its opinion the Convention entrusts national legislation with the task of deciding upon whom lies the burden of proof of the occupational origin of the disease. The Committee wishes to point out in this connection that Article 2 of the Convention is on the contrary very explicit and establishes a presumption of occupational origin as regards all cases of disease or poisoning produced by the substances mentioned in the schedule, when such disease or poisoning affects workers engaged in the corresponding industries or trades of the schedule. The Committee's observations do not therefore concern the question of presumption, as the Government seems to think, but rather the question of the limited scope of the national legislation as compared with the scope of the Convention. The Convention is in this respect drafted in general terms, using the expression "poisoning by . . .", and is thus designed to cover all the pathological manifestations which could be ascribed to the cases of disease or poisoning in question. A list of pathological manifestations such as that established by French legislation is therefore necessarily incomplete and creates the danger of introducing restrictions on workers' right to compensation which are not allowed by the Convention.

In these circumstances, the Committee urges the Government to take the necessary measures to bring its national legislation into conformity with the Convention on this point and hopes that the Government will indicate in its next report what progress has been made in this respect.

2. As regards the other discrepancies between the national legislation and the Convention, particularly with regard to poisoning by the *halogen derivatives of hydrocarbons of the aliphatic series* and poisoning by *phosphorus and its compounds* (of which only some are mentioned in the national legislation), *epitheliomatous cancer of the skin* (the legislation only mentions ailments caused by pitch) and *anthrax infection* (the legislation does not mention loading, unloading and transport of merchandise in general), the Committee requests the Government to refer to the explanations given in its requests of 1959 and 1960, which remain valid.

*Federal Republic of Germany* (ratification: 1955). The Committee takes note of the Government's reply to the requests made in previous years. It notes with interest that in view of the new ordinance respecting occupational diseases, dated 28 April 1961, the right to compensation for anthrax infection is also granted to workers employed in loading and unloading or transport of merchandise in general, since the schedule to the ordinance covers all types of work.

*Greece* (ratification: 1952). The Committee takes note of the text of Ministerial Decision No. 37852/1931 dated 13 December 1960. It notes with interest that the above-mentioned decision amended the schedule of occupational diseases so as to include, as provided for in the Convention, poisoning by liberation of benzene or its



homologues and their nitro- and amido-derivatives and poisoning by liberation of halogen derivatives of hydrocarbons of the aliphatic series.

*Haiti* (ratification: 1955). The Committee takes note of the information supplied in the Government's report and the text of the new Labour Code. It notes, however, that the articles referred to by the Government and the other provisions of the Code concerning social insurance do not mention occupational diseases, compensation for which, as stated by the Government, continues to be regulated by a decision of the Institute of Social Insurance dated 1953.

In the circumstances, the Committee finds itself obliged to raise the matter once again and urges the Government to take the necessary measures to amend the list of occupational diseases so as to bring it into conformity with the Convention. The Committee hopes that this amendment can be all the more easily made as the Government states that in practice the schedule of occupational diseases in the Convention is taken into account.

The discrepancies between the national legislation and the Convention are outlined in a new request sent directly to the Government.

The Committee also hopes that the Government will supply without fail in its next report the information repeatedly requested on the subject of the extension of the compulsory insurance scheme provided for under the amended Social Insurance Act of 1951 and under sections 568 and 569 of the new Labour Code.<sup>1</sup>

*Italy* (ratification: 1952). The Committee thanks the Government for the information supplied in reply to its direct request made in 1960. It notes that by virtue of section 2 of Royal Decree No. 1765, dated 17 August 1935, anthrax infection is considered as an industrial accident and that it therefore entitles to compensation all workers employed in the industries and processes listed under section 1 of this decree. Such work includes, *inter alia*, transportation by land, maritime and inland navigation and air transport, loading and unloading of merchandise and work in tanneries and slaughter-houses (paragraphs 6, 7, 9, 13 and 16 of this section).

*Mexico* (ratification: 1937). The Committee takes note of the information supplied by the Government in reply to the observations and requests made in previous years and which referred to—

- (a) certain points of the list of occupational diseases and corresponding processes, which do not appear in the national legislation (namely, in the list of diseases and toxic substances: poisoning by *lead alloys* and *amalgams of mercury*, poisoning by *phosphorus* or its compounds, certain forms of poisoning by *benzene* or its homologues and their nitro- and amido-derivatives, poisoning by the *halogen derivatives of hydrocarbons of the aliphatic series*; in the list of trades, industries or processes corresponding to anthrax infection: *handling of animal carcasses or parts of such carcasses, including hides, hooves and horns, loading and unloading or transport of merchandise* in general; and in the list of processes corresponding to primary epitheliomatous cancer of the skin: any process involving the *handling or use of pitch, bitumen or mineral oil or the compounds, products or residues of these substances*);
- (b) methods ensuring that publicity is given the provisions of the Convention, should they take precedence over the national legislation.

The Committee takes note of the Government's statement that, by virtue of article 133 of the Mexican Constitution, international labour Conventions acquire force of law by their ratification and that these texts are published not only in the

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

Official Gazette but also in the Mexican Labour Review and in the Federal Labour Law published by "Andrade y Castorena".

The Committee considers, however, that in order to avoid any possible doubt or confusion as to the exact situation under law, and to enable all the persons concerned to be fully informed thereof, it would be preferable for section 326 of the Federal Labour Law to be formally brought into conformity with the Convention. The Government had moreover stated in previous years that it intended to amend this section as indicated.

In the meantime, the Committee would be grateful if the Government would communicate in its next report any decisions of the Social Security Institute, court decisions and any other case law or evidence confirming that the Convention is applied in practice in the manner indicated above, particularly as regards the points raised by the Committee.

*Morocco* (ratification: 1957). See under Convention No. 18.

*Poland* (ratification: 1948). The Committee takes note of the Government's reply to the request and observations made in previous years. It notes with interest that workers employed in loading and unloading or transport of merchandise in general are also entitled to compensation for anthrax infection, by virtue of Circular No. 51 of the Social Insurance Office, dated 7 October 1961.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Belgium, Brazil, Bulgaria, Burma, Cuba, Czechoslovakia, Denmark, Finland, Federal Republic of Germany, Greece, Haiti, Iraq, Japan, Luxembourg, Morocco, New Zealand, Norway, Republic of South Africa, Spain, Sweden, Turkey, United Kingdom, Uruguay.*

#### Convention No. 43: Sheet-Glass Works, 1934

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

#### Convention No. 44: Unemployment Provision, 1934

*Czechoslovakia* (ratification: 1950). The Committee notes with regret that, once more, the Government's report fails to indicate what measures have been taken to maintain a scheme ensuring the payment of benefits to persons who are involuntarily unemployed.

The Committee recalls that in 1956 a Government representative stated before the Conference Committee that "the competent authorities were examining the possibility of introducing the provisions of the Convention into the national legislation", and that this statement was confirmed in the Government's report for 1955-56. In 1957 the Committee requested the Government to keep it informed of the action taken in this connection. No reply was received to this request, which was repeated in 1958.

In 1958 a Government representative stated before the Conference Committee that "if a case arose in which a person was unable to find employment immediately, following a change of work, the said person would be covered by a system of state allowances". The Conference Committee expressed the hope that the Government's

next report would give details of the exact nature of this compensation and of the regulations on which it was based. In 1959 the Committee of Experts noted with regret that this information had not been supplied, and again requested the Government to "supply information on the precise nature of the unemployment benefits in Czechoslovakia to which the Government representative at the Conference Committee referred, and on the legislation or regulations in virtue of which they are paid".

In reply to this request, the Government stated in its report for the 1958-59 period that an ordinance of 27 August 1943 concerning benefits and allowances paid to persons involuntarily unemployed was still effective, but not applied in practice since no unemployment existed in the country. While expressing surprise that the Government was referring for the first time to a law passed during the war years, the Committee asked the Government to confirm that this ordinance was still in force, to indicate what administrative and financial measures had been taken to make it effective, and to inform workers of its provisions, and finally to supply a copy of the ordinance and of the regulations of application in force, if any.

The Committee regrets to note that the Government has not indicated in its latest report whether any measures have been taken to inform workers of the provisions of the above-mentioned ordinance, so that where appropriate they could ask for unemployment compensation and benefit, and that it did not enclose a copy of the ordinance and the regulations of application in force, as requested.

Since however the Government itself admits that the ordinance of 27 August 1943 is meaningless in terms of practical application and states that in view of the absence of unemployment "the establishment and maintenance of a relief system for the unemployed would be utterly incomprehensible to the Czechoslovak people", the Committee is forced to the conclusion that, apart from certain provisions for handicapped persons contained in the Decree of 8 March 1960, there is no general scheme actually in force providing benefits to persons involuntarily unemployed.

The Committee is therefore bound to point out, as it has done in the past, that the absence at a given moment of unemployment does not free the country from the obligation to maintain, in accordance with Article 1 of the Convention, "a scheme ensuring benefits or allowances to persons who might be involuntarily unemployed". The Committee hopes, therefore, that the Government will be good enough to establish the system provided for in the Convention.

\* \* \*

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

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

*China* (ratification: 1936). The Committee takes note with interest of the statement made by a Government representative to the Conference Committee in 1960, indicating that the Government is taking strong measures to prohibit the employment of women in underground work. In its report the Government again states that it is contemplating submitting to the legislative power a new Labour Bill which will bring the national legislation into conformity with the Convention.

The Committee, therefore, trusts that the Government will take all necessary measures to secure application of this Convention, which was ratified 25 years ago, by prohibiting the employment of women on underground work of all kinds.<sup>1</sup>

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

*Hungary* (ratification: 1938). In reply to the observation made in 1961, a Government representative assured the Conference Committee that the new Labour Code would eliminate all discrepancies between the Convention and the legislation, although in practice women were not employed in underground work in mines.

In its report, the Government indicates that, should the new Labour Code not be promulgated shortly, a legislative instrument prescribing the full application of the Convention would be enacted.

The Committee takes due note of this assurance and again calls upon the Government to take the necessary steps to ensure that the national legislation is finally brought into conformity with the provisions of this Convention, which it ratified 24 years ago.<sup>1</sup>

*Yugoslavia* (ratification: 1952). In reply to the observation made by the Committee in 1960, the Government indicates that no exemptions have been granted under section 76 of the Act respecting employment relationships. The Committee has taken note of this information.

However, as the Committee had pointed out in previous observations, the above-mentioned provision permits more numerous and wider exceptions than are authorised under Article 3 of the Convention. Consequently, the Committee must again urge the Government to take measures in the near future with a view to bringing the national legislation into full conformity with the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed to the following States: *Austria, Chile, Cuba, Dominican Republic, Finland, Federal Republic of Germany, Greece, India, Luxembourg, New Zealand, Nigeria, Pakistan, Peru, Poland, Spain, Switzerland, Tunisia, Turkey, Ukraine, United Arab Republic, Uruguay, Venezuela.*

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

*Hungary* (ratification: 1937). The Committee takes note of the Government's reply to the 1960 observation to the effect that the Government will not fail to re-examine the question of application of the Convention, with regard to other member States, even in cases where no bilateral agreements have been concluded, by undertaking a thorough study for the purpose of determining the measures which are yet to be undertaken and which would be possible for it to promulgate.

The Committee trusts that the Government will soon be able to take the necessary measures and would be grateful if the Government would give information in its next report on the progress made in this respect.

*Spain* (ratification: 1937). The Committee notes with regret that the Government has not replied to the observation made in 1960. In 1959 the Committee called the Government's attention to the fact that it should be possible to apply the Convention without bilateral agreements being concluded by the members bound by the Convention. At the 1959 and the 1960 Sessions of the Conference the Government representative informed the Conference Committee that the problem would be dealt with when the social security legislation then being prepared was adopted.

The Committee would be grateful if the Government would give information in its next report on the progress made in this respect.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Czechoslovakia, Netherlands, Yugoslavia.*

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

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

**Convention No. 52: Holidays with Pay, 1936**

*Argentina* (ratification: 1950). The Committee notes with regret that in its report for 1959-61 the Government has not answered the request made to it in 1960. Consequently, it is obliged to repeat its request, which reads as follows:

The Committee notes that the Government considers that the application of Article 2, paragraph 3 (b), of the Convention, which provides that interruptions of attendance at work due to sickness shall not be included in the annual holiday with pay, is ensured by section 1 of Legislative Decree No. 5569/57.

The Committee notes that this section of the Legislative Decree provides that in order to be entitled to an annual holiday, workers must have been employed during at least half the working days between 1 January and 31 December and that days of sick leave due to an industrial accident must be counted as having been worked. The Committee understands that this provision refers to the period of service required in order to become entitled to a holiday and that leave due to sickness or an industrial accident is included in this period. It points out however that Article 2, paragraph 3 (b), of the Convention does not deal with the effect of sickness on the *period of service*; its object is to limit the effect of sickness on the *holiday period*. Thus, the Convention indicates clearly that interruptions of attendance at work due to sickness shall not be included in the annual holiday with pay.

The Committee hopes that, in the light of these comments, the Government will find it possible to take steps so as to ensure legislative conformity with this provision of the Convention.

The Committee hopes that the Government will indicate in its next report the steps taken in the light of the points raised above.

*Bulgaria* (ratification: 1949). The Committee has noted with satisfaction that, following its observation made in 1959, sections 11 and 12 of Decision No. 36, dated 11 March 1958, which provided for the postponement of the holiday with pay in certain cases, have been amended so as to guarantee the granting *annually* of the minimum holiday prescribed by the Convention in all cases.

*Burma* (ratification: 1954). The Committee has taken note of the information supplied by the Government in reply to the direct requests made in 1959 and 1961. The Committee had already noted in 1958 that an amendment was under consideration to bring the Leave and Holidays Act into full conformity with the Convention. It observes that amendments to the legislation are being studied to give effect to the various points raised by the Committee. It mentions again some of these points in a direct request to the Government and hopes that the legislative amendments contemplated will be introduced in the near future to ensure full application of the provisions of the Convention.

*Byelorussia* (ratification: 1957). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee takes note with interest of the detailed first report supplied by the Government on this Convention (report for 1957-58 which was received too late to be examined by the Committee at its 1959 session).

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

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

*Cuba* (ratification: 1953). The Committee notes with regret that the report of the Government contains no information in respect of its requests made in 1958 and 1960, which were as follows:

The Committee takes note with interest of the statement made by a Government representative to the Conference of 1957, indicating that interruptions of work due to sickness were absolutely separate from the right to holiday and were not counted in the annual paid holiday. The Committee would be glad to know in virtue of what provision this separation is ensured.

The Committee hopes that the Government will not fail to supply the information referred to above.

*Czechoslovakia* (ratification: 1950). The Committee has examined the Holidays with Pay Act dated 18 December 1959 and the Notification of the Central Council of Trade Unions, dated 28 December 1959, in application of the said Act, both of which texts have come to the attention of the Committee by reason of their publication in the *Legislative Series* of the I.L.O., although they were not mentioned in the Government's reports.

The Committee has noted with satisfaction that section 11 and section 12 of the aforesaid Act and Notification respectively give effect to the provisions of Article 3 (a) of the Convention (inclusion in holiday pay of the cash equivalent of benefits in kind), on the subject of which the Committee had made observations for several years.

*France* (ratification: 1939). The Committee has taken note of the information supplied by the Government to the Conference Committee in 1960, in answer to the observations which had been made for several years concerning section 54 (m) of Book II of the Labour Code, by virtue of which annual paid holidays may be suspended in certain undertakings. It has noted with interest that the text has never been applied and that its application is not contemplated. In these circumstances, the Committee considers that the Government would experience no difficulty in amending section 54 (m), of Book II of the Labour Code in the near future.

*Greece* (ratification: 1952). Following its observation made in 1960, the Committee has noted with satisfaction the Government's statement to the Conference Committee in 1960 according to which section 5, paragraph 3, of Act No. 539 of 1945, which authorises the Ministry of Labour to allow certain exemptions to the rule of paid holidays, has been repealed by section 11 of Act 4020 dated 11 November 1959.

*Italy* (ratification: 1952). The Committee has taken note of the detailed information supplied by the Government to the Conference Committee and repeated in its report in answer to an observation made in 1960.

It notes with regret that the Government still considers that the principle of applying either the Italian Constitution, the Civil Code or the many and various collective agreements, depending upon the case under consideration, is sufficient to ensure effective application of all the provisions of the Convention to all the workers concerned. As the Committee has already stressed several times, it cannot concur with this view, since neither the Italian Constitution nor the Civil Code nor the collective agreements give effect to certain standards laid down in the Convention.

For example, the Committee notes that, according to section 2109 of the Civil Code, the holiday shall be continuous *as far as possible*. While the Committee agrees that the holiday may be divided into parts, it observes that no provision in the national legislation guarantees that only that part of the holiday which exceeds the minimum duration prescribed by the Convention may be divided into parts, as required under Article 2, paragraph 4, of the Convention; nor do all the collective agreements ensure the application of this rule (for example: the collective agreement for the cinematographic industry, dated 15 March 1958).

As regards the persons covered by this Convention, it would not appear that the existing collective agreements cover all persons employed in the undertakings and establishments listed under Article 1, paragraph 1 (for example, those employed in newspaper undertakings and undertakings concerned with irrigation or drainage works).

The Committee notes from the information supplied by the Government in answer to the observations it had made concerning the above-mentioned inadequacies, that the clauses of an international Convention are inserted directly in the country's internal legislation and automatically receive "full and entire application" as soon as the Convention is ratified. The Committee feels bound to point out that article 19, paragraph 5 (*d*), of the Constitution of the I.L.O. calls upon all member States having ratified a Convention to take "such action as may be necessary to make effective the provisions of such Convention". In the present case, additional measures would appear necessary to make the provisions of the Convention effective, and particularly to avoid any confusion or uncertainty as to the exact situation under law and to make the provisions of the Convention fully known to all persons concerned. The Committee has in fact noted a decision of the Court of Appeal of Milan on 27 July 1955 (*Mass. Giur. Lav.* 1955, 184), according to which sickness occurring during the holiday does not, contrary to the Convention, suspend the duration of the holiday, although the Government had stated in its report that such a practice would be inadmissible.

In the circumstances, it seems unlikely that all persons interested (magistrates, workers, employers, inspectors, etc.) are fully informed of the provisions of the Convention and that the latter can be effectively applied solely through the principle of incorporation of international Conventions ratified in the national legislation.

Consequently, the Committee must repeat its previous observations and draw the Government's attention, as it had already done in 1957, to the necessity of adopting legislation ensuring the application of the minimum requirements of the Convention, in so far as they may not be already clearly implemented by existing provisions of the legislation or collective agreements, it being understood that higher standards may be fixed by collective agreements.

*Mexico* (ratification: 1938). The Committee has taken note with interest of the assurance given by the Government, in answer to the request made in 1960, that it will ensure that wide publicity is given to the Court decision condemning the practice of deducting days of absence from work because of illness from the annual holiday, which runs counter to section 82 of the Federal Labour Law and Article 2 of the Convention.

The Committee has also noted with satisfaction that under sections 85 and 86 of the Federal Labour Law and according to the practice of the Supreme Court of Justice, holiday pay must include the cash equivalent of all remuneration in kind (Article 3 of the Convention).

*Morocco* (ratification: 1956). The Committee thanks the Government for the information supplied in reply to a request made in 1961. It notes with satisfaction that the Dahir dated 26 December 1959 to amend section 10 of the Dahir of 9 January 1946 renders void any agreement to forgo an annual holiday with pay, in accordance with Article 4 of the Convention.

*Ukraine* (ratification: 1956). The Committee notes with regret that the report of the Government gives no information on the points raised in the observations made in 1959, 1960 and 1961. It is therefore compelled to repeat those observations, which were as follows:

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

The Committee trusts that the Government will do everything in its power to take measures without further delay, with a view to eliminating from the legislation the above-mentioned discrepancy.

*U.S.S.R.* (ratification: 1956). The Government not having supplied any information concerning the observation made in 1960, the Committee can only repeat its observation, which was as follows:

In reply to the observation made in 1959 regarding the replacement of holidays by compensation in cash (which is contrary to the Convention), the Government refers to section 4 of the Labour Code which provides that any agreement which is less favourable than the provisions of the Code shall be null and void. The Committee points out that it is the Code itself which authorises compensation to be paid to workers when the undertaking does not grant ordinary leave (sections 91 and 116) and that consequently, section 4 of the Labour Code would not appear to be applicable in this case. The Committee also notes the Government's statement that under the Regulations of 30 April 1930 holidays may be replaced by compensation only in exceptional cases. According to these Regulations holidays may however be replaced by compensation in cash in a number of cases (rules 23 to 27): if the administration refuses to grant leave because the absence of the worker would have an unfavourable effect on the working of the undertaking; if the administration failed to establish the priority in which the leave is to be granted; and if the holiday can no longer be postponed (i.e. if it has been twice postponed). The legislation thus permits a number of exceptions in the granting of annual holidays with pay; however, since the Government states that in practice there are very few cases in which the worker relinquishes his holiday and compensation in cash is given, the Committee hopes that it will have no difficulty in adopting the necessary legislation to ensure that the prescribed minimum annual holiday may not in any case be replaced by compensation in cash.

The Committee trusts that the Government will not fail to take the necessary measures, without delay, to give full effect to the Convention.

*United Arab Republic* (ratification: 1954). In 1958, 1959 and 1960 the Committee had made direct requests to the Government concerning the application of certain provisions of the Convention. No information having been given in reply, the Committee is obliged to repeat its request once more.

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

*Uruguay* (ratification: 1954). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee recalls that it has already drawn the Government's attention in previous years to the discrepancy between the Convention and section 10 of the Act of 17 December 1945, in virtue of which holidays can be replaced by compensation in cash in certain cases. It notes that the Act of 23 December 1958, which modifies the Act of 1945, maintains this exemption. The Committee is therefore bound to point out once again that, under the terms of the Convention, the prescribed minimum annual holiday must be granted in all cases after one year's service and that the right to the minimum holiday may not be relinquished or forgone in any circumstances. It hopes that the Government will take urgent steps to eliminate this continued discrepancy between the national legislation and the Convention.



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

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Burma, Byelorussia, Dominican Republic, Finland, Greece, Hungary, Mexico, Tunisia, Ukraine, U.S.S.R., United Arab Republic, Uruguay, Yugoslavia.*

**Convention No. 53: Officers' Competency Certificates, 1936**

*Liberia* (ratification: 1960). The Committee notes that the Government's report does not reply to the request for information made in 1961, which concerned the following points:

Article 5, paragraph 1, of the Convention. How many agents have been appointed under sections 12 and 13 of the Liberian Maritime Law, in order to ensure, *inter alia*, the "due enforcement" of the Convention "by an efficient system of inspection"? By what methods is the application of the Law and of its Regulations supervised and enforced? Please supply in particular information on the organisation and working of the inspection system.

Article 5, paragraph 2. According to the Convention national laws or regulations should provide for the cases in which the authorities of another country may detain vessels registered in Liberia on account of a breach of the provisions of the Convention. The Committee hopes that statutory provisions of this kind will be adopted in the near future.

Article 5, paragraph 3. Is there any provision whereby the authorities, when they find a breach of the provisions of the Convention on a vessel registered in the territory of another Member which has also ratified the Convention, must communicate with the Consul of the country concerned?

In addition the Committee would be grateful if the Government would forward as soon as possible, in accordance with Part V of the report form, general information on the way in which the Convention is applied, including, for example, extracts from the reports of inspection services, and also, as soon as the available statistics permit, information on the number of competency certificates issued during the year, the number and nature of the infringements reported and the action taken with regard to them.

The Committee trusts that the Government will not fail to give the information requested above.

\* \* \*

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

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

*Morocco* (ratification: 1958). The Committee notes with satisfaction that, following the request of 1961, Dahir No. 1-61-360 of 30 December 1961 has been issued amending sections 189, 190 and 193 of Schedule 1 to the Dahir of 31 March 1919 to establish the Mercantile Shipping Code.

The above-mentioned Dahir eliminates the previous divergencies by restricting the exceptions allowed under Article 1 (2) (a), subparagraphs (ii) and (iii), of the Convention concerning the liability of owners of boats of less than 25 tons gross tonnage (the limit was previously 50 tons) or coast-wise fishing boats; by eliminating the proviso, contained in section 189, that entitlement to medical assistance would begin only when the ship left the port (Article 2 (1) (a) of the Convention); and by establishing that the port to which the seaman is repatriated should be the port where he was engaged or, for foreign seamen, a port in the injured seaman's country

or in the country by whose legislation he was covered at the time of engagement, according to an agreement to be concluded at the time of engagement.

\* \* \*

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

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

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

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

*Belgium* (ratification: 1938). The Committee notes with satisfaction that, following the observations made in previous years, the Act dated 15 June 1961 has raised the minimum age for admission to employment at sea from 14 years to 15 years.

*Uruguay* (ratification: 1954). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

... section 223 of the Children's Code fixes the minimum age for employment in industrial establishments at 14 years of age. No provision is made expressly laying down a minimum age with respect to employment at sea, and section 225 of the Children's Code fixes at 12 years the minimum age at which the Council for Children may authorise work to be done by minors, if they certify that they have attended an elementary course of primary education, and providing that such work is necessary for their maintenance, or that of their parents or brothers and sisters.

However, Article 2 of Convention No. 58 fixes the minimum age for employment on board vessels at 15 years of age, even for work which is not dangerous. Likewise, Article 2 of Convention No. 59 fixes the minimum age for employment in industrial establishments at 15 years of age. Finally, Convention No. 60 fixes the minimum age for entry into non-industrial employment in general at 15 years of age, while permitting children over 13 years of age to carry out light work outside the hours fixed for school attendance, provided that such work is not harmful to their health or prejudicial to their attendance at school.

The Committee can only once again urge the Government to take the necessary measures to give effect to Conventions Nos. 58, 59 and 60, which were ratified in 1954.<sup>1</sup>

\* \* \*

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

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

*Albania* (ratification: 1957). The Committee notes from the Government's first report that under section 9 of the Labour Code a young person who has attained 14 years of age may conclude a contract of employment. Since this provision is incompatible with Article 2 of the Convention, which requires that children under

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

the age of 15 years shall not be employed or work in any industrial undertakings, the Committee hopes that measures will be taken to remove this discrepancy between national legislation and the Convention.

The Committee further notes, as regards Article 4 of the Convention, that under section 8 of the Labour Code the date of birth is entered in the workbook to be provided for all wage and salary earners by the management of the undertaking. As these workbooks do not appear to meet the requirement of the above-mentioned Article 4 that every employer in an industrial undertaking should "keep a register of all persons under the age of eighteen years employed by him, and of the dates of their births", the Committee hopes that the keeping of such registers will be required in future.

*Italy* (ratification: 1952). Having regard to the observations which the Committee has previously made on this question, the Committee notes with satisfaction that Law No. 1325 of 29 November 1961 has raised to 15 years the minimum age for admission to work in accordance with Article 2 of the Convention.

*Uruguay* (ratification: 1954). See under Convention No. 58.

\* \* \*

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

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

*Italy* (ratification: 1952). See under Convention No. 59.

*New Zealand* (ratification: 1947). Further to its previous observations, the Committee notes that the Government has denounced this Convention and that it will consider the question of becoming a party to the Convention at a later date if it is able at that stage to bring its legislation to the appropriate standard.

*Uruguay* (ratification: 1954). See under Convention No. 58.

\* \* \*

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

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

*France* (ratification: 1950). The Committee takes note with interest of the progress made by the Tripartite Subcommittee of the Industrial Safety Committee with a view to adopting measures to give effect to certain provisions of the Convention which are not yet applied by the national regulations.

It also notes with satisfaction that Article 7, paragraphs 3 (c), 7 and 8, of the Convention appear to be applied by sections 3, 17, 18 and 19 of the Order of 24 January 1961 and that section 7 of the Decree of 19 July 1958, which defines work considered dangerous for women and children, gives effect to the provisions of Article 13, paragraph 2, of the Convention.

The Committee hopes that the measures contemplated by the above-mentioned Tripartite Subcommittee to bring the national legislation into full conformity with the Convention will be introduced shortly and that, moreover, paragraphs 1, 2 and 6

of Article 7 of the Convention, concerning which the Government has not made any answer, will also be taken into consideration.

*Uruguay* (ratification: 1954). The Government having again omitted to supply the report on the application of the Convention the Committee is obliged to repeat its observation made in 1960, which was as follows:

The Committee notes that a decree was issued on 17 February 1959 which contains new provisions regarding the thickness of ropes to be used on scaffolding; it finds however that this new measure does not affect the points on which discrepancies between the national legislation and the provisions of the Convention were noted in previous years. In this connection the Committee recalls that the Government stated in its report for 1956-57 that new legislation, which was on the point of completion, would ensure the application of Articles 3 (a); 10 (2); 11 (1) and (2); 12 (1) and (2); 14 (1), (3) and (4), and 15 (2) and (3) of the Convention.

The Committee deplores the fact that conformity between the national legislation and the Convention has still not been achieved this year. It urges the Government once again to do everything possible to hasten the adoption of laws or regulations giving effect to all the prescriptions of the Convention.<sup>1</sup>

\* \* \*

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

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

*Cuba* (ratification: 1954). The Committee has taken note of the promulgation of an Act, No. 907 dated 31 December 1960, to establish a Directorate of Statistics in the Ministry of Labour and an Act, No. 761 dated 18 March 1960, respecting a census of workers. It notes that these two new legislative instruments provide for the compilation of statistics on wages and hours of work.

As this new legislation is now in force, the Committee trusts that, as indicated in the report, the Government will take the necessary measures to compile and publish as soon as possible the statistics provided for in the Convention.

*Czechoslovakia* (ratification: 1950). The Committee has noted with interest, from the detailed information given in answer to the observation made in 1960, that statistics of hours actually worked include workers in building and construction. It hopes that measures can be taken to ensure that these statistics give separate figures for each of the principal industries, as required by Article 5, paragraph 3, of the Convention.

Furthermore, the Committee must urge the Government once again to compile statistics of time rates of wages and of normal hours of work in mining and manufacturing in accordance with Part III of the Convention.

*France* (ratification: 1951). The Committee has noted that the reply of the Government to the observations made in 1960 shows no progress as regards the extension of statistics on time rates of wages to other industries than the mining and metallurgical industries, in accordance with Article 13 of the Convention. Since the observations on this subject have been made since 1954, the Committee must draw the Government's attention yet again to the need for adopting measures in the near future to give effect to Article 15, paragraph 1, of the Convention, which provides,

<sup>1</sup> The Government is requested to provide full particulars to the Conference at its 46th Session and to supply a detailed report covering the period 1961-62.

*inter alia*, that separate figures shall be given, at intervals of not more than three years, for the principal occupations in a wide and representative selection of the different industries.

*Mexico* (ratification: 1942). The Committee, having examined the information contained in the report in answer to its observation and direct request of 1960, draws the attention of the Government to the following points:

Part II of the Convention. The Government indicates that plans have been established with a view to compiling accurate statistics of average earnings. Since such statistics would seem to have been published for the last time in 1957 (*Anuario estadístico de México, 1957*), the Committee hopes that the plans announced by the Government will soon be implemented so as to give effect to the provisions of Part II of the Convention.

The Committee hopes in particular that the statistics of average earnings will include workers employed in building and construction as provided for under Article 5 paragraph 1, of the Convention, and that the statistics of hours actually worked will be published for *wage earners employed* in each of the principal industries.

Finally, the Committee is obliged to draw attention again to Article 10, paragraph 2, of the Convention, concerning the publication of separate statistics for both sexes and for adults and juveniles at least once every three years, bearing on average earnings and, as far as possible, hours actually worked.

Part III. The report contains no indication with regard to statistics of time rates of wages and normal hours of work.

Part IV. The report contains no new information concerning statistics of wages and hours of work in agriculture.

In these circumstances, the Committee must again insist that statistics be drawn up and published in the manner provided for in the Convention, which was ratified 20 years ago.

*Sweden* (ratification: 1939). The Committee has noted that, according to the report of the Government, draft legislation concerning the compilation of annual statistics in the building and construction industry has been sent to the Swedish Association of General Contractors and House Builders with a request for its opinion. The reply of this Association was expected for the month of October 1961.

Since the Committee's observations on this point date back to 1950, the Committee urges the Government to take the necessary steps to ensure the compilation and publication of the statistics in question.

*Uruguay* (ratification: 1954). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes that, while index numbers showing the movement of earnings between 1952 and 1957 have been published, on the basis of figures supplied by the Central Family Allowances Fund, the Government states that the available data do not make possible the compilation of statistics of average earnings, in accordance with Part II of the Convention. Nor is effect given to the requirements of Part II regarding statistics of hours actually worked, to Part III, or to Part IV.

The Committee urges that measures be taken at a very early date to give effect to the Convention.

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

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Austria, Ceylon, Chile, Czechoslovakia, Finland, United Arab Republic, Uruguay.*

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

*Republic of Congo (Leopoldville).* The Committee takes note with interest of the Government's report. Since this report arrived very late and makes reference to new legislation of a highly complex character, the Committee has considered it necessary to defer examination until its next session. Nevertheless, it thinks it useful to draw the Government's attention to the complexity of the new legislation, which will certainly render its application very difficult. It would indeed be desirable that workers should easily be able to know and understand the extent of their rights, particularly in the case of rules relating to contracts of employment.

**Convention No. 67: Hours of Work and Rest Periods (Road Transport), 1939**

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

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

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

**Convention No. 69: Certification of Ships' Cooks, 1946**

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

**Convention No. 73: Medical Examination (Seafarers), 1946**

*Argentina* (ratification: 1955). The Committee regrets to note that the Government has failed to reply to the urgent requests made by the Committee in 1958, 1959 and 1960. The Committee can only insist once more that the Government will not fail to provide the information again asked for in the request addressed to it directly.<sup>1</sup>

*France* (ratification: 1948). Further to its direct request of 1959 the Committee notes with satisfaction that under Decree No. 60-865 of 6 August 1960 the medical certificate remains in force for one year for persons over 18 years of age and six months for persons below that age, in full conformity with Article 5 of the Convention.

*Italy* (ratification: 1952). The Committee notes with interest that the Bill designed to bring national legislation into conformity with the provisions of Articles 4 and 5 of the Convention has been submitted to the Senate. It trusts that this Bill will soon be enacted.

---

<sup>1</sup> The Government is asked to furnish a detailed report for the 1961-62 period.

*Uruguay* (ratification: 1954). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound therefore, to repeat its observation of 1959, which was as follows:

The Committee notes with regret that no information whatever is supplied in reply to its observation of 1958. As the Government had already indicated in its first report (for 1955-56) that it was taking steps to give effect to this and other Conventions ratified in 1954 and as no such steps appear to have been taken thus far, the Committee urges the Government to do so without further delay.<sup>1</sup>

\* \* \*

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

**Convention No. 74: Certification of Able Seamen, 1946**

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

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

*France* (ratification: 1951). Referring to its observation of 1960 and noting that the report does not contain the information requested, the Committee would be grateful if the Government would indicate what progress has been made in adopting the decrees, on the organisation and working of medical services in mining undertakings, provided for in the Ordinance of 6 January 1959 concerning industrial medicine in mines and quarries.

*Hungary* (ratification: 1956). The Committee takes note with interest of the statement in the report, in reply to the direct request of 1961, that the Government is examining the measures to be taken to bring national legislation into harmony with the provisions of the Convention as regards medical re-examination (Article 3, paragraph 3, of the Convention) and the methods of supervision (Article 7).

The Committee expresses the hope that these measures will be adopted at an early date.

*Israel* (ratification: 1953). The Committee notes with interest from the reply to the Committee's direct request made in 1960 that Regulations to specify the occupations in which examinations shall be required until at least the age of 21 years (Article 4, paragraph 2, of the Convention) will be made in the course of 1962.

The Committee trusts that these Regulations to which the Government referred already in its report for 1955-56, will be adopted without further delay.

*Italy* (ratification: 1952). The Committee notes with interest from the information supplied in the Conference Committee in 1960, as well as in the report, that new measures are being taken to bring the national legislation into conformity with the Convention.

As these amendments have been under consideration since 1955, and as they relate to basic provisions of the Convention, the Committee trusts that they will be adopted in the very near future.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Argentina, Byelorussia, France, Guatemala, Haiti, Iraq, Poland, U.S.S.R., Uruguay*.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

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

*France* (ratification: 1951). The Committee notes from the reply to the observation of 1960 that draft legislation and other measures to ensure the medical protection of young persons employed in domestic service or working on their own account are under consideration. The Committee trusts that these measures will be adopted shortly, particularly as the Government had stated already in 1958 in the Conference that such legislation was contemplated.

As regards measures of identification of children and young persons engaged on account of their parents in itinerant trading or in any other occupation in public places, the Government refers to sections 88 to 90 of Book II of the Labour Code, under which the employers of children must keep a register mentioning the name, date of birth and domicile of these children. However, as the Committee pointed out in 1960, these requirements cannot be considered a substitute for the measures of identification of these children called for by Article 7, paragraph 2 (a), of the Convention. The Committee hopes that steps to this end will also be taken in the near future.

*Guatemala* (ratification: 1952). The Committee notes that no legislative provisions have been adopted to give effect to Article 1, paragraph 1 (application of the Convention to young persons working on their own account or on account of their parents), and to Article 7, paragraph 2 (a), of the Convention (measures of identification of such young workers engaged in itinerant trading or in any other occupation in public places).

The Committee hopes that the necessary measures will be taken in the near future to fill the gaps regarding a Convention ratified ten years ago, on these points.

*Israel* (ratification: 1953). The Government has stated in its report, in reply to the Committee's direct request, that regulations as contemplated by Article 4, paragraph 2, of the Convention will probably be issued during this year. The Committee expresses the hope that regulations providing for the medical examination and re-examination of young persons until at least the age of 21 years in occupations involving high health risks will be adopted without further delay.

*Italy* (ratification: 1952). See under Convention No. 77.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Albania, Argentina, Bulgaria, Byelorussia, Cuba, Guatemala, Haiti, Hungary, Israel, Poland, Ukraine, U.S.S.R., Uruguay.*

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

*Argentina* (ratification: 1955). The Committee regrets to note that, although the Government had promised the Conference Committee in 1960 that draft legislation would be adopted with a view to bringing national legislation into conformity with the Convention, the Government's latest report still fails to indicate any progress achieved in this respect. The Committee is therefore bound to point out once again that section 6 of the Employment of Women and Young Persons Act (No. 11317) of 30 September 1924 fixes a period of night rest for young persons under the age of 18 years of only ten hours in summer and 11 hours in winter, whereas the Convention requires the prohibition of night work to cover a period of at least 14 consecutive



hours in the case of children under 14 years of age (Article 2) and at least of 12 consecutive hours in the case of children between 14 and 18 years of age (Article 3). The Committee urges the Government to amend its legislation to give full effect to the provisions of the Convention on this point.

The Committee also notes with regret that, despite the request sent to the Government in 1958 and repeated in 1959, the Government has not yet indicated what arrangements have been made for the granting of individual licences in the case of the employment in a public entertainment at night of young persons under 18 years of age. The Committee trusts that in preparing the draft legislation which is to ensure conformity with the provisions of the Convention provision will also be made for the establishment of a system of licences in such cases, as required by Article 5 of the Convention.

*Bulgaria* (ratification: 1949). The Committee notes from the Government's reply to the observation of 1960 that according to a circular issued on 26 May 1959 by the Directorate for the Protection of Labour the nightly rest of young persons under 18 years of age shall include a period between 10 p.m. and 6 a.m. However, as the Committee has pointed out, under section 5 of the Ordinance of 5 March 1959 young persons may start work in summer at 5 a.m., whereas under Article 3, paragraph 1, of the Convention, they may in no case start work before 6 a.m. The Committee hopes that the Government will find it possible to amend the said ordinance in order to bring it into conformity with the provisions of the Convention.

*Cuba* (ratification: 1954). The Committee notes with regret that resolution No. 143 of 22 May 1959 authorising the employment at night of young persons between 14 and 18 years of age as messengers, commissionaires, etc., in restaurants, clubs, hotels, cabarets, etc., is contrary to the Convention. The Committee hopes that the legislation will again be brought into full conformity with Article 3, paragraph 1, of the Convention, which provides that young persons shall not be employed or work at night in non-industrial occupations.

*Guatemala* (ratification: 1952). Further to its previous observation and requests, the Committee notes with satisfaction that the Decree of 5 May 1961 has amended section 161 of the Labour Code by defining "night work" as work carried out between 6 p.m. and 6 a.m. (i.e. a period of 12 hours), thus bringing the national legislation into conformity with the provisions of Article 3 of the Convention.

*Israel* (ratification: 1953). The Committee notes from the report that due to the re-election of Parliament the necessary steps to amend section 25 (a) of the Youth Work Act will be taken in 1962. The Committee trusts that it will be possible in this way, as pointed out since 1956, to bring national legislation into conformity with Article 3, paragraph 2, of the Convention, which provides that the extension of work of children and young persons of 14 to 18 years up to 11 o'clock at night can be authorised in certain exceptional circumstances only.

*Italy* (ratification: 1952). See under Convention No. 77.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Bulgaria, Byelorussia, Cuba, Dominican Republic, Guatemala, Luxembourg, Ukraine, U.S.S.R.*

## Convention No. 81: Labour Inspection, 1947

*Argentina* (ratification: 1955). The Committee notes the information supplied in reply to the observation made in 1960.

*Application of the Convention in the Federal Capital.*

The Committee notes that the Government has not replied to the points raised in the observation of 1960 in connection with Articles 7, 13 and 14 of the Convention, which were as follows:

Article 7 of the Convention. It is noted that there exist no formal arrangements for the training of labour inspectors.

Article 13. Under what legislative provisions are labour inspectors empowered to take the steps provided for in this Article?

Article 14. What legislative provisions require industrial accidents and cases of occupational disease to be notified to the labour inspectorate?

In connection with Article 12, the Committee notes the statement of a Government representative to the Conference Committee in 1960 that on the one hand, section 4 of Law No. 8999 authorises inspectors to enter without warning any premises during working hours, and on the other hand, Law No. 11544 authorises them to enter even outside working hours with the assistance of the police. However, the latter does not *expressly* provide for such a possibility and deals only with breaches of the provisions governing working hours, which are the subject of the law. In these circumstances, the Committee would be glad if measures could be taken to bring the federal legislation into full conformity with all the provisions of Article 12 of the Convention.

As regards the annual report on the work of the labour inspection services (Articles 20 and 21 of the Convention), the statistical information supplied by the Government cannot be considered as giving effect to the provisions of these Articles which require that such a report must be *published* within 12 months after the year to which it refers, must be communicated to the Office within three months after publication and must contain all the information called for under paragraphs (a) to (g) of Article 21. The Committee trusts that the Government will not fail to take the necessary measures in this connection to ensure that future reports will reach the Office within the required time.

*Application of the Convention in the Provinces.*

The Committee thanks the Government for communicating the texts of the laws or decrees relative to labour inspection in the various provinces. On examination of these texts, the Committee notes, particularly with regard to Article 12, which may be regarded as a basic Article, that the Convention is not or is only partially applied. It is, moreover, impossible for the Committee to appreciate the degree of application of the Convention solely by examination of these texts and in the absence of information supplied under each separate Article as requested in the form of report approved by the Governing Body.

As the very summary information so far received from the Government confirms the Committee's impression that, both in the federal capital and in the provinces, the Convention receives only a very limited application, the Committee urges the Government—(1) to re-examine the whole situation; (2) to ensure that the necessary measures will be taken to give full effect, throughout the territory, to this important Convention, which was ratified seven years ago; (3) to provide complete and detailed information in its next report on the progress made concerning the different provisions of the Convention.

*Austria* (ratification: 1949). The Committee has noted with interest the statement in the Government's report concerning the points raised by the Austrian Congress of Chambers of Labour with regard to the application of the Convention in the mining and transport industries. Whereas the Congress maintains that the effective application of the labour laws could only be ensured by centralisation of labour inspection activities in a single department, the Mines Administration considers that such centralisation would be undesirable, because of the need for special experience and knowledge on the part of the inspection staff in the mining and transport industries.

In this connection, the Committee refers to Article 4, paragraph 1, of the Convention, according to which "so far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority". While this wording leaves the degree of centralisation to be decided by the Government, it would nevertheless appear desirable to promote effective co-operation between the various inspection services, as provided for under Article 5 (a) of the Convention. The Committee would therefore be grateful if the Government would supply information in future reports regarding developments in this field, particularly with respect to effective co-operation between the various inspection services.

*Belgium* (ratification: 1957). The Committee notes with interest that a Bill respecting labour inspection is under consideration by Parliament. Since this text relates to basic provisions of the Convention such as Articles 12, 13 and 15, the Committee hopes that the Bill will soon be adopted.

*Bulgaria* (ratification: 1949). The Committee has taken note of the Government's reply to its direct request made in 1961 according to which the labour inspectors of the trade unions enjoy by virtue of the Labour Code, the Penal Code and other texts, the same protection and rights as the public supervisory organs of Bulgaria (Article 6 of the Convention).

*Ceylon* (ratification: 1956). The Government's report for 1959-61 does not indicate, in reply to the observation of 1960, whether any action has yet been taken to require labour officers to treat the source of any complaint as absolutely confidential (Article 15 (c) of the Convention). The Committee hopes that measures to give effect to this requirement of the Convention will be adopted at an early date.

The Committee also notes that the section of the Administration Report of the Commissioner of Labour for 1960, dealing with Occupational Health and Research, does not include statistics of occupational diseases as required by Article 21 (g) of the Convention. It trusts that these statistics will be incorporated in the next Administration Report.

*Dominican Republic* (ratification: 1953). The Committee notes with regret from the Government's reply to its direct request made in 1960 that the draft regulations on industrial safety and hygiene are still under consideration. Since this instrument is to give effect, *inter alia*, to Article 13, paragraph 2, of the Convention (authority of inspectors to order measures to protect the health and safety of workers), the Committee would be grateful if the Government would take the necessary measures to adopt these regulations soon.

Moreover, the most recent copy supplied of the report published by the Secretary of State for Labour covers the year 1958. The Committee reminds the Government of the obligation to publish an annual general report on the work of the inspection service, containing all the information listed in paragraphs (a) to (g) of Article 21 of the Convention, within 12 months of the end of the year to which it refers. The

Committee trusts that the reports for the period following 1958 will soon be published and will be communicated in due time to the International Labour Office (Article 20).

*Federal Republic of Germany* (ratification: 1955). The Committee thanks the Government for its reply to the direct request made in 1960 from which it notes with satisfaction that effect is now given to Part II of the Convention by the amendment to section 139 (g) of the Industrial Code, which provides for the transfer of the labour inspection in all commercial undertakings to the industrial inspection authorities.

*Greece* (ratification: 1955). The Committee has noted the replies of the Government to its observation made in 1960, particularly the terms of Decree No. 868 of 1960 regarding the organisation of the Ministry of Labour. It draws the attention of the Government to the following points:

Articles 12 and 13 of the Convention. Contrary to the indications given by the Government to the Conference, the new provisions of the above-mentioned decree (particularly section 28) do not give effect to the provisions of the Convention relating to the powers of labour inspectors defined in Articles 12 and 13.

Article 14. There is no new provision making it compulsory to notify the *labour inspectorate* of cases of occupational disease.

Articles 20 and 21. No measure would appear to have been taken to ensure the publication by the labour inspection authority of an annual report of a general nature (which is also prescribed under section 7 of Legislative Decree No. 2954 of 1954) containing the information required by virtue of Article 21 of the Convention.

Since the above points have been raised by the Committee several times, the Committee trusts that the Government will take the necessary measures to bring the national legislation and practice into conformity with the Convention.<sup>1</sup>

*Guatemala* (ratification: 1952). While it notes with interest that section 281, paragraph (f), of the new Labour Code gives effect to Article 12, paragraph 1 (c) (iv), of the Convention, the Committee regrets that the Government's replies to observations made in previous years leave the following points unanswered:

Article 12, paragraph 1 (c) (i) and (ii), of the Convention. It would not appear that the new Code empowers inspectors (1) to interrogate *alone* or in the presence of witnesses the employer or the staff of the undertaking; (2) to copy or make extracts from the books or registers consulted during the inspection visit.

Article 14. There is no provision making it *compulsory* to notify the *labour inspectorate* of cases of occupational disease, as called for in the various observations made since 1957.

Articles 20 and 21. The Government has not as yet taken any action to ensure the publication of an annual general report on the activities of the inspection services and containing the information required under Article 21 of the Convention.

The Committee urges the Government to take the necessary measures to bring the national legislation into conformity with this important Convention.

*Haiti* (ratification: 1952). The Committee has taken note with interest of the labour inspection report supplied by the Government for the period 1959-60. It also thanks the Government for the information supplied in reply to its request of 1960. It has noted in particular that labour inspectors will be gradually freed of the additional duties devolving upon them at the present time, as and when this becomes possible. It has also observed with satisfaction that section 496 of the Labour Code

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

of 6 October 1961 authorises labour inspectors to take and remove samples of materials and substances used or handled, which brings the national legislation into conformity with Article 12, paragraph 1 (a) (iv), of the Convention.

However, the Committee notes with regret that, in spite of the many observations made in this connection, the new Labour Code does not contain any provision making it compulsory to notify the labour inspectorate of industrial accidents and cases of occupational disease (Article 14 of the Convention). It requests the Government to be so good as to take the necessary measures to bring the legislation into conformity with the Convention on this point.

*India* (ratification: 1949).

Articles 20 and 21 of the Convention. The Committee notes that the annual report on the working of the Factories Act has not been transmitted to the International Labour Office and that the report on the working of the Minimum Wages Act in 1959 contains only the information required under paragraphs (b) and (d) of Article 21. The Committee trusts that the Government will be able in future to give effect to the requirements of the Convention concerning the date of publication and the content of annual inspection reports.

*Iraq* (ratification: 1951). The Committee notes with satisfaction that effect has been given to Part II of the Convention, the obligations of which Iraq accepted in 1960, by the promulgation of Law No. 63 of 1960, which extends the field of labour inspection to cover not only industrial but also commercial undertakings.

The Committee notes with regret, however, that the Government has not yet found it possible to publish an annual general report on the work of the labour inspection services. Recalling that the Convention was ratified as long ago as 1951, the Committee trusts that such a document will be published without further delay and that a copy will be forwarded to the International Labour Office (Articles 20 and 21 of the Convention).

*Israel* (ratification: 1955). The Committee notes with interest from the Government's reply to the direct request made in 1960 that the report on the work of the labour inspection services, required under Article 20 of the Convention, is now ready for publication, and that a copy will be sent immediately after publication.

*Italy* (ratification: 1952). The Committee noted with interest from the detailed reply of the Government to the requests made in 1959 and 1960 that the annual report on the activities of the labour inspectorate in 1959 was published in 1960.

*Japan* (ratification: 1953). The Committee notes with satisfaction from the reply to the direct request made in 1960 that the Annual Labor Standards Inspection Reports submitted for the years 1958 and 1959 contain the statistics enumerated in Article 21 of the Convention.

*Morocco* (ratification: 1958). The Committee thanks the Government for having sent the text of the dahir adopted on 16 January 1962 in order to give effect to a request made in 1961. It has noted with satisfaction that the dahir complies in full with the provisions of Article 12 of the Convention.

*Pakistan* (ratification: 1953). The Committee has taken note of the Government's reply to its observation of 1961, according to which the question of giving effect in practice to the requirements of Article 21 of the Convention concerning the publication of annual reports on the work of the inspection services is at present under consideration. It hopes that the necessary measures will be taken so that this publication can be issued in the near future and that copies will be sent to the Office in due time.

The Committee further notes that the Government does not mention any progress with respect to the adoption of the new legislation which was to amend the Mines Act, 1923, and the Factories Act, 1934, to bring them into conformity with the provisions of the Convention. It trusts that this legislation (which has been under consideration since 1956) will be enacted without delay and that the Government will not fail to provide the text of the new provisions.<sup>1</sup>

*Turkey* (ratification: 1951). The Committee thanks the Government for communicating the detailed reports on the activities of the labour inspectorate for 1957 and 1958. It reminds the Government, however, that these reports should be published within 12 months of the end of the year to which they refer; it hopes that future reports will reach the Office within the required period and will contain the statistics of violations and of penalties imposed required under Article 21 (e) of the Convention.

*United Arab Republic* (ratification: 1956). The Committee notes with regret that the Government's report supplies none of the information requested by the Committee in 1959 and again in 1960. It finds, however, that the Labour Code of 1959 would appear to give effect to some of the points raised, although this is not indicated in the report. In these circumstances the Committee is addressing a further direct request for information on the application of certain of the Articles of the Convention to the Government. The Committee trusts that the Government will not fail to supply full information on all the matters raised, in its next report.

*Yugoslavia* (ratification: 1955). Following its direct request of 1960, the Committee has noted that the last report of the labour inspectorate, published in 1961 and sent to the International Labour Office, refers to the year 1957. The Committee hopes that the Government will take the necessary measures to ensure that in future the reports on the activities of the inspection service are published and sent to the Office within the time limits prescribed in Article 20 of the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium, Brazil, Bulgaria, Cuba, Cyprus, Denmark, Federal Republic of Germany, Ghana, Greece, Guatemala, Guinea, Haiti, Iraq, Ireland, Italy, Morocco, New Zealand, Nigeria, Sierra Leone, Tanganyika, Tunisia, Turkey, United Arab Republic.*

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

*Central African Republic.* In 1961, noting that the Government had supplied no report, the Committee asked it to supply the report in time for the 1962 Session. The Committee notes with regret that the Government has failed to do so. In these circumstances, recalling that the Government undertook, upon its admission to the I.L.O., to continue to apply the provisions of this Convention until it could proceed to ratify the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Committee must again insist that the Government submit a detailed report for the 1960-62 period, indicating what effect is given to the Convention.<sup>2</sup>

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the period 1961-62.

<sup>2</sup> The Government is requested to furnish a detailed report for the period 1960-62.

\* \* \*

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

**Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947**

Requests regarding certain points are being addressed directly to the following States: *Central African Republic, Gabon, Ivory Coast, Niger, Senegal, Upper Volta*.

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

One member of the Committee, Mr. Gubinski, stated that he insisted on the fact that, as last year, he could not associate himself with the Committee's observations regarding the application of the Freedom of Association Conventions in socialist countries (Byelorussia, Hungary, Poland, Ukraine and the U.S.S.R.) since, in his opinion, account should be taken of the economic and social system existing in these countries.

The Committee considered that, in compliance with its terms of reference, while noting the various political, economic and social conditions in different countries, it is not called upon to express any view concerning the systems of different countries but simply to examine, from a purely legal point of view, to what extent the countries which have ratified Conventions give effect in their legislation and practice to the obligations which derive therefrom.

\* \* \*

*Burma* (ratification: 1955). The Committee has taken note of the information given in the report in reply to the requests which it addressed to the Government in 1961. It has also taken note of the different questions which were referred to it by the Governing Body of the I.L.O. on the recommendation of its Committee on Freedom of Association.

1. The Committee has noted with interest that the Government is studying the amendment of section 4 of the Trade Unions Act, as amended, which is not in harmony with the Convention. As the Committee pointed out in a request addressed directly to the Government in 1961, this section, which provides that a trade union may not be registered unless it has as members more than 50 per cent. of the total number of employees in the undertaking or establishment concerned, is not in conformity with Article 2 of the Convention, which provides that workers shall have the right "to establish . . . organisations of their own choosing without previous authorisation". The provisions of section 4 of the Act place a major obstacle in the way of the establishment of trade unions capable of "furthering and defending the interests" of their members and, furthermore, have the indirect result of prohibiting the establishment of a new trade union whenever a trade union already exists in the undertaking or establishment concerned.

2. The Committee hopes that, when this revision of the Act is being undertaken, the Government will not fail to amend sections 6 (*h*) and 22 of the Act, which are not in harmony with the Convention, as the Committee pointed out in 1961 in a direct request which was, in substance, as follows:

A. Under section 6 (*h*) of the Trade Unions Act, as amended in 1959, any official of a trade union who is an executive member of any political party must

cease to be an official of the trade union. This provision appears not to be in conformity with Article 3 of the Convention, under which workers' and employers' organisations have the right "to elect their representatives in full freedom" and the public authorities must refrain "from any interference which would restrict this right".

B. Section 22 of the Trade Unions Act, as amended in 1959, provides that all the officers of every registered trade union shall be employees of the undertaking or establishment for which the trade union is formed. This provision, which has the effect of prohibiting the election as trade union leaders of persons not working in the undertaking or establishment concerned, is also not in conformity with Article 3 of the Convention, which provides for the right of organisations "to elect their representatives in full freedom". It is, moreover, liable to facilitate acts of interference.

3. The Committee expresses the hope that the Government will indicate in its next report what progress has been made towards bringing the legislation into harmony with the Convention in these respects.

*Byelorussia* (ratification: 1956). The Committee observes that the Government has not supplied the report requested of it. It regrets this all the more so since the Government merely repeated before the Conference Committee the information already supplied in the 1961 report, adding only that the observation relating to section 152 of the Labour Code was based on a faulty interpretation of the Labour Code. In these circumstances, the Committee points out that whenever any provision appears to be liable to be interpreted in a manner incompatible with the Convention, it must insist on the repeal or amendment of such provision, in order to remove any likelihood of a breach of the Convention; it can only, moreover, repeat its previous observations, which were as follows:

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

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

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

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

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

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

4. Firstly, as regards salaried workers, the Committee pointed out in 1959 and 1960 that—the provisions of articles 152 and 153 of the Labour Code, read together, resulted in a requirement of previous authorisation which is not compatible with Article 2 of the Convention.



5. The Committee also observed that—

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

6. The Committee also noted that—

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

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

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

8. In its report the Government states that—

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

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

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

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

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

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

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

14. The Committee observes that the Government has not made any comment on this matter. It also observes that, when a unified trade union movement in a country results solely from the will of the workers, this situation does not require to be sanctioned by legal texts, the existence of which

might give the impression that the unified trade union movement is merely the result of existing legislation or is kept in force only through such legislation.

15. In 1960 the Committee observed that articles 152 and 153 of the Labour Code might—also be regarded as constituting an “interference” by the State which is incompatible with Article 3 of the Convention, because they result in prohibiting a trade union organisation from drawing up its constitution and rules, organising its administration and activities and formulating its programme “in full freedom”, because every organisation is placed compulsorily under the control of an inter-union organisation.

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

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

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

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

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

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

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

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

The Committee has taken note with interest of the statement contained in the Government's report that the managers of undertakings have the same rights as other citizens with respect to the formation of organisations. The Committee takes this to mean that the directors of socialist undertakings can, and, in fact, do adhere to the same trade unions as do the workers employed in the undertakings which they direct. The Committee would be glad if the Government would indicate in its next report the provisions according to which these directors can form their own organisations.

24. In its report the Government declares that no provisions in the legislation restrict the freedom of association of managers of undertakings. As the Committee understands the position it would seem that, under the legislation in force, if managers of undertakings wished as wage earners to set up their own occupational organisations, they would have to register their organisations with the “Central Council of Trade Unions”. With respect to the associations or “unions” which managers of undertakings might set up outside the trade union movement of salaried workers, they would have

to be established in accordance with the procedures laid down in the federal Decree of 6 January 1930 (see below).

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

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

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

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

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

27. In its report the Government states that—

members of voluntary associations and unions for the furtherance of members' economic and legal interests may and do join the appropriate trade unions. It points out again that the Decree of 6 January 1930 of the U.S.S.R. does not relate to trade unions, or to co-operative organisations such as collective farms (kolkhozes) and adds that "members of collective farms wanting to set up some special organisation for the furtherance of their economic and legal interests would be limited in their activities by this decree.

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

29. It would appear that, even if these provisions did not apply to "trade union organisations" as this expression is used in Byelorussia—that is, according to the report, organisations "grouping wage earners and salaried employees"—and having regard moreover to the fact that the existing legislation does not provide specifically for the creation of such organisations by non-salaried workers, the fact that under the general provisions governing associations the public authorities had the right to control ordinary associations would necessarily enable them to control the establishment of any new organisation "for furthering and defending the interests" of non-salaried workers (Article 10 of the Convention). The Committee notes, moreover, that according to certain official

Soviet legal textbooks, "unions" are distinguishable from ordinary "voluntary associations" precisely because they have the object to protecting and representing the economic and legal interests of their members.<sup>1</sup> The Committee must accordingly once more urge that copies of the legislation in question be provided.

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

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

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

32. In its report the Government states—

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

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

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

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

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

The Committee noted that under article 101 of the Constitution "the Communist Party . . . is the leading core of all organisations of the working people, both public and State. The effect of this provision appears to prohibit members of trade unions and their leaders from belonging to any other political party and also to place all organisations of workers under the direction of

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

this Party. The Committee would be glad to know whether the effects of this provision would therefore make it legally impossible for any group of workers, should they so desire, to establish a trade union independent of the Party.

37. In its report the Government states that—

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

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

*Central African Republic* (ratification: 1961). In 1961 the Committee asked the Government to supply in a report for the 1960-61 period information concerning certain new legislative provisions. It notes that the Government has failed to submit this report and regrets this, all the more so since some of the points raised dealt with a discrepancy between the new legislation and the Convention. In these circumstances the Committee trusts that the Government will be good enough to reply in detail, in a report for the 1960-62 period, to the request which it is forwarding directly to the Government.

*Cuba* (ratification: 1952). The Committee observes with regret that the Government has not furnished the report requested. It has, however, taken note of the information furnished by the Government representative before the Conference Committee in 1961. The Committee has taken note of the repeal of Act No. 696 of 22 January 1960 by Act No. 907 of 31 December 1960. However, section 5 (h) of the new Act contains a provision which is comparable to (although of more limited scope than) that contained in section 7 (j) of Act No. 696, which was the subject of an observation by the Committee (see paragraph 6 below).

The Committee has also been made aware of the adoption of new legislation relating to the right to organise: Act No. 962 of 1 August, 1961 (*Gaceta Oficial*, 3 August 1961).

It has noted with satisfaction that section 4 of this Act provides that "organised workers have the right to elect and to be elected to all posts of management in their trade union organisations . . .".

It has also noted with interest that the new Act has repealed Decree No. 2605 of 1933, section XV of which empowered the Minister of Labour to send a delegate to attend trade union meetings. It expresses the hope that the Government will not fail to repeal specifically the similar provision contained in Decree No. 1683 of 1958 which applied the provisions of Decree No. 2605.

The Committee has to observe, however, that the new legislation contains the following discrepancies in relation to the Convention:

1. Section 17 of Act No. 962 of 1 August 1961 respecting trade union organisations excludes certain workers and employers from the right to establish and join trade unions and is not compatible with Article 2 of the Convention, which accords the right to organise to "workers and employers without distinction whatsoever". This is the case, in particular, with regard to the following exclusions laid down in

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

section 17 of the Act: (a) as regards the workers: "Manual and intellectual workers who are active members of an agricultural or industrial producers' co-operative" (paragraph (f)); (b) as regards employers: "Directors, managers or administrators of undertakings" (paragraph (a)), "masters of vessels" (paragraph (b)); (c) as regards officials and public employees: "Members of the management organs of independent institutions and benevolent institutions" (paragraph (e)), "officials who occupy posts in or are members of organs invested with judicial powers" (paragraph (g)).

2. Section 1 of the Act provides that workers "have the right to establish trade union organisations without previous authorisation". However, Title 3 of Chapter II of the Act, under the head "legal personality of occupational organisations" (sections 34 to 37) provides that trade unions must be registered with the Directorate of Industrial Associations, Collective Agreements and Labour Disputes. Section 36 empowers this body to refuse registration. In the event of refusal, a request for revision by the Minister is the only appeal provided. In view of the fact that, according to section 34, the legal personality without which organisations may not function ensues upon registration, this procedure would appear to result in a requirement of "previous authorisation" for the creation of organisations which is not compatible with Article 2 of the Convention. These provisions are also incompatible with Article 7 of the Convention, according to which the acquisition of legal personality shall not be made subject to conditions of such a character as to restrict the application of the guarantees provided for in the Convention.

3. Section 11 of the Act, which provides that "only one union branch may lawfully be established in each basic labour union", and section 18, according to which "the trade union branch comprises all the workers, whether manual or intellectual, and whatever their occupation, trade or speciality" in the same basic work unit, do not appear to be compatible with Article 2 of the Convention, which provides that workers shall have the right "to establish . . . organisations of their own choosing without previous authorisation".

4. The freedom of choice of the founders and members of occupational organisations is also restricted by the first of the final provisions of the Act, which provides that "all trade union organisations existing at the date of promulgation of this Act shall comply with its provisions". Further, this provision constitutes an intervention "such as to impair . . . the guarantees" provided by the Convention, contrary to Article 8 of the Convention.

5. Section 40 (e) of the Act provides that trade union leaders must "belong to the occupation or branch to which the trade union organisation corresponds". This provision is not fully in harmony with Article 3 of the Convention, according to which trade unions have the right "to elect their representatives in full freedom".

6. Section 5 (h) of Act No. 907 of 31 December 1960 empowers the Minister of Labour to "control the activities of undertakings, employers' associations or occupational associations, appointing Controller-Delegates for this purpose in accordance with the Act, in cases in which valid reasons exist for such measures, in order to maintain production or to ensure to the workers the exercise of their rights". This provision appears difficult to reconcile with Article 3 of the Convention, according to which "workers' and employers' organisations shall have the right . . . to organise their administration and activities", the public authorities being required to "refrain from any interference which would restrict this right or impede the lawful exercise thereof". The Committee would be glad if the Government would define the scope of these powers and state whether the Minister of Labour has made use,

with respect to any employers' or occupational organisations, of the powers conferred upon him by this provision, and in which cases.

7. Section 26 of the Act respecting trade union organisations, which provides that "national trade unions shall be established to correspond to those activities which are approved by the Ministry of Labour in agreement with the Confederation of Cuban Workers", is not compatible with Articles 5 and 6 of the Convention, which provide that "workers' and employers' organisations shall have the right to establish and join federations and confederations", and that the latter shall enjoy the guarantees prescribed in the case of workers' and employers' organisations by Article 2 of the Convention.

8. Section 11 of the same Act respecting trade union organisations authorises the establishment of only one national trade union in each branch of administration or labour, and a single central trade union organisation in the country. This provision is not compatible with Article 6 of the Convention, which refers to Article 2 of the Convention with respect to the establishment of federations and confederations and to affiliation therewith. According to these provisions of the Convention, trade union organisations must be able to establish and join federations or confederations "of their own choosing without previous authorisation".

The Committee expresses the hope that the Government will be able to take appropriate measures to repeal or amend the provisions in question in order to bring its legislation into harmony with the Convention.

*Guatemala* (ratification: 1952). The Committee has noted with satisfaction that Decree No. 1441 of 1961 amending the Labour Code has, firstly, repealed sections 235 to 238 of the Labour Code, which restricted the right to organise of agricultural workers and, secondly, has obviated the possibility of administrative dissolution of trade unions which was prescribed by section 227 of the Code.

The Committee has also noted that new regulations concerning officials and employees in the service of the State or public organisations which recognise the right of organisation of such workers are at present before the Congress. The Committee trusts that this text will enter into force at an early date and that it will be possible for the Government to indicate in its next report that, in accordance with Article 2 of the Convention, these workers enjoy the rights and guarantees prescribed by this text.

The Committee regrets, however, to note that, while the decrees in question have introduced certain exemptions from the principle of prohibition of re-election of trade union leaders, the general rule as to prohibition of re-election laid down in section 222 (a) nevertheless still subsists, although, as the Committee has pointed out for several years, it is not compatible with Article 3, paragraph 1, of the Convention, according to which organisations have the right "to elect their representatives in full freedom".

The Committee has also noted that, according to the report, the supervision which the Government exercises over trade unions pursuant to section 211 (a) and (b) of the Code relates solely to the economic administration of trade unions and takes the form of assistance which they are free to refuse. It would appear that, in these circumstances, the Government would not encounter any difficulty in repealing or amending section 211 (a) and (b), in which the broad terms of the phrases "exercise the strictest possible supervision over industrial associations" and "collaborate with industrial associations with a view to ensuring the best orientation of their activities" appear to be of a nature to permit of interference by the public authority in the administration and functioning of trade unions, contrary to Article 3 of the Convention.

The Committee hopes, therefore, that the Government will indicate in its next report the measures which it intends to take to bring its legislation into harmony with the Convention in these respects.

*Hungary* (ratification: 1957). The Committee has taken note of the information furnished by the Government in its reports and, in particular, of the information given in reply to the requests previously addressed to it directly.

1. The Committee has noted that the legislation in force includes various provisions which are incompatible with the rights and guarantees laid down in the Convention. This is the case, especially, with regard to Legislative Decree No. 18 of 1955, various provisions in the Labour Code and Decree No. 53 of 28 November 1953. It expresses the hope that, having regard to the points set forth below, the Government will be able to indicate the measures which it intends to take to repeal, amend or supplement its national legislation in order to bring it into harmony with the Convention.

2. Legislative Decree No. 18 of 1955 places associations under the tutelage of the administrative authorities. The latter may refuse registration of an association and therefore, prohibit its existence as such on pain of penal sanctions applicable to its members (section 160 (*f*) of the Penal Code), in particular if they consider that the association "does not possess the qualities required" (section 6); the administrative authorities exercise strict control over the activities of associations (section 13 (1)) any of whose decisions they may cancel if they consider them contrary to the interests of the workers (section 13 (2)); finally, they may order the suspension or dissolution of associations (section 13 (2)). All these decisions may be taken by virtue of provisions which leave to the administrative authorities a very extensive discretion in exercising their judgment and subject only to appeals of an administrative nature.

3. It is clear that if the provisions referred to can be applied to organisations of workers or employers as defined in the Convention, that is to say, "any organisation of workers or of employers for furthering and defending the interests of workers or of employers" (Article 10 of the Convention), they are not compatible with the rights and guarantees laid down in the Convention: prohibition of any "previous authorisation" (Article 2); the possibility for workers and employers to set up organisations "of their own choosing" (Article 2); freedom of activity of organisations (Article 3 (1)); non-interference by the administrative authorities (Article 3 (2)); prohibition of dissolution or suspension by the administrative authorities (Article 4), etc.

4. In order to clarify the situation, various requests have been addressed directly to the Government concerning the juridical situation of organisations of workers which might not be affiliated to the Congress of Trade Unions or set up by that central body (the legislation relating to the Congress of Trade Unions is analysed below). It ensues from the replies furnished by the Government (in particular, in its report for the period 1959-60) that, while Legislative Decree No. 18 of 1955 does not apply in principle to "occupational organisations", it is the administrative authorities who legally have the power (even if the question has never in fact arisen) to decide in all sovereignty whether a newly created organisation is or is not a "trade union". In other words, the administrative authorities have, according to law, the right to decide whether an organisation of workers within the meaning of the Convention will be placed under the system of tutelage prescribed by Legislative Decree No. 18 of 1955 and thus to subject this organisation to the administrative procedures and strict supervision provided for in that legislative decree. Such a result is manifestly contrary to the Convention, which prohibits any intervention by the public authorities



in the establishment and functioning of workers' organisations (see paragraph 3 above).

5. The analysis of various other legislative provisions confirms also that the national legislation does not permit of any possibility of workers' organisations within the meaning of the Convention being set up, unless such organisations are created within the "Congress of Trade Unions" or by organs of that central organisation. The result is that, contrary to the Convention, workers do not have the right to set up "organisations of their own choosing" and, in particular, if they so desire, an organisation which is independent of the other organisations.

6. Thus, the only definition of the term "trade union" which exists in the national legislation indicates that this term means the "central directing body of the trade unions" which is elected by the "Congress of Trade Unions" (Labour Code, section 150).

7. It is also necessary to point out that, by entrusting to an organisation specifically named in the law or to its organs (Central Council of Trade Unions) various administrative functions, the Labour Code and Decree No. 53 of 28 November 1953 do not leave any room for the existence of any other organisation which the workers might wish to set up. Thus, the Central Council of Trade Unions is called upon "in co-operation with the ministers" to "give directives concerning the conclusion of collective agreements" and to "approve" collective agreements (Decree No. 53 of 1953, section 2, paragraphs 1 (a) and (b)); to "direct and supervise" the social security of the workers (*ibid.*, section 6 (a) and Legislative Decree No. 36 of 1950). In this connection, the Government indicates that above-mentioned Decree No. 53 "merely reflects" the fact that the trade unions exercise very extensive powers. Nevertheless, as it has already emphasised on many occasions, the Committee must draw attention to the fact that the national legislation of countries in which the Convention is in force must not contain provisions which result in instituting or maintaining by legislative means a trade union monopoly in favour of an organisation designated by name in the law.

8. Finally, the Government declares that according to practice established by long tradition, organisations of non-wage-earning workers are not considered to be "trade unions". The result is that, contrary to the Convention, which applies to all workers "without distinction whatsoever", non-wage-earning workers may not set up organisations on their own account unless they are set up within the terms of Legislative Decree No. 18 of 1955, the provisions of which are incompatible with the Convention, or unless they await the promulgation of legislation to establish an organisation for them, which also is manifestly incompatible with the Convention.

The Committee expresses the hope that the Government will be good enough to indicate at the Conference the measures which it intends to take to ensure the application of the Convention and that it will communicate in its next report the further information which is requested of it in a direct request.

*Mexico* (ratification: 1950). The Committee regrets to observe that, contrary to the assurances which it gave in an earlier report, the Government contests the validity of the observations which the Committee has made for several years. It is obliged, therefore, to emphasise again the discrepancies existing between the legislation relating to officials of the service of the federal authorities and the Convention.

1. The Committee observed that, according to the provisions of sections 49 and 50 of the Statute for Workers in the Service of the Authorities of the Union, no organisation of public officials may be set up and registered when another organisation already exists in the service, and only the registered organisation enjoys legal

personality. The Government declares that these sections prohibit not the creation but the registration of several organisations in the same service. The Committee observes that non-registered organisations, to which section 46 of the Statute would appear to deny even the name of trade unions, are not able "to further and defend the interests" of their members, the registered organisation alone having the right of audience with "the superior authorities and the arbitration tribunal" (section 55, IV). The result is that, contrary to Article 2 of the Convention, workers in the service of the State are deprived by legislation of the right to "establish . . . organisations of their own choosing without previous authorisation".

2. The Committee observed that, under section 48 of the Statute, workers "in positions of confidence" and those who "perform similar duties" are deprived of all right to organise, and that this regulation does not appear to be compatible with Article 2 of the Convention, which provides that workers "without distinction whatsoever, shall have the right to establish and . . . join organisations". Noting that the report seeks to justify the provisions of section 48 by the fact that the interests of the workers therein referred to are the same as those in the service of the State, the Committee draws the attention of the Government to the conclusions which it adopted in 1959 (Part Three of its report) when it pointed out that "nothing authorises the State to decide for itself whether the individuals covered by these Conventions [relating to freedom of association] have or do not have any interest in establishing trade union organisations".

3. According to section 53 of the Statute, re-election of members of the management committee of a trade union is prohibited. As the Committee has already pointed out on several occasions, provisions of this kind are not compatible with Article 3 of the Convention, which provides that "organisations shall have the right . . . to elect their representatives in full freedom".

4. Section 56 of the same Statute prohibits organisations of public officials from adhering to federations or confederations of industrial or agricultural workers. It seems difficult to reconcile this provision with Article 5 of the Convention, which provides that "workers' and employers' organisations shall have the right to establish and join federations and confederations". In this connection, the Committee has taken note of the statement in the report that the right to federate is accorded to organisations of public officials by section 55, IV. This section provides that organisations of public officials may federate among themselves and that only the federation constituted in this way "will be recognised by the State". This last provision, as well as the provision contained in section 56, does not appear to be compatible with Article 6 of the Convention, which refers to Article 2 of the Convention with respect to the establishment of federations and confederations and adherence to these higher organisations. According to these provisions of the Convention, trade union organisations should have the right to establish and join federations or confederations "of their own choosing without previous authorisation".

5. Likewise, by virtue of section 60 of the Statute, the provisions applicable to trade unions of public officials and, in particular, sections 46, 49, 50 and 53, are also applicable to any federation of such trade unions; they are not, however, compatible with Article 6 of the Convention, which provides that Articles 2, 3 and 4 of the Convention "apply to federations and confederations of workers' and employers' organisations".

6. Bearing in mind that legal personality appears to be indispensable for trade unions in Mexico, the fact that the acquisition of legal personality by a trade union organisation of public officials is subject to the rules laid down in the sections of the Statute of the Union, according to which no new organisation can be recognised when

an organisation already exists in the service concerned, does not appear to be compatible with Article 7 of the Convention, which provides that "the acquisition of legal personality by . . . organisations . . . shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4" of the Convention.

7. Finally, the provisions of section 47 of the Statute, which provide that a public official who has joined a trade union must compulsorily remain a member of that trade union (unless he is expelled by the union), taken together with sections 46, 49, 50, 55, IV *in fine* and 60 of the same Statute, according to which only a single trade union organisation can exist in one service and only one federation for the whole of the workers concerned, result in the establishment of a trade union monopoly by legislation. According to the Government, these different provisions correspond to the desire to strengthen the trade union movement by avoiding splits within the movement. As the Committee has already emphasised on several occasions, while the workers may generally find it in their interests to avoid a multiplicity of the number of trade union organisations, the unity of the trade union movement must not be imposed by state intervention through legislative means, such intervention running counter to the rule laid down in the Convention that workers and employers have the right to establish and join organisations "of their own choosing" (Article 2) and must be able to "exercise freely the right to organise" (Article 11).

In these circumstances, the Committee must again urge the Government to take the necessary measures to bring the legislation into harmony with the Convention.

The Committee notes that the observations which it made in 1961 and in which it pointed out in detail that the discrepancies mentioned above were to be found also in the legislation of certain of the constituent states of Mexico have been transmitted to the federated states concerned. It hopes, therefore, that the Government will indicate in its next report the measures which the federated states concerned intend to take in order to bring their legislation relating to the civil service into conformity with the Convention.

*Netherlands* (ratification: 1950). The Committee has taken note of the statement made by the Government representative before the Conference Committee in 1961—to which the report refers—to the effect that the Council of Ministers has decided to recommend amendment of the Act of 22 April 1855. The Committee notes with satisfaction that, by amending the provisions of this Act which allow the Government to refuse to grant legal personality to a trade association for reasons of public interest, the Government will be bringing its legislation into conformity with the Convention. The Committee therefore expresses the hope that the Government will not fail to indicate any progress made towards amending the above-mentioned provisions.

*Niger* (ratification: 1961). The Committee notes that section 1 of Ordinance No. 59-101 of 4 July 1959 empowers the President of the Republic to dissolve by decree any trade union "whose activities seriously disturb the public order and impair the principles of democracy, of the Community and of the Republic". This provision is incompatible with the requirements of Article 4 of the Convention, according to which "workers' and employers' organisations shall not be liable to be dissolved by administrative authority". The Committee would therefore be grateful if the Government would indicate what measures it intends to take to repeal or amend the above-mentioned provision.

*Pakistan* (ratification: 1951). The Committee regrets to note that the draft amendment to the legislation, which has been mentioned since 1958, is still being examined by the Government. The Committee must therefore point out once more

that the existing provisions under which separate associations must be established for each category of officials are not in conformity with Article 2 of the Convention, which states that workers "without distinction whatsoever" must be able "to establish and . . . join organisations of their own choosing" freely. The Committee trusts that the Government will spare no effort so as to be able to indicate at the 46th Session of the Conference that the necessary amendments have been made to the legislation.<sup>1</sup>

*Philippines* (ratification: 1953). The Committee notes with regret that, despite the assurances given by the Government, at the Conference Committee in 1961, the Bill which is to bring national legislation into conformity with the Convention could not be given a second reading by Congress; as a result, the procedure of adoption will have to be taken up again at the next legislative session.

The Committee has carefully studied the evidence supplied by the Government in support of the opinion, expressed in the report, that there exists no discrepancy between the legislation in force and the Convention. The Committee can, however, only maintain the view it has expressed in the course of the preceding years, according to which the legislation is not in conformity with Article 3 (1) of the Convention, which provides that "workers' and employers' organisations shall have the right to elect their representatives in full freedom", or with Article 4 thereof, which states that "workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority".

The Committee therefore notes with satisfaction that the Government states that it is prepared to amend the legislation and expresses the hope that the amendments suggested by the Committee in 1958, 1959 and 1961 can be introduced shortly.<sup>1</sup>

*Poland* (ratification: 1957). The Committee has taken note of the information furnished by the Government before the Conference Committee and in its report.

1. It observes that this information contains no new elements to cause it to amend the observations which it made in preceding years and from which it appeared that the national legislation (sections 5, 6 and 9 of the Trade Unions Act of 1 July 1949) restricts the right accorded to workers by Article 2 of the Convention to establish "organisations of their own choosing without previous authorisation". The Committee, therefore, can only repeat in substance the observations which it made in 1959, 1960 and 1961 with regard to the Act of 1 July 1949.

The Committee notes that, before the Committee of the Conference, the Government stated, as it had already done in 1959, that section 9 of the Act of 1 July 1949 "merely defines the procedure to be followed for the registration of trade unions". In these circumstances, the Committee must once again make the following remarks. Firstly, section 9 of the Act of 1 July 1949 empowers the Central Council of Trade Unions to grant legal personality to trade unions, which must of necessity be registered with it. Secondly, as the Committee has already noted, "the rules followed by the Central Council of Trade Unions with respect to the registration of trade unions have, both in fact and in law, the force of regulations governing the application of the Act of 1 July 1949". These rules are determined by the rules of the "Federation of Trade Unions", which provide, among other things, that "... the trade unions shall be united in the Federation of Polish Trade Unions" (rule 18) and that "membership of the Federation shall be open to trade unions organised in accordance with the principles prescribed in the rules of the Federation. A trade union shall become a member of the Federation on registering its rules, as approved by the National Congress of

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

Delegates, with the Central Council of Trade Unions" (rule 53). The result is that any new trade union which did not wish to adhere to the Federation of Trade Unions would be refused registration and, therefore, legal existence as a trade union. Even if it be admitted that, when registering the trade union, the Central Council of Trade Unions is acting only in its capacity as the supreme executive organ of the Federation of Trade Unions (which, according to section 5, paragraph 1, of the Act, is the sole representative of the trade union movement), it is thus statutorily entitled to act both as a judge and as a party and, therefore, to impose certain rules of substance on the trade union as a *condition precedent* to registration.

The Committee must therefore repeat that the Act of 1 July 1949, by prescribing a formality of a substantial nature which is indispensable to trade unions to enable them to exist as such and "to further and defend the interests" of their members, must be considered to constitute "previous authorisation" within the meaning of Article 2 of the Convention.

As it did in 1959, the Government stated before the Committee of the Conference that "the fact that this authorisation is granted not by the Government but by another body under a delegation of powers protects trade unions against interference by the Government or by employers in trade union affairs".

The Committee observes, however, that the Act of 1 July 1949, by providing in section 5 that "the body centrally representing the trade union movement in Poland shall be the Federation of Trade Unions" and by delegating (section 9) to the Central Council of Trade Unions, which is designated by name as one of the supreme authorities of the Federation (section 6) the power to register every new trade union or to refuse registration, infringes the guarantees prescribed by the Convention, according to which workers shall have the right to establish organisations "of their own choosing" and, especially, if they so desire, a new organisation independent of all other existing organisations (Article 8, paragraph 2, and Article 2).

In this connection, the Committee of the Conference has noted that trade union unity shall not be "imposed or maintained by law, but . . . the result of the freely expressed desire of the workers themselves". In fact, trade union unity, if it results solely from the desire of the workers, has no need to be embodied in legal texts, the existence of which may give the impression that this unity is simply the result of the legislation in force or is maintained only by that legislation.

Moreover, as the Committee has already pointed out, the aforementioned provisions of the Act of 1 July 1949 which place every trade union under the supervision of a trade union federation designated by name and to which it must necessarily adhere may be regarded as constituting an interference by the State which is not compatible with Article 3 of the Convention, because they result in a trade union being prohibited from drawing up its constitution and rules, organising its administration and activities and formulating its programmes "freely".

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

2. With regard to the directors of state undertakings, the Committee made the following comments in 1961:

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

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

3. Before the Committee of the Conference in 1961, the Government representative declared that directors of state undertakings are "free to establish organisations of their own choosing in specialised fields such as culture and promotion of technical science". The Committee assumes that the associations which the directors of undertakings might set up outside the workers' trade union movement would have to obtain the authorisation of the public authorities in accordance with the Associations Act of 27 October 1932, as amended. (See the analysis of this text below.)

4. In 1961, noting that self-employed workers did not appear to be covered either by the Trade Unions Act of 1949 or by the Rules of the Federation of Trade Unions, the Committee, in a request addressed directly to the Government, asked the Government to furnish the texts of the laws or regulations governing organisations which may be set up by such workers to defend their professional interests. In reply, the Government has annexed to its report the rules of various organisations of self-employed workers, and the Act of 17 February 1961 respecting co-operatives.

5. With regard to intellectual workers, the Committee has noted that the rules communicated do not deal with the procedure for acquiring legal personality which according to article 35 of the Civil Code, must be "accorded" to associations. It has appeared to the Committee that in this case the Associations Act of 27 October 1932, as amended, is applicable; this text, moreover, is specifically referred to in one of the sets of rules furnished.

6. In this connection, section 19 of the Act of 1932 provides that legal personality ensues upon registration with the administrative authority, a registration which, according to section 20, may be refused in the public interest or because the "association is not conducive to public welfare", or, again, may be "conditional" upon an amendment of its rules. The application of these provisions to organisations "for furthering and defending the interests" of their members (Article 10 of the Convention) is not compatible with Articles 2 and 3 of the Convention, according to which it must be possible to establish workers' organisations "without previous authorisation" and to adopt "freely" their constitutions and rules and their programmes without "interference" by the public authorities; it is also not compatible with Article 7 of the Convention, according to which the acquisition of legal personality by occupational organisations "shall not be made subject to conditions of such a character as to restrict the application of Articles 2 and 3" thereof. Likewise, the application to organisations "for furthering and defending the interests" of their members of section 24 of the Act (which refers to section 15) and of section 43 (a), which prescribe or establish close supervision of the activities of the association by the registering authority, is incompatible with Article 3, according to which organisations have the right "to organise their administration and activities and to formulate their programmes" without "interference" on the part of the public authorities. Furthermore, section 24 of the Act, referring to section 16, permits the administrative authority to suspend and dissolve an association. The application of this section to organisations "for furthering and defending the interests" of their members is not compatible with Article 4 of the Convention, which provides that occupational organisations "shall not be liable to be dissolved or suspended by administrative authority". In the same way the provisions of section 42 of the Act providing that the rules governing associations shall apply to federations thereof are not compatible with Articles 5 and 6 of the Convention, which accord to federations and confederations the same guarantees as are accorded to primary organisations.

7. With respect to the members of producers' co-operatives, the Committee has taken note of the Act of 1961 respecting co-operatives and of the rules of co-operatives annexed to the report. It has observed that these co-operatives cannot be regarded, either in fact or in law, as organisations of workers within the meaning of Article 10 of the Convention. It has appeared to the Committee that the creation of such an organisation by these workers should take place within the scope of the Associations Act of 1932 (section 9 (g) of this enactment excludes co-operatives from its field of application, but not individual members of such co-operatives). The Committee, therefore, must refer to the comments made above with respect to the Act of 1932.

8. The Committee again expresses the hope that the Government will make every effort to bring its legislation into harmony with the Convention, in order to ensure to all workers and their organisations the rights and guarantees which are accorded to them by this Convention. It trusts, especially, that the Government will take account of the various points raised by the Committee when it is undertaking the amendment of the Associations Act which, according to the report, is to be effected in the near future.<sup>1</sup>

*Rumania* (ratification: 1957). The Committee regrets to note that this year the report once more merely refers to the previous report, and does not reply to the requests for information made by the Committee in 1959 and 1961. The Committee had, however, pointed out in 1961 that, in the absence of the information requested, it was impossible to examine to what extent effect was given to the Convention in Rumania. It must therefore again insist that precise and detailed replies be supplied as regards the application of each of the Articles of the Convention "to workers and employers without distinction whatsoever", and that all relevant legislative texts and regulations (in particular the Act respecting the establishment of trade unions, envisaged in section 96 of the Labour Code) be communicated.<sup>1</sup>

*Ukraine* (ratification: 1956). The Committee regrets that the Government has not supplied the report requested. However, the Committee has considered the statements made by a Government representative before the Conference Committee in 1961.

The Committee has noted the statement made by the Government representative, who considered that the observations made were based on an inaccurate interpretation of his country's legislation. It must be emphasised that whenever a provision seems apt to be interpreted as being incompatible with the Convention, the Committee must urge the abrogation or amendment of that provision in order to eliminate any possibility of infringement of the Convention. The legislation in force in the Ukraine contains many provisions that can or do infringe the rights and safeguards laid down in the Convention concerning freedom of association. This applies in particular to articles 152, 153, 156, 157 and 158 of the Labour Code, the Decrees of 23 June 1933 and 21 August 1934, the Order of 15 May 1935, article 18 of the Civil Code and possibly the legislation issued under the Federal Decree of the U.S.S.R. of 6 January 1930. The Committee has noted, moreover, that the information supplied by the Government representative to the Conference Committee contained no new element that could lead it to modify its conclusions. It has noted, however, that a Labour Bill would abrogate and supersede the above-mentioned articles of the Labour Code. The Committee must therefore once more urge the Government to ensure that when the legislation is amended there will be a review of all the provisions coming within the scope of the Convention, particularly those mentioned above, in the light of the

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

following explanations which relate to the observations previously made by the Committee and to the replies given by the Government to the Conference Committee.

1. The Committee notes that there has been no comment by the Government on the remarks cited below, which it had made in the last two years, particularly in paragraph 1 of the observation of 1961:

In the first place the Committee has observed that the Government refers to the provisions of article 106 of the Constitution of the Ukrainian S.S.R. which, it declares, guarantees to the workers the right to establish trade unions without previous authorisation. It notes, however, that this constitutional provision establishes a right which is exercised according to rules established by law; thus the "social organisations" referred to in the Constitution are set up and function in accordance with certain rules prescribed by law in respect of each of them. It is necessary therefore to consider to what extent the legislation in force guarantees freedom of association as defined by the Convention.

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

2. First, as regards salaried workers, the Committee had pointed out in previous years that the provisions of articles 152 and 153 of the Labour Code, read together, resulted in a requirement of "previous authorisation" which was not compatible with Article 2 of the Convention.

3. As emphasised by the Committee, article 152 of the Code, which provides that a union must be registered with an inter-union organisation, that is to say, as confirmed by the Government in its report for 1961, by the Central Council of Trade Unions, which can refuse registration, constitutes an *indispensable formality* which must be fulfilled in order that a union may *legally* exist as such. In fact article 153 of the Labour Code specifically provides that "no trade union which has not been registered with an inter-union organ, as specified in article 152, can style itself a trade union or claim the rights of a trade union".

4. The Committee had also noted that in fact as well as in law, the Central Council of Trade Unions had not merely the character of the supreme executive trade union organ; it was also an organ endowed with a portion of the state power, in view of the fact that it could, among other things, by virtue of the Decrees of 23 June 1933 and 21 August 1934, issue regulations governing the application of labour legislation.

5. In this connection the Government representative stated before the Conference Committee: "Article 152 of the Labour Code does not provide for prior authorisation; it does not provide for the registration by a state organ but by the inter-trade union organisations. In so acting, the inter-trade union organisations are not acting as a state organ."

6. The Committee notes, however, as it did in previous years, that even if the Central Council of Trade Unions is not a "state organ", certain powers of a public authority have been delegated to it by law; for example, the Decrees of 23 June 1933 and 21 August 1934 empowered it to issue regulations to apply labour legislation.

7. In any case, as already noted by the Committee in previous years, the inter-union organisation is placed in a position in which it is both judge and interested party, since the law delegates to it the power to register trade unions. Thus, even if the government authority does not intervene directly in the grant or refusal to a particular association of the right of legal existence as a trade union, it delegates that power by law to a body which can impose conditions of substance, for example, with regard to the contents of the constitution and rules.



8. Accordingly it does appear that, as already mentioned by the Committee in 1959, 1960 and 1961, articles 152 and 153 of the Labour Code result in a requirement of "previous authorisation" within the meaning of Article 2 of the Convention.

9. As the Committee noted in 1960—

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

10. The Committee had also made the following comments in 1960 and 1961. It notes that neither in its report for 1961 nor before the Conference Committee did the Government supply the information requested.

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

11. With regard to the establishment of organisations of the workers' "own choosing", the Committee had noted in 1960 and 1961 that—

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

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

12. The Committee notes that neither this year nor in 1961 has the Government commented on these points. It observes once more that when a unified trade union movement in a country results solely from the will of the workers, this situation does not require to be sanctioned by legal texts, the existence of which might give the impression that the unified trade union movement is merely the result of existing legislation or is kept in force only through such legislation.

13. In 1960 the Committee observed that articles 152 and 153 of the Labour Code might "be regarded as constituting an interference" by the State, which is incompatible with Article 3 of the Convention. In 1961 the Committee observed (and it notes that the Government has not commented on this point) that—

... under rule 56 of the Rules of the Trade Unions, to which the Government refers in its report, the Central Council of Trade Unions may refuse to register the rules of a trade union if they are not in accordance with the Rules of the Soviet Trade Unions. In view of the fact that such refusal of registration may result, by virtue of article 153 of the Labour Code, in a trade union being prohibited from existing as such ... it would appear that articles 152 and 153 place restrictions on the right of organisations to draw up their constitutions and rules in freedom, to organise their admin-

istration and activities and to formulate their programmes. From this point of view, therefore, articles 152 and 153 of the Labour Code constitute an "interference" on the part of the public authorities, through the medium of legislation, which is incompatible with Articles 3 and 8 of the Convention.

14. The Government has not commented on the Committee's conclusions with regard to the constitution of federations and confederations. These conclusions were as follows:

With respect to the establishment by primary organisations of federations and confederations, the Committee pointed out in 1959 and 1960 that, even in the absence of any specific provisions to that effect, articles 152 and 153 of the Labour Code have the effect of prohibiting the establishment of federations or confederations outside the existing trade union movement.

15. The Government has adduced no new element to cause the Committee to modify its remarks with reference to articles 156, 157 and 158 of the Labour Code, which were as follows:

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

16. The Government has adduced no new element to cause the Committee to modify its remarks with reference to the right of managers of undertakings to organise. Those remarks were as follows:

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

17. With regard to the position of non-wage-earning workers (who are numerous, in view of the membership of producers' co-operatives), the Committee regrets to note that despite its repeated requests the Government has not supplied copies of the legislation that applies, namely articles 281 to 309 of the Administrative Code of the Ukrainian S.S.R. and a Decree of the Central Executive Committee and of the Council of People's Commissars of the Ukraine dated 20 February 1933. The Committee once more urges the Government to forward copies of this legislation. In 1960 and 1961 the Committee had noted that—

... non-salaried workers ... may not set up "trade union organisations" within the meaning of the Labour Code, which does not apply to them. On the other hand, according to the legislation in force, these workers may, subject to certain conditions, set up "unions".... According to the Decree of 6 January 1930 of the Central Executive Committee and Council of People's Commissars, the procedure for the setting-up and dissolution of these unions shall be determined by the laws of each of the Republics of the U.S.S.R.

18. Noting in 1961 the statement in the report that "the organisation and registration of voluntary associations and unions are governed by articles 281 to 309 of the Administrative Code of the Ukrainian S.S.R. and a Decree of the All-Union Central Executive Committee and the Council of People's Commissars of the Ukrainian S.S.R. of 20 February 1933", the Committee had stated that—

... even if these provisions did not apply to "trade union organisations" as this expression is used in the Ukraine—that is, organisations of wage-earning and salaried employees—and having regard, moreover, to the fact that the existing legislation does not provide specifically for the creation of such

organisations by non-salaried workers, the fact that under the general provisions governing associations the public authorities had the right to control ordinary associations would necessarily enable them to control the establishment of any new organisation "for furthering and defending the interests" of non-salaried workers (Article 10 of the Convention). The Committee notes, moreover, that according to certain official Soviet legal textbooks, "unions" are distinguishable from ordinary "voluntary associations" precisely because they have the object of protecting and representing the economic and legal interests of their members.<sup>1</sup> The Committee must accordingly once more urge that copies of the legislation in question be provided.

19. The Government has made no comment on the Committee's observations concerning the legislation on the right to hold meetings. These observations were as follows:

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

20. As regards the right to organise of foreigners, the Committee must state once more, in the absence of any comments by the Government, that while the Rules of the Trade Unions, which previously covered only citizens, have been amended, article 151 of the Labour Code still refers to citizens only. The Committee therefore once more expresses the hope that it will be found possible to amend this article when the Labour Code is revised.

21. In 1961 the Committee had noted with interest the Government's statement that "there is no known case in . . . practice . . . of the application of article 18 of the Civil Code to trade unions". It also notes that in 1961 the Government informed the Conference Committee that "article 18 of the Civil Code did not concern trade unions". The Committee notes, however, that this article, which provides in general terms that "the existence of a legal entity may be terminated by the proper organ of government authority if . . . the activities of the organs of the legal entity (general meeting or management) deviate in a direction contrary to the interests of the State", applies both to associations of non-wage-earning workers and to associations of wage-earning workers which might be formed outside the officially recognised trade unions to promote and defend the interests of their members, since these are civil law associations which do not fall within the scope of the Labour Code. The Committee therefore hopes that measures may be taken without delay to ensure that all organisations "for the promotion and defence of the interests" of their members (Article 10 of the Convention) will no longer fall within the scope of article 18 of the Civil Code.

22. The Committee notes that the Government has not replied to the following questions which it had raised in paragraph 36 of the 1961 observation:

Article 106 of the Constitution of the Ukrainian S.S.R., which relates to the various forms of association, provides that the right of citizens to unite in the different "public organisations" is guaranteed "in conformity with the interests of the working people, and in order to develop the

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

organisational initiative and political activity of the masses of the people". The Committee would be glad if the Government would indicate—(a) which authorities would be competent to decide whether in any given case the right of association has been exercised "in conformity with the interests of the working people"; (b) what legal provisions, whether of general application or not, would be applicable in such a case and what kind of sanction could be applied in the event of the competent authorities being of the opinion that certain individuals or organisations did not act in conformity with the interests of the working people; (c) whether there exist any legal decisions relating to these matters.

23. Nor has the Government supplied the following information, which was requested in 1959, 1960 and 1961:

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

24. The Committee hopes that the Government will take the necessary action in the light of the above comments, without further delay, and will also supply the necessary information.<sup>1</sup>

U.S.S.R. (ratification: 1956). The Government has not, as requested by the Committee last year, supplied a detailed report for the year 1960-61. The Committee has however taken note of the statements made by the Government representative before the Committee of the Conference in 1961 to which reference is made in the brief report supplied by the Government, and of the discussions in that Committee.

The Committee has noted the statement by the Government representative, who considers that the observations made are based on an erroneous interpretation of the national legislation and who referred to a number of documents relating to the trade union situation in the U.S.S.R.

The Committee has observed that none of the documents considered had been prepared for the purpose of assessing whether the national law and practice were in conformity with the ratified Conventions relating to freedom of association and that none of them invalidated the conclusions of the Committee with regard to this matter. This was especially true in the case of the most recent document concerning *The Trade Union Situation in the U.S.S.R.* published after the visit of the I.L.O. mission to that country. It has noted that this report specifically confirms various points to which the Committee had previously drawn attention and, especially, the fact that members of kolkhozes cannot become members of organisations for furthering and defending their interests (Article 10 of the Convention).

The Committee has pointed out in previous years that the legislation of the U.S.S.R. contains a number of provisions which restrict or may restrict the rights provided for in the Convention and infringe the guarantees laid down therein and, in particular, sections 152, 153, 156, 157 and 158 of the Labour Code of the R.S.F.S.R., the Decrees of 23 June 1933 and 21 August 1934, the Decree of 30 July 1932 in the R.S.F.S.R. applying the federal Decree of 6 January 1930, the Order of 15 May 1935 and article 18 of the Civil Code of the R.S.F.S.R. The Committee has also observed that the information furnished by the Government representative to the Conference Committee contains no new elements to cause those conclusions to be modified. It has noted, however, that a draft labour enactment would repeal and replace the sections of the Labour Code referred to above. It is obliged, therefore, once again to

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

urge the Government to take all necessary measures, when these changes in the legislation are being effected, to amend all the provisions entering into the field of application of the Convention, including those cited above, and all corresponding provisions in force in the other constituent Republics, having regard to the observations made below, which relate to observations made earlier by the Committee and to the replies of the Government in the Conference Committee.

1. The Committee observes that the remarks cited below which it made in the two preceding years, and especially in paragraph 1 of the observation made in 1961, have not been commented on by the Government. These read as follows:

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

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

2. Firstly, as regards salaried workers, the Committee pointed out in preceding years that the provisions of articles 152 and 153 of the Labour Code, read together, resulted in a requirement of "previous authorisation", which is not compatible with Article 2 of the Convention.

3. In fact, as the Committee has emphasised, the provision in article 152 of the Code that trade unions shall be registered with an inter-union organisation, "i.e. the All-Union Central Council of Trade Unions", as the Government explicitly stated in its report in 1961—an organisation which can refuse registration—constitutes an *indispensable formality* which must be fulfilled in order that a trade union can *legally* exist as such. In effect, article 153 of the Labour Code specifically provides that "no trade union which has not been registered with an inter-union organ . . . can style itself a trade union or claim the rights of a trade union".

4. The Committee had also noted that—

... in fact as well as in law, the Central Council of Trade Unions has not merely the character of the supreme executive trade union organ; it is also an organ endowed with a portion of the state power, in view of the fact that it can, among other things, by virtue of the Decrees of 23 June 1933 and 21 August 1934, issue regulations governing the application of labour legislation.

5. In this connection, the Government representative stated before the Conference Committee in 1961 that the Central Council of Trade Unions—

... was exclusively a trade union organ and did not have the character of a state organ; the Council was not mentioned in the Constitution amongst the government authorities. The functions and rights of trade unions in the U.S.S.R. were certainly more extensive than those of trade unions in Western countries, as they covered such matters as social insurance and safety regulations, but this should not be taken to mean that the Central Council of Trade Unions was a government body. ... in effecting ... registration ... the Central Council of Trade Unions was ... acting in its trade union capacity. It was sometimes claimed that a system whereby the registration of a trade union might be refused by the state authorities was tantamount to a system requiring previous authorisation before setting up a trade union. ... However, this was not the case in the U.S.S.R., where registration by the State was not required and where the registration of a trade union had never been refused.

As regards the right of the Central Council of Trade Unions to refuse to register the rules of a trade union, this would be possible only if the rules of the trade union in question were not in conformity with the Rules of the Central Council.

6. The Committee observes, however, as it has done in previous years, that even if the Central Council of Trade Unions is not a "government authority", the law

has endowed it with a portion of the state power. Thus, the Decrees of 23 June 1933 and 21 August 1934 have empowered it to issue regulations governing the application of labour legislation. In this connection the Committee pointed out in 1961 that "in several of its reports the Government has included the Rules of the Trade Unions of the U.S.S.R. among the legal texts giving effect to the Convention" and that "in the compilation of labour legislation published by the U.S.S.R. trade union press, presumably pursuant to the decrees of 1933 and 1934, the chapter dealing with trade unions makes no reference to legislation but reproduces the text of the Rules of the Trade Unions of the U.S.S.R.". Noting that "this publication entails a danger of an erroneous interpretation being placed on the legal force of these texts", the Committee requested the Government to "indicate any measures that may be taken in order to avoid any misinterpretation". The Committee observes that the Government has furnished no reply or comment on this point.

7. In any event, as the Committee pointed out in previous years, the law, by delegating to a higher trade union organ the power to register trade unions, places it in a position in which it is both judge and interested party. Thus, even if the government authority does not intervene directly to grant or refuse to a group a legal existence as a trade union, it delegates this power by law to a body which is able to impose substantive conditions, such as the contents of its rules.

8. It appears, therefore, as the Committee pointed out in 1959, 1960 and 1961, articles 152 and 153 of the Labour Code result in a requirement of "previous authorisation" within the meaning of Article 2 of the Convention.

9. Thus, as the Committee noted in 1960—

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

10. With regard to the establishment of organisations of the workers' "own choosing", the Government repeated in substance in the Conference Committee the statements which it had made previously and has, therefore, adduced no new element calling for any modification of the following conclusions, reached by the Committee in 1960 and 1961:

... the establishment of a new "inter-union organisation" would, according to the legal provisions, clearly be impossible without the consent of the existing inter-union organisation, which has the full right to withhold it. Such establishment in fact could be achieved only by two trade unions already in existence which, in order "to claim the rights of a trade union" and especially the right to set up an inter-union organisation would first have to secure their registration by an existing inter-union organisation.

11. In 1961 the Committee noted the statement contained in the report to the effect that this conclusion resulted from an "excessively formalistic interpretation ... of articles 152 and 153 of the Labour Code of the R.S.F.S.R. [and] is not in keeping with the practice ...", and that "if these articles were [thus] interpreted ... the conclusion would be reached that no trade unions can be established at all ... without the existence of an inter-union organisation".

12. Consequently, the Committee observed that—

The Government recognises that the provisions of articles 152 and 153 of the Labour Code ... are capable of being applied in a manner incompatible with the Convention.

13. The Government stated in the Conference Committee that—

“ it has never expressed this view ” but that this excessively literal interpretation “ was incorrect and unfounded ”.

14. The Committee must emphasise that whenever a provision appears to lend itself to being interpreted in a manner incompatible with the Convention, as in the present case, it is bound to urge the repeal or amendment of the provision in question, in order to obviate the possibility of any derogation from the Convention. Moreover, as it pointed out in 1961—

... when a unified trade union movement in a country results solely from the will of the workers, this situation does not require to be sanctioned by legal texts, the existence of which might give the impression that the unified trade union movement is merely the result of existing legislation or is kept in force only through such legislation.

15. The Committee notes that paragraphs 16 and 19 of the observation made in 1961 have not been commented on by the Government. These paragraphs read as follows:

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

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

16. The Government has also not commented on the remarks made by the Committee with regard to the establishment of federations and confederations, which were as follows:

With respect to the establishment by primary organisations of federations and confederations, the Committee pointed out in 1959 and 1960 that, even in the absence of any specific provisions to that effect, articles 152 and 153 of the Labour Code have the effect of prohibiting the establishment of federations or confederations outside the existing trade union movement.

17. The Government has adduced no new element to cause the Committee to modify its remarks with reference to articles 156, 157 and 158 of the Labour Code, which were as follows:

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

18. With regard to the managers of undertakings, the Committee made the following comments in 1961:

In its report the Government declares that no provisions in the legislation restrict the freedom of association of directors. As the Committee understands the position it would seem that, under the legislation in force, if managers of undertakings wished, as wage earners, to set up their own

occupational organisations, they would have to register their organisations with the Central Council of Trade Unions. With respect to the associations or "unions" which managers of undertakings might set up outside the trade union movement of salaried workers, these would require to have their rules approved by the competent public authorities and such organisations could not, unless expressly authorised by law, promote and defend the interests of their members (see the Decree of 10 July 1932 analysed below).

19. Before the Conference Committee, the Government declared—

Managers of undertakings are free to set up their own organisations, in conformity with article 126 of the Soviet Constitution. These organisations are not required, by law, to register. . . .

20. It would appear, however, as the Committee has pointed out in previous years (see paragraph 1 above)—and this point has not been commented on by the Government—that article 126 of the Constitution establishes a right which is exercised according to rules established by law. In the case of associations or unions these rules are laid down by the Decree of 10 July 1932 (see the analysis thereof below).

21. The Committee has observed that, as regards the position of non-salaried workers, the number of whom, the Committee emphasises once again, is considerable (having regard to the producers' co-operatives), the Government has furnished no new information to cause it to amend the following observations which it made in 1961:

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

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

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

The Committee has taken note of this information. It observes, nevertheless, that, according to certain official Soviet legal textbooks, "unions" are distinguishable from ordinary "voluntary associations" because, precisely, they have the object of protecting and representing the economic and legal interests of their members.<sup>1</sup> In so far as these unions may be regarded as being organisations "for furthering and defending the interests" of their members (Article 10 of the Convention) the provisions of the Decree of 10 July 1932 are therefore incompatible with the Convention.

If, on the other hand, "unions" do not in fact have as their object the defence of the interests of their members, a question arises as to what means are available to non-salaried workers which would enable them to establish organisations for the furtherance and defence of their interests. The Government appears to refer in this respect to article 126 of the Constitution. It would seem,

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



nevertheless, that, so long as the Decree of 10 July 1932 remains in force and is effectively applied, the right enunciated in the said article of the Constitution cannot be exercised freely by non-salaried workers, as the competent authorities will necessarily be bound to control the establishment of any new organisation of non-salaried workers in order to ensure observance of the rules laid down in this decree.

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

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

22. The Government has made no comments on the Committee's observations on the legislation relating to the right of meeting, which read as follows:

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

23. The Committee has noted the statement by the Government representative that the term "citizen" employed in article 151 of the Labour Code dealing with the right to organise is used for "all individuals, citizens of any country, even a foreign country". It assumes that this is a consequence of the amendment to article 1 of the Rules of the Trade Unions made at the 12th Congress of Trade Unions, when the reference to "citizens" was deleted from the Rules. It considers, therefore, that it would entail no difficulty for the Government to make a consequential amendment to article 151 of the Code when the text is revised.

24. The Committee has taken note with interest of the statement by the Government representative from which it would appear that article 18 of the Civil Code providing for "the termination of a legal entity by the proper organ of government authority" does not apply to trade unions; according to the Government article 3 of the Civil Code excludes from the scope of this text all relationships arising out of employment. The Committee observes, however, that article 18 of the Civil Code applies both to associations of non-salaried workers and to associations of salaried workers which might be established outside the officially recognised trade unions for furthering and defending the interests of their members, as these are civil law associations outside the application of the Labour Code. The Committee expresses the hope, therefore, that measures will be taken without delay to remove from the application of article 18 of the Civil Code all organisations having the

purpose of furthering and defending the interests of workers (Article 10 of the Convention).

25. The Committee notes that the Government has furnished no reply to the following questions which it put in paragraph 37 of the observations made in 1961:

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

26. In 1959 and 1961 the Committee requested the Government to furnish the following information:

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

27. Before the Conference Committee in 1961 the Government representative declared:

As regards the relationship between trade unions in the U.S.S.R. and the Communist Party, this question does not fall within the scope of Conventions Nos. 11, 97 and 98. . . .

28. The Committee observes, however, that the application of article 126 of the Constitution is pertinent to the application of Convention No. 87. In fact, in so far as it may be confirmed that article 126 of the Constitution renders it legally impossible to set up an organisation of workers independent of the political party in question, this consequence would be incompatible with Article 8, paragraph 2, of the Convention, according to which "the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention", which include the free choice of the organisation set up (Article 2) and freedom with regard to the election of representatives and the formulation of the programmes of organisations (Article 3). Further, this provision might be regarded as an interference with regard to workers' organisations by the State in its capacity as an employer which is prohibited by Article 2 of Convention No. 98.

29. The Committee has also noted that, according to article 137 of the Penal Code, "opposing the legal activity of trade unions and their organs is punishable by corrective labour for a term not exceeding one year or by a fine . . . or by dismissal from office". This provision does not relate only to opposition to trade union activity by public authorities and employers (or managers of state undertakings), which would ensure the application of Articles 3 and 11 of the Convention; its scope is broader and, by virtue of the general reference to "opposing the legal activity of trade unions", it might be applied in the case of any worker or group of workers who might wish to organise outside the trade union movement whose unity is instituted, recognised and maintained by law. It might also, in the event of a strike decided upon contrary to the opinions of the trade union leaders, be used as a means of punishing any striker or person inciting the strike. The Committee, therefore, expresses the hope that, in order to remove any doubts concerning the scope of this provision, the Government will take all necessary measures to limit its application

to cases of opposition on the part of public authorities, managers of state undertakings and employers.<sup>1</sup>

30. The Committee hopes that the Government will take the necessary action in the light of the above comments, without further delay, and will also supply the necessary information.<sup>1</sup>

*United Arab Republic* (ratification: 1957). The Committee has taken note of the information furnished by the Government to the Conference Committee in 1961 and in its annual report. It has noted that the Government admitted before the Conference Committee that the text of the Code "is not in conformity with the Convention" and stated that this divergency "was due to the fact that a transitional period has been considered necessary in order better to ensure freedom of association later". In these circumstances, the Committee takes note of the willingness of the Government to ensure the application of the Convention and hopes that it will make every effort to bring its legislation into conformity with the international instrument at an early date. It trusts, in particular, that the Government will take all necessary measures to this end through the Advisory Labour Council, the tripartite body which is responsible for the preparation of labour legislation and which has been made aware of the observations made by the Committee. It recalls, therefore, that the divergencies existing between the legislation and the Convention are as follows:

1. Section 162 of the Labour Code annexed to Act No. 91 of 5 April 1959 forbids the formation of more than one general trade union by persons employed in the same occupation, trade or craft. According to the information furnished by the Government, this provision responds to the need to avoid disputes and splits in the trade union movement. As the Committee has already pointed out on several occasions, while it may be to the advantage of the workers to avoid a multiplicity of trade union organisations, unification of the trade union movement must not be imposed through state intervention by legislative means, as such an intervention runs counter to the rule laid down in the Convention that workers and employers have the right to establish and join organisations "of their own choosing" (Article 2), and shall be enabled to "exercise freely the right to organise" (Article 11).

2. Section 169 (a), as amended by Act No. 132 of 1960, provides that a trade union committee in an establishment will be formed "on condition that the number of workers requesting to contribute is not less than 50". It would appear that the requirement of such a high number of "founders" is likely to hinder the establishment of trade unions, contrary to the Convention, which provides that all necessary and appropriate measures shall be taken to ensure that workers and employers "may exercise freely the right to organise" (Article 11).

3. The Government indicates that section 165 of the Code was enacted in order "to avoid the interference of public authorities" for the purpose of conciliation between the various groups seeking to form a trade union. It would seem that, while the public authority does not intervene directly to authorise the establishment of a trade union by supporting one group rather than another, it delegates its powers by law to a higher trade union organ which is designated by name: indeed, according to section 165, the deposit of the rules—a condition precedent to the carrying on of any activities by a trade union (section 166 of the Code)—can be effected only by a trade union representative furnished with a document issued by the General Federation of Labour (a single central confederation by virtue of section 183 of the Code). Thus, no occupational organisation can legally exist as a trade union if it has not obtained the "authorisation" of the General Federation of Labour. Further, the

<sup>1</sup> The Government is requested to supply full particulars to the Conference at its 46th Session and to report in detail for the period 1961-62.

fact that such competence is, as the Government indicates, entrusted to the General Federation of Labour "as being the higher trade union organisation", places that organisation in a position in which it is both judge and party. Such a rule does not permit the founders to set up an organisation "of their own choosing" whereas, according to the Convention, they should be able to establish, if they wish, a new organisation independent of any organisation already in existence.

4. Sections 6 and 7 of Act No. 91, as amended in 1960, require trade unions existing prior to the enactment of the Labour Code to integrate themselves in the new trade union system (unified trade unions at all levels) or dissolve. This rule is such as to limit the choice of the workers with respect to the establishment of trade unions or membership in such unions (see paragraph 9 below).

5. The terminology of section 6 of Act No. 91, according to which trade union assets are made over to the Ministry of Social Affairs and Labour "for the formation of new trade unions" is likely to make possible intervention on the part of the Government, which could limit "the freedom of choice" of the founders of an organisation. Moreover, in order to give effect to Article 3 of the Convention, the devolution of these assets should take place in the absence of any intervention by the Government, in accordance with the relevant rules laid down in the constitutions and rules of the dissolved trade unions whenever they contain any such rules.

6. Section 163 of the Code provides that "no worker may continue to be a member of a trade union more than two years after the date of his ceasing to be employed". The Committee, noting in this connection the information furnished by the Government to the effect that this prohibition applies solely to members of trade union committees in establishments observed in 1961 that such a restriction of the scope of application of section 163 is not apparent from the wording of that section which contains, in addition to the prohibition referred to above, rules of general application. In any event, if this provision results in prohibiting the election as trade union officers of persons who are not engaged in the undertaking or occupation represented by the trade union concerned, it is not compatible with Article 3 of the Convention, according to which workers' organisations shall have the right to elect their representatives "in full freedom".

7. Section 177 of the Labour Code provides that "notice of every general meeting of a general trade union shall be sent by registered letter to the administrative authority concerned at least seven days before the date fixed for the meeting", a rule which Act No. 132 of 1960 amending section 169 of the Labour Code has extended to general meetings of regional trade unions and works trade unions. The Committee, noting that according to the information furnished by the Government, these provisions are intended to enable the administrative authorities to provide protection in the event of disorder and are applicable to all kinds of meetings in general, emphasised in 1961 that such a provision is not justifiable in respect of private meetings held in trade union premises or in premises hired for that purpose. It may, indeed, restrict the right of organisations to organise their activities freely and permit of interventions on the part of the public authorities contrary to the provisions of Article 3 of the Convention, according to which trade unions shall have the right freely "to organise their . . . activities", while the public authorities shall "refrain from any interference which would restrict this right". It is also incompatible with Article 8, paragraph 2, of the Convention.

8. Section 174 of the Labour Code, forbidding trade unions in general terms to "concern themselves with political questions" might, as the Committee has already pointed out on other occasions, be interpreted in such a manner as to place considerable restrictions on the right of trade unions "to formulate their programmes"

without any "intervention" by the "public authorities" (Article 3 of the Convention), especially—as the Conference Committee has indicated—as there exists no precise demarcation between the political field, on the one hand, and the economic and social field, on the other.

9. According to section 183, "it shall be unlawful to form more than one general federation in the United Arab Republic". This provision does not appear to be compatible with Articles 5 and 6 of the Convention, which apply the guarantees laid down in Articles 2 and 3 of the Convention to the establishment of federations and confederations and to affiliation with these higher organisations. Indeed, under these various provisions of the Convention, trade union organisations shall have the right to establish and join federations or confederations "of their own choosing without previous authorisation".

10. Finally, as under section 184, regional or general federations have the same obligations as general trade unions, it would appear that the various provisions referred to above in connection with primary organisations are also incompatible with the corresponding provisions of the Convention in so far as federations and confederations are concerned.

The Committee has also observed with regret that the Government has not yet furnished any information on several points which were the subject of direct requests in 1960 and 1961; it can only repeat its request that precise and detailed replies to these different questions will be furnished by the Government in its next report.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Bulgaria, Burma, Central African Republic, Cuba, Guatemala, Hungary, Malagasy Republic, Mexico, Niger, Peru, Philippines, Poland, Senegal, Ukraine, United Arab Republic, Yugoslavia.*

#### Convention No. 88: Employment Service, 1948

*Argentina* (ratification: 1956). The Government indicates that it cannot reply to the Committee's direct request of 1960 as the reorganisation of the employment service has not been completed. The Committee trusts that this reorganisation will take full account of the provisions of the Convention, in particular those to which reference was made in the request of 1960, a further copy of which is being communicated to the Government for convenience.

The Committee would be grateful if the next report would supply particulars as to progress made in this respect, and hopes that the Government will soon be in a position, if necessary with the help of technical assistance, to give full effect to this Convention.

*Australia* (ratification: 1949). Further to its observation of 1960, the Committee notes with regret that the representatives of the Australian Confederation of Trade Unions continue to be absent from the Ministry of Labour Advisory Council, but observes that the Minister and the Department of Labour and National Service propose to renew their efforts in 1962 to re-establish a fully representative high-level national advisory committee of representatives of employers and workers.

The Committee expresses the hope that these efforts will shortly be successful so that effect can once again be given to the requirements of Articles 4 and 5 of the

<sup>1</sup> The Government is asked to furnish complete information at the 46th Session of the Conference and to communicate a report for the period 1961-62.

Convention, which call for the appointment of advisory committees including employers' and workers' representatives.

*Brazil* (ratification: 1957). The Committee observes from the Government's report that it has taken note of the measures advised by the Committee and will supply information on the progress made in its next report.

As no employment service along the lines envisaged by the Convention appears as yet to exist in Brazil, the Committee trusts that measures to establish such a service will be initiated and will cover the matters enumerated in the Committee's direct request of 1960 which is being addressed once again to the Government.

*Bulgaria* (ratification: 1949). The Committee notes that the Government denounced this Convention in March 1961.

*Cuba* (ratification: 1952). The Committee notes from the Government's report that the Law No. 907 of 31 December 1960 makes a national authority responsible for all matters pertaining to employment and unemployment (section 21). The Committee trusts that in these circumstances it will be possible to give effect to the various provisions of the Convention with a view to the establishment of a national system of employment offices and of the advisory committees provided for under Articles 2, 3 and 4 of the Convention.

*Dominican Republic* (ratification: 1953). The Committee thanks the Government for the detailed information supplied in answer to the observation made in 1960 and notes with satisfaction that Decree No. 5740 of 5 May 1960 provides for the establishment of the National Advisory Committee on Employment (Articles 4 and 5 of the Convention).

*Guatemala* (ratification: 1952). The Committee notes with interest, from the information supplied in reply to the observation of 1960 that the Government is taking action with a view to extension of the employment service, which at present consists of only one office in the capital city, to other regions, and that, for this purpose, the Government has requested the technical assistance of the I.L.O.

The Committee hopes that it will in this way be possible for the Government—  
(a) to establish a network of regional and local offices, sufficient in number to serve each geographical area of the country and conveniently located for employers and workers; (b) to establish joint national and, where necessary, regional and local advisory committees; and (c) to train a competent staff (Articles 3, 4 and 9 of the Convention).

The Committee trusts that the Government's next report will supply information on the progress made in these respects.

*Iraq* (ratification: 1951). The Committee thanks the Government for the information supplied in response to the request made in 1960. As only one employment office (the Central Employment Service in Baghdad) is at present functioning, the Committee notes with interest the Government's statement that the establishment of other offices is under active consideration, that recommendations to this end made by an I.L.O. expert have been accepted in principle and that the necessary financial provision is to be included in the next budget. The Committee trusts that through the adoption of these measures it will be possible to establish a "national system of employment offices", comprising a "network of local and, where appropriate, regional offices, sufficient in number to serve each geographical area of the country and conveniently located for employers and workers" as required by Articles 1, 2, 3 and 6 of the Convention.

Articles 4 and 5 of the Convention. The Committee regrets to note that the Employment Council and the local employment committees provided for in sections 87, 90, 91 and 92 of the Labour Code of 1958 have not yet been set up and hopes that the Government will, in the near future, take appropriate action to set up such advisory committees.

Articles 6, 7 and 8. The Committee notes the Government's intention to take appropriate measures to organise the work of the employment offices in order to meet the requirements of these articles of the Convention particularly with a view to— (a) assisting applicants, where appropriate, to obtain vocational guidance or vocational training or retraining; (b) collecting and analysing and making available information on the situation of the employment market; and (c) providing adequately for the needs of particular categories of applicants for employment, such as disabled persons.

The Committee trusts that the Government will, in its next report, provide detailed information on the progress made in giving effect to these various requirements of the Convention.

*Italy* (ratification: 1952). With reference to the continued absence of equal representation between employers and workers in the joint advisory committees which are called upon to collaborate with the employment services (Articles 4 and 5 of the Convention), the Committee notes that the Government once again invokes article 19 of the I.L.O. Constitution in order to explain the discrepancy between its legislation and these provisions of the Convention.

The Committee draws the Government's attention to its observations of 1957 and 1958 with which the Conference Committee concurred, stating that "it would appear preferable, in this case, not to invoke article 19, paragraph 8, of the Constitution, which deals with conditions of work rather than with procedural matters such as those referred to in Article 4, paragraph 3, of the Convention".

As the efficient working of the consultative bodies, and consequently of the employment service they are designed to advise, may only be brought about by practical agreement among the parties concerned, the Committee reiterates the hope that the Government will be able to give effect to the spirit as well as the letter of Articles 4 and 5 of the Convention, if possible on the basis of such an agreement.

*Philippines* (ratification: 1953). The Committee notes with interest from the Annual Report of the Office of Manpower Services (fiscal year 1960-61) the establishment on 1 July 1961 of four regional labour market information offices in Manila, Cebu, Iloilo and Davao. As it would appear that these offices will not function as full employment offices, as envisaged under Article 6 of the Convention, the Committee notes with regret that the employment service functioning in the Philippines in spite of the Committee's observations since 1956, still consists only of one employment office in Manila.

The Committee recalls the statement made by a Government representative in the Conference Committee in 1960 that Congress had adopted a Bill for the setting up of 12 regional offices of the Department of Labor, each of which would include an employment office, financed on a permanent basis. The Committee notes, however, in the light of the available information that the situation has remained unchanged.

The Committee must again voice its concern at this situation and urges the Government to give full effect to the Convention in the near future.

*United Arab Republic* (ratification: 1954). The Committee notes with regret from the Government's report that advisory committees as provided for by section 15 of

the Labour Code and Articles 4 and 5 of the Convention have not yet been established. It expresses the hope that such committees will be set up in the near future.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Brazil, Cyprus, Czechoslovakia, Greece, India, Luxembourg, Nigeria, Sierra Leone, Tanganyika, United Arab Republic, Yugoslavia.*

**Convention No. 89: Night Work (Women) (Revised), 1948**

*Austria* (ratification: 1950). The Committee regrets to note from the report that a new Bill on hours of work designed to eliminate the discrepancies existing between national legislation and the Convention has not yet been submitted to Parliament. The Committee also notes the comments of the Austrian Congress of Chambers of Labour mentioned in the report, to the effect that legislative provisions in force in the country concerning night work for women are not in full conformity with those of the Convention and that recent jurisprudence in this matter has further aggravated existing difficulties.

In these circumstances the Committee points out that since 1953 it has repeatedly expressed the hope that the necessary legislative changes will be introduced in the very near future. It must now insist that the Government submit the necessary legislative proposals without delay.<sup>1</sup>

*Czechoslovakia* (ratification: 1950). Since the report gives no information in reply to the observation as regards Article 2, the Committee must repeat its previous observations, indicating that a night rest of at least 11 consecutive hours is not expressly provided for in the existing legislation. The Committee trusts that this basic discrepancy between the legislation and the Convention, to which attention has been drawn since 1955, will be removed without further delay.<sup>1</sup>

*France* (ratification: 1953). See under Convention No. 6.

*Guatemala* (ratification: 1952). The Committee notes with satisfaction that the Decree of 5 May 1961 has amended section 116 of the Labour Code by defining "night work" as work carried out between 6 p.m. and 6 a.m. (i.e. a period of 12 hours), thus bringing the national legislation into conformity with the provisions of Article 2 of the Convention.

*Netherlands* (ratification: 1954). The Committee notes with interest from the Government's reply to the observation of 1960 that the Director-General of Labour has communicated to the chiefs of labour inspection districts a circular which requires them to interpret the provision of section 83 (7) of the Labour Act 1919 (authorising exceptions from the night work prohibition) within the scope of Article 4 of the Convention (cases of *force majeure*). The Committee hopes that the Government will also find it possible to bring the above-mentioned legislation into full conformity with Article 4 (a) of the Convention.

It would be grateful if the Government would indicate any measures taken or contemplated in this respect.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.



*Pakistan* (ratification: 1951). The Government has failed to reply to the Committee's observation, made since 1954, that section 46 (1) of the Mines Act gives the Central Government *general* powers to grant exceptions from the provisions of the Act, whereas Article 5 of the Convention authorises the suspension of the prohibition of night work by women only when in cases of serious emergency the national interest demands it.

As the Government has repeatedly stated in its reports and in the Conference Committee that a Mines (Amendment) Bill to be submitted to Parliament would eliminate this divergency between the legislation and the Convention, the Committee must reiterate the hope that the Bill in question will be enacted without further delay.

*Philippines* (ratification: 1953). The Committee notes with regret that the Bill designed to bring the Woman and Child Labor Law (Act No. 679) into conformity with the provisions of Article 2 (a night rest period of at least 11 consecutive hours) and Article 5, paragraph 1, of the Convention (consultation with employers' and workers' organisations before suspension of the night work prohibition) was not approved in 1961 but that it is to be reintroduced simultaneously in both Houses when the next session of the Fifth Congress is convened. As this amendment had already been mentioned in the Government's report for 1955-56, the Committee hopes that the Bill will be passed without further delay.

*Rumania* (ratification: 1957). The Committee notes with regret from the report that no progress has been made in bringing the legislation into conformity with the Convention as regards the definition of the term "night" (section 50 of the Labour Code defines it as a period of eight hours instead of 11 hours as provided for in Article 2 of the Convention). The Committee must therefore reiterate its hope that the necessary measures will be taken in the very near future.

*Tunisia* (ratification: 1957). The Committee was glad to note from the information supplied in reply to its request of 1960 that the Legislative Decree of 14 March 1960 has introduced amendments to bring the national legislation into conformity with the Convention.

*Uruguay* (ratification: 1954). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its observation of 1960, which was as follows:

The Committee regrets to note that the Government's report for the third year running contains no new information and must therefore reiterate its observations of 1957, 1958 and 1959, when it noted that no legislation exists in Uruguay to give effect to the Convention. The Committee considers this situation all the more deplorable because prior to the ratification of Convention No. 89, Uruguay had been bound for 22 years by the ratified Convention No. 4 without giving effect to its provisions.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Congo (Leopoldville)*, *Czechoslovakia*, *France*, *Greece*, *Guatemala*, *Ireland*, *New Zealand*, *Philippines*, *Republic of South Africa*, *Spain*, *United Arab Republic*.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

**Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948**

*Argentina* (ratification: 1956). The Committee notes with regret that the Government's report does not indicate what steps have been taken or are envisaged in order to eliminate the important discrepancy existing between the national legislation and the provisions of the Convention, which was pointed out in the Committee's observation of 1961. The Committee must therefore again draw attention to the fact that section 6 of the Employment of Women and Young Persons Act (No. 11317) of 30 September 1924 fixes a period of night rest for young persons of only ten hours in summer and 11 hours in winter, whereas Article 2 of the Convention fixes the duration of this period of rest at a minimum of 12 consecutive hours, including, in the case of children under 16 years of age, the interval between 10 p.m. and 6 a.m., and in the case of young persons between the ages of 16 and 18 years an interval of at least seven hours between 10 p.m. and 7 a.m.

The Committee trusts that the Government will make every effort to bring its national legislation into conformity with the Convention on this point as soon as possible.

*Czechoslovakia* (ratification: 1950). The Committee notes from the statement made by a Government representative to the Conference Committee in 1961 in reply to the observations of 1960 and 1961 that the Convention is applied in practice and that the legislation itself will be brought into harmony with the Convention in the course of the envisaged revision of labour legislation. The Committee takes due note of this promise.

Pending the adoption of a new Labour Code, the Committee must also raise once more the following points, to which the Government had not replied:

(a) The Government has not indicated, in reply to the Committee's observations, what legislative provisions prohibit night work for male workers between 16 and 18 years of age. The legislation available to the Committee (Act No. 91 of 1918, section 9, paragraph 1) does not contain such a prohibition. The Committee urges the Government to take the necessary measures with a view to giving full effect to the Convention without further delay.

(b) Taking into account that the school-leaving age has been raised to 15 years by Act No. 186 of 1960, the Committee notes, however, that apprentices between 17½ and 18 years of age (the last semester of their three-year course) may, under section 2, paragraph 5, of Act No. 177 of 1946, start work in bakeries from 3 a.m. whereas under the Convention (Article 3, paragraph 4) they may not start work before 4 a.m.<sup>1</sup>

*Guatemala* (ratification: 1952). Further to its previous observation and requests the Committee notes with satisfaction that the Decree of 5 May 1961 has amended section 161 of the Labour Code by defining "night work" as work carried out between 6 p.m. and 6 a.m. (i.e. a period of 12 hours), thus bringing the national legislation into conformity with the provisions of Article 2 of the Convention.

*Italy* (ratification: 1952). See under Convention No. 77.

*Mexico* (ratification: 1956). In 1959 the Committee had observed that the Federal Labour Act (sections 68 and 77) prohibits night work by young persons during only ten consecutive hours, whereas the Convention (Article 2, paragraph 1) fixes this

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

period at 12 consecutive hours. The Government indicated in this connection that under article 133 of the Mexican Constitution the Convention acquires force of law, thereby automatically amending the Federal Labour Act, and that ratified Conventions are normally included in publications on labour legislation together with this Act and other relevant provisions. The Government also emphasised that employers and workers refer as a matter of course to this Act to ascertain their rights and obligations.

In response to the Committee's request in 1960 for publications containing the text of the Convention, the Government has now supplied a privately published edition of the Labour Act which has appended to it a summary of certain international labour Conventions ratified by Mexico but fails to contain any reference to Convention No. 90. The Government adds, in its report, that the Mexican Labour Review has initiated the publication of all I.L.O. Conventions whether ratified or not.

While such information may be of interest to the readers of this Review and while a summary of a ratified Convention, appended to the text of the Labour Act, may also be of some interest, the Committee is bound to point out that in the present circumstances reference by the employers and workers to the Federal Labour Act would not in any way enable them to ascertain their rights and obligations under this Convention. The Committee considers that to ensure this essential purpose it would at least be necessary to mention the existence of a night period requirement going beyond the terms of the Federal Labour Act, directly in connection with the relevant provisions of this Act, e.g. by the inclusion of an appropriate footnote.

The Committee ventures to point out, however, that even if such a reference were to be included doubts might continue to exist as to the legislative provisions applicable in the matter, particularly in cases where a recent and complete edition of the Labour Act is not available. The Committee hopes, therefore, that the Government will see its way clear to amend the relevant sections of the Labour Act so as to prohibit specifically the employment of young persons in industry during the 12-hour night period laid down in Article 2 of the Convention.

*Netherlands* (ratification: 1954). See under Convention No. 89.

*Pakistan* (ratification: 1951). The Committee regrets to note that the Government has indicated no progress in enacting a Bill designed to amend the Factories Act in order, *inter alia*—

- (a) to extend the night work prohibition to all adolescents (sections 53 and 54 of the Act);
- (b) to repeal the provision authorising the local government to vary the limits of night rest (section 54 (3));
- (c) to provide that registers should be kept in all undertakings in respect of all young persons, showing their dates of birth.

As such action would promote conformity with Article 2, paragraph 2, Article 3, paragraph 1, and Article 6, paragraph 1 (e), of the Convention respectively, the Committee trusts that the proposed legislation will be enacted without further delay.

The Committee must also reiterate its previous observation in which it expressed the hope that the Employment of Children Rules, 1955, as well as the Consolidated Mines Rules, 1952, would be brought into conformity with Article 3, paragraph 2, of the Convention (authorising exceptions only in industries or occupations which are required to be carried on continuously and after consultation with the employers' and workers' organisations), and the Mines Rules also with paragraph 3 of this Article (a rest period of at least 13 consecutive hours). As a Government representative had assured the Conference Committee in 1960 that the legislation in question

would be brought into conformity with the Convention as early as possible the Committee trusts that the Government will take the necessary action in the near future.

*Philippines* (ratification: 1953). The Committee regrets that the Bill designed to bring the Woman and Child Labor Law (Act No. 679) into conformity with the provisions of Article 2 of the Convention (a night rest period of at least 12 consecutive hours) was not approved in 1961, but notes that it will be reintroduced simultaneously in both Houses when the next session of the Fifth Congress is convened. The Committee can only reiterate its hope that this Bill which has been pending since 1958 will be passed without further delay.

*Ukraine* (ratification: 1956). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes with interest the Government's intention, expressed in its two latest reports, to extend to 12 hours, including the interval between 10 o'clock at night and 6 o'clock in the morning, the night period during which the work of young persons under 18 years of age is forbidden (Article 2 of the Convention). The Committee trusts that the Government will soon be able to amend its legislation to this effect, and would be grateful if it would in its next report indicate the progress achieved in this connection.

The Committee would further again request the Government to supply information on the results of inspections carried out in accordance with the laws and regulations in force (Article 6, paragraph 2, of the Convention).

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

*Uruguay* (ratification: 1954). The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

As the Government's report again does not contain any new information the Committee must reiterate its observation of 1959 that it is unable to make any general assessment of the effect given to the Convention because no detailed report has been supplied since the Convention was ratified. In 1959 the Committee also drew the Government's attention to a discrepancy between section 1 of the Decree of 28 May 1954 (by virtue of which the period during which night work of young persons was prohibited was 11 hours) and Article 2, paragraph 1, of the Convention (defining "night" as a period of at least 12 consecutive hours).

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

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Byelorussia, Dominican Republic, Guatemala, Haiti, Luxembourg, Norway, Philippines, U.S.S.R., Yugoslavia.*

#### Convention No. 92: Accommodation of Crews (Revised), 1949

*Brazil* (ratification: 1954). Since the Government has once again failed to answer the request for information addressed to it in 1960 and 1961, the Committee has again formulated a direct request concerning the application of various articles of the Convention. The Committee trusts that the Government will not fail to supply the information in question.

*Cuba* (ratification: 1952). The Government states, in reply to the observation made in 1960, that the absence of any special legislation in Cuba to give effect to the provisions of the Convention does not necessarily mean that they are not observed. The report adds that, as regards crew accommodation, the authorities competent to enforce observance of sanitary, technical and other requirements are the harbour-masters in each port, who are entitled to inspect all ships and to refuse them authorisation to leave the port. It would seem necessary, however, for the harbour-masters to be able to refer, in the exercise of their inspection duties, to precise, detailed laws or regulations.

Since the Government indicates that as from the present time all bodies concerned with the Cuban Merchant Marine are placed under the authority of the Cuban Maritime Development Office (*Oficina de fomento marítimo cubano*), according to the terms of Act No. 84 dated 17 January 1959, the enactment of legislation to give effect to the numerous technical requirements of Parts II, III and IV of the Convention should be made much easier.

The Committee hopes, therefore, that the Government will not fail, in accordance with Article 3 of the Convention, to take the necessary measures to ensure as soon as possible the application of the provisions of this Convention, which was ratified ten years ago.

\* \* \*

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

#### Convention No. 94: Labour Clauses (Public Contracts), 1949

*Austria* (ratification: 1951). The Committee regrets to note from the Government's reply to the Committee's repeated observations that, due to continued differences of opinion between the Federal Ministry for Commerce and Reconstruction and the bodies representing employers' interests on the one hand, and the Federal Ministry of Social Affairs and the bodies representing workers' interests on the other, measures to provide for the insertion of labour clauses in public contracts have still not been adopted, although the matter has been under discussion since 1955.

As specific action is called for in all ratifying countries to implement the Convention, the Committee is bound to observe that no such action has been taken in Austria for the past ten years. Nor can it any longer accept the Government's repeated explanation that the very long delay involved is due to differences of opinion between the Governmental Departments and other organisations concerned. The Committee must insist therefore that measures be taken, immediately and without further delay, to give effect to the provisions of the Convention, which it is the Government's responsibility to apply by virtue of Austria's ratification in 1951.<sup>1</sup>

*Bulgaria* (ratification: 1955). The Committee regrets the Government's statement, in reply to the observation of 1960, that it has nothing to add to the information supplied in the previous report and that no legislation has been adopted. As the Committee had set out in detail, in this observation, the reasons why specific action is called for in all ratifying countries to implement the Convention, it is now bound to observe that no such action has been taken in Bulgaria.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

In these circumstances the Committee reiterates the above-mentioned explanations in a direct request and appeals to the Government to give effect to the Convention without further delay.<sup>1</sup>

*Cuba* (ratification: 1952). The Committee notes with regret from the information supplied in reply to the observation of 1960 that no provision appears to have been made yet for the inclusion in public contracts of labour clauses "ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on" (Article 2, paragraph 1, of the Convention).

The Committee trusts that measures to apply the Convention will be taken in the near future, as the legislation mentioned in the previous reports (particularly Order No. 73 of 1956, which relates to conditions of work of persons employed by public authorities, and not to labour clauses in contracts by public authorities with independent contractors) does not implement its provisions.

*Denmark* (ratification: 1955). The Committee noted with interest the discussion which took place in the Conference Committee in 1960 regarding the application of the Convention by Denmark. The Government indicated at that time that the question had been discussed with the employers' and workers' organisations, which had agreed with the Government that no specific measures to give effect to the Convention were necessary because conditions of work were fixed by collective agreements which applied to workers engaged on the execution of public contracts in the same way as to other workers.

During the discussion in the Conference Committee other governments which had ratified the Convention where the situation was similar to that in Denmark indicated the steps they had taken to meet the requirements of this instrument, and pointed out that the insertion of labour clauses provided an additional guarantee where collective agreements did not exist for all workers or did not apply to all workers. The Conference Committee concluded that it was for the government of the ratifying State to decide what terms to insert in its contracts and expressed the hope that practice in Denmark would be brought into conformity with the Convention.

The Committee notes moreover that in a report on the period 1959-60 the Government indicated that the question of inserting labour clauses in public contracts would be taken up for discussion with representatives from the Ministries concerned and from the workers' and employers' organisations. The Committee regrets all the more that the report for 1960-61 has not been received and that no information is thus available on the progress made in these discussions and in the implementation of the Convention.

In these circumstances, the Committee can only reiterate the view it had expressed in its general observations on this Convention in 1956 and 1957, i.e. that a government is not freed from the obligation to insert labour clauses in public contracts in cases where legislation and collective agreements apply to all workers. As emphasised at that time, even in this case specific clauses might have positive advantages, especially where the legislation merely establishes minimum standards which may be exceeded by collective or individual agreements, or where collective agreements are not generally binding. The Committee considers it neither desirable nor practicable to determine in each instance whether or not labour clauses should be inserted in public contracts.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

On the other hand, it believes that a simple reference to the provisions of labour legislation or of collective agreements might suffice in these cases.

The Committee trusts that in view of the considerations reiterated above, the Government will find it possible to give effect to the Convention, as has been done by a number of other countries where difficulties of a similar character had initially been encountered and subsequently been overcome. It hopes that the Government will be able to inform the Conference Committee of the progress made in this direction.

*Finland* (ratification: 1951). The Committee thanks the Government for its reply to the observation made in 1960 and notes with satisfaction that labour clauses are now required to be inserted in all contracts of public construction, and that consideration is being given to the possibility of including corresponding provisions in contracts for the purchase of goods.

*Guatemala* (ratification: 1952). The Committee notes with interest from the Government's reply to the direct request of 1960 that draft regulations concerning the insertion of labour clauses in public contracts, which would guarantee adequate protection to the workers concerned, have been drawn up and that it was expected that these would be approved in October 1961.

The Committee hopes that these regulations have been adopted and, if so, would be glad if the Government would supply copies with its next report.

*Morocco* (ratification: 1958).

Article 4, paragraph (a) (iii) of the Convention. The Committee notes with interest that the Government proposes in reply to the direct request of 1960 to alter clause 4 of article 2 of the Dahir of 18 June 1936 concerning minimum wages, and that the posting, at workplaces, of notices concerning minimum wages will be made compulsory. The Committee hopes that this modification will be introduced shortly.

*Philippines* (ratification: 1953). The Committee notes with regret from the Government's report in reply to the observation made in 1960 that the terms of labour clauses for incorporation in public contracts are still under consideration. Recalling that the Convention was ratified in 1953, the Committee trusts that the above-mentioned measures will become operative without further delay. In this connection the Committee repeats its previous observation to the effect that account should be taken of the various detailed requirements of the Convention, particularly as regards the definition and scope of public contracts (Article 1, paragraphs 1, 2 and 3) the terms of the clauses (Article 2, paragraphs 1 and 2), the consultation of employers' and workers' organisations (Article 2, paragraph 3) and the measures ensuring the implementation of labour clauses in public contracts (Articles 4 and 5).<sup>1</sup>

*Uruguay* (ratification: 1954). The Committee regrets to note that the report for 1959-61 has not been received. It is bound therefore to repeat its previous observation which was as follows:

... the Committee can only voice its regret that, more than four years after ratifying the Convention, the Government should not be in a position to indicate whether and to what extent labour clauses are included in public contracts. It trusts that the Government will supply full information in accordance with the report form approved by the Governing Body on the measures taken to give effect to the Convention.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium, Bulgaria, Finland, Morocco, Sierra Leone, Somali Republic, Tanganyika, United Arab Republic.*

**Convention No. 95: Protection of Wages, 1949**

*Ecuador* (ratification: 1954). The Committee notes with regret that the report contains no new information and that the Government has thus again failed to reply to the direct request which has been addressed to it for the last three years. In these circumstances the Committee can only repeat its previous request, which was as follows:

With respect to Article 14, it appears to the Committee that the Article is effectively applied to homeworkers, to workers covered by minimum wage orders and to transport workers. The Committee considers, however, that the provisions mentioned in the Government's report do not ensure that workers other than those referred to above are informed in an appropriate and easily understandable manner (a) before they enter employment and when any changes take place, of the conditions in respect of wages under which they are employed, and (b) at the time of each payment of wages, of the particulars of the wages for the pay period concerned, in so far as such particulars may be subject to change.

The Committee urges the Government to take the measures referred to above in the near future.<sup>1</sup>

*Greece* (ratification: 1955). The Committee notes with interest from the Government's reply to the request of 1960 that consideration is being given to the adoption of measures to give full effect to the requirements of Article 4 of the Convention. As at present it would appear that employers and workers are free in all cases to agree on any form of payment of wages in kind, the Committee would be glad if account could be taken of the points raised in previous direct requests, namely that Article 4 permits only the *partial* payment of wages in kind and that such payments may be made only in so far as authorised by national law and regulations, collective agreement or arbitration awards for industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned. The Committee would also be glad if the Government would give consideration to the enactment of an express prohibition of payment of wages in the form of liquor of high alcoholic content or noxious drugs.

The Committee hopes that the necessary legislative amendments will be enacted in the near future.

*Philippines* (ratification: 1953). The Committee notes from the Government's reply to the Committee's direct requests of 1959 and 1960 concerning the scope of the legislation that, as regards employees of retail and service enterprises employing not more than five persons, standard practice is in conformity with the provisions of Article 5 (direct payment of wages), Article 7, paragraph 2 (control of prices in works stores, etc.), Article 8, paragraph 2 (information to be supplied to workers regarding conditions governing deductions from wages), Article 13 (time and place of wage payments), Article 14 (information regarding wage conditions), and Article 15 (d) (maintenance of wage records) of the Convention.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.



In these circumstances, there should be no difficulty in adopting legislation to apply these provisions of the Convention to the workers concerned and the Committee trusts that the necessary action will be taken in the near future.

*Poland* (ratification: 1954). The Committee notes the Government's reply to the requests and observations made since 1957.

Article 4, paragraph 1, of the Convention. Certain collective agreements permit the payment of supplements to wages in kind, but in practice partial payment of wages in the form of spirits is not permitted. Further the collective agreement for workers in the alcohol industry permits the payment of such supplements in kind—alcohol—but in conformity with an agreement made between the industry and the trade union concerned, the supplement is paid in money.

As the Convention provides a formal prohibition on the payment of wages in the form of liquor of high alcohol content or noxious drugs, the Committee trusts that this prohibition will be included in the legislation.

Article 6. The Committee notes that the Government's report does not contain any information on this Article which prohibits the employer from limiting the freedom of the worker to dispose of his wages, and would be glad if the Government would supply information on the effect given to this provision.

Article 13. Although the report states that practice conforms to the provisions of paragraph 1 of this Article, it also states that there are no provisions regarding the time and place of payment of wages to workers who are not covered by the Decree of 1928 (except forestry workers). Intellectual workers and state employees also appear not to be covered by these provisions. The Committee notes that, though the Act of 1956 concerning the fight against alcoholism prohibits the sale of alcohol in workplaces in certain circumstances, it does not specifically prohibit the payment of wages in taverns or other similar establishments, as laid down in paragraph 2 of this Article.

The Committee hopes that the Government will take the necessary measures to bring its legislation into conformity with the Convention on these various points.

*Tanganyika* (ratification: 1962). The Committee notes with satisfaction that the national legislation has been amended to take account of the Committee's comments in 1959 and 1960 regarding Article 2 and Article 13, paragraph 2, of the Convention.

*Uruguay* (ratification: 1954). As the report for 1959-61 has not been received, the Committee can only repeat its previous observation, which was as follows:

The Committee regrets to note that the Government . . . has not replied to the detailed requests made by the Committee in 1958 and 1959, concerning the application of Articles 2, 4, 5, 6, 8, 10, 12, 13 and 15 of the Convention.

The Committee trusts that the Government will not fail to provide the further particulars which the Committee is now requesting for the fourth time.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Argentina, Brazil, Bulgaria, Chad, Congo (Brazzaville), Cyprus, Greece, Guatemala, Guinea, Hungary, Ivory Coast, Malagasy Republic, Niger, Nigeria, Philippines, Poland, Senegal, Sierra Leone, Somali Republic, Spain, Tanganyika, Tunisia, Ukraine, United Arab Republic, Upper Volta, Uruguay.*

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1960-62 period.

## Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

*France* (ratification: 1949). The Committee notes with regret that the Government has not replied to the direct request made in 1961, but merely repeats its statement in the Conference Committee in 1960 that employment agencies for theatrical employees and for domestic servants are not to be abolished, as was originally intended, because the public employment service is not able at present to deal adequately with these categories of workers.

Following its observations since 1956, the Committee asked the Government to indicate (1) whether the organisations of employers and workers concerned have been consulted concerning these exceptions in conformity with paragraph 1 of Article 5 of the Convention, and (2) whether all the agencies which are authorised to continue to operate are subject to the conditions laid down in paragraph 2 of the same Article. In the absence of a reply, the Committee must assume that no action has been taken to give effect to the Convention in respect of the two above-mentioned categories of workers and must urge the Government to take the necessary measures without further delay.

*Federal Republic of Germany* (ratification: 1954). The Committee thanks the Government for the detailed information supplied in reply to the request of 1960 and notes with satisfaction that the Ordinance of 23 March 1960, applying the Employment Exchanges and Unemployment Insurance (Fee-Charging Employment Agencies) Act, includes provisions to give effect to Articles 5 and 6 of the Convention.

The Committee also notes with interest that an ordinance on fee-charging agencies not conducted for profit, is in preparation. The Committee would appreciate it if the Government would supply information in its next report on the progress made in this respect.

*Guatemala* (ratification: 1953). The Committee thanks the Government for the information supplied in reply to the direct request made in 1960 and notes with interest that the Government has requested the technical assistance of the I.L.O. in the field of employment service for the purpose of bringing national legislation and practice into conformity with the Convention.

The Committee trusts that such assistance will permit the eventual abolition of fee-charging employment agencies conducted with a view to profit and that before this stage is reached in respect of all categories of persons, the exceptions authorised under Article 5 of the Convention will be made subject to the conditions laid down in this Article.

The Committee moreover notes the statement in the report that no penal provisions are necessary for violation of the provisions prohibiting fee-charging employment agencies, since as soon as such employment agencies are created they are immediately closed. As Article 8 of the Convention calls for appropriate penalties for any violation of the Convention or of any laws or regulations giving effect to it, the Committee hopes that such penalties will be prescribed in the near future.

The Committee notes finally that regulations intended to bring under government control recruiting agents concerned with work in agriculture and stock raising are under consideration by the Government. The Committee hopes that the regulations will give full effect to the Convention as regards the recruiting of agricultural workers and that the recruiting of other categories of workers will be similarly regulated in due course.

*Netherlands* (ratification: 1952). The Committee thanks the Government for the information supplied in answer to the request made in 1960. It takes due note of

the fact that the two agencies entrusted with the placing of young girls abroad and not conducted with a view to profit are established according to government authorisation and are subject to conditions determined by legislation, as provided for in Article 6 (c) of the Convention.

*Pakistan* (ratification: 1952). The Committee regrets that the Government has furnished no information whatever on the adoption of legislation to abolish fee-charging employment agencies although it had indicated its intention to do so both in its previous reports and in the Conference Committee in 1960.

As the Committee pointed out as long ago as 1955, the definition of "fee-charging employment agency" in Article 1, paragraph 1 (a), of the Convention covers also labour contractors, who according to the statement made by a Government representative to the Conference Committee in 1957, were acting as intermediaries for the purposes of procuring employment and received fees for their services.

In these circumstances the Committee must again urge the Government to fulfil in the near future its obligation to abolish fee-charging employment agencies conducted with a view to profit as laid down in the Convention.<sup>1</sup>

*Turkey* (ratification: 1952). The Committee takes note of the Government's reply to the observation made in 1960 that the delay in adoption of the draft Bill to regulate the activities of persons acting as intermediaries in agriculture is due to the dissolution of the Grand National Assembly in 1960.

The Committee notes with interest the Government's statement that it will resubmit the draft Bill to the Grand National Assembly in the very near future. The Committee expresses the hope that it will be possible to regulate fee-charging employment agencies, in accordance with Part III of the Convention at an early date.

\* \* \*

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

#### Convention No. 97: Migration for Employment (Revised), 1949

*France* (ratification: 1954). The Committee notes the Government's reply to the observations made in previous years concerning the grant of maternity allowances without discrimination on grounds of nationality. The Government does not state that this allowance is not a social security benefit; but it now bases its refusal to regard it as such on demographic considerations which "originally" gave rise to its establishment. This reason cannot suffice. The Government adds, however, that the problem will be re-examined in the light of the observations of the Committee of Experts.

The Committee firmly hopes that the study which the Government thus proposes to undertake will result in the early adoption of the measures necessary to bring national legislation into conformity with Article 6 of the Convention.<sup>1</sup>

\* \* \*

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

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

**Convention No. 98: Right to Organise and Collective Bargaining, 1949**

*Cuba* (ratification: 1952). See under Convention No. 87 as regards members of producers' co-operatives and certain public employees.

*Poland* (ratification: 1957). See under Convention No. 87.

*Rumania* (ratification: 1958). In 1961, taking note of the first report supplied by the Government, the Committee noted that its brevity prevented appreciation of the extent to which the Convention was applied: the information which it contained related only to Article 4 of the Convention; with regard to the other Articles the only information given was that there could be no discrimination against trade unions in Rumania (Article 1). The Committee therefore addressed directly to the Government certain questions with a view to obtaining additional information. It must note with regret that the Government has supplied in reply a report which merely states that collective agreements have been concluded in all undertakings (Article 4 of the Convention) and apart from this merely expresses the view that "the previous report answers the questions of the Committee of Experts".

The Committee recalls that under article 22 of the I.L.O. Constitution States which have ratified a Convention must make a report on the effect given to it, a report which shall be made "in such form" and which "shall contain such particulars as the Governing Body may request".

In these circumstances, the Committee can only repeat its request and express the hope that the Government's next report will indicate, in conformity with the Report Form approved by the Governing Body, what effect is given to Articles 1 and 3 of the Convention (the Government is asked to attach the relevant texts and supply information on practical application, e.g. judicial or other decisions).<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Brazil, Bulgaria, Cuba, Ecuador, Ghana, Haiti, Poland, Yugoslavia*.

**Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951**

Requests relating to certain points are being addressed directly to the following States: *Tunisia, Uruguay*.

**Convention No. 100: Equal Remuneration, 1951**

*Ecuador* (ratification: 1957). As neither the report for 1958-59 nor the report for 1959-61 has been received, the Committee finds it necessary to repeat the observations made in 1960 and 1961, which were as follows:

The Committee notes that the Government's first report on this Convention is limited to a statement that its provisions are incorporated in the national Constitution and Labour Code. The Committee hopes that the Government will, in its next report, provide detailed information on the application of the Convention, in law and practice, in accordance with the report form adopted by the Governing Body pursuant to article 22 of the Constitution of the I.L.O.

The Committee trusts that the Government will not fail to supply the information referred to above.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Cuba, Haiti, Norway, United Arab Republic.*

**Convention No. 101: Holidays with Pay (Agriculture), 1952**

*France* (ratification: 1954). See under Convention No. 52.

*Federal Republic of Germany* (ratification: 1955). Following the direct requests made since 1958, the Committee has taken note of the information supplied by the Government according to which no new provisions appear necessary to give effect to Article 10 of the Convention, since the supervisory system in force appears satisfactory to the Government. However, as already observed in 1960, the Committee considers that the methods of supervision in question, particularly the system of appeal to tribunals and works councils, are not in themselves sufficient to ensure the application of Article 10 of the Convention, which provides for the maintenance of an *adequate system of inspection* and not only of control. The Committee therefore hopes that the Government will re-examine this question with a view to taking the necessary steps to ensure full conformity of the legislation to Article 10 of the Convention.

*Tanganyika* (ratification: 1962). Following its direct request made in 1960, the Committee has noted with satisfaction that the Government has amended the Employment Ordinance No. 47 dated 10 November 1955 so as to extend the right to annual paid holiday to all workers, whether they are employed by virtue of a written contract or a verbal contract.

*United Arab Republic* (ratification: 1956). As no information has been supplied in reply to the request made in 1959 and 1960, the Committee repeats its request, which was as follows:

Article 5, paragraph (c), of the Convention. What are the provisions, if any, by which workers receive proper holidays or compensation in lieu thereof, if their period of service is not sufficient to qualify them for holidays?

Article 7, paragraph 3. What are the provisions, if any, regarding the payment, in respect of holidays, of the cash equivalent of remuneration in kind?

Article 11. The Government's report should include a general statement on the manner in which the Convention is applied, including, in particular, data on the number of workers covered (see also Point V of the Report Form).

The Committee hopes that the Government will not fail to supply the information in question.

*United Kingdom* (ratification: 1956). Following its direct request made in 1960, the Committee notes with satisfaction that a Wages Ordinance dated 31 July 1961 establishes minimum wages for women employed in agriculture in Northern Ireland.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Brazil, Federal Republic of Germany, Hungary, Italy, Netherlands, Poland, Sierra Leone, Uruguay, Yugoslavia.*

**Convention No. 102: Social Security (Minimum Standards), 1952**

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

## Convention No. 103: Maternity Protection (Revised), 1952

A request regarding certain points is being addressed directly to the following States: *Cuba, Uruguay.*

## Convention No. 105: Abolition of Forced Labour, 1957

*General Observation*

The general review made this year by the Committee (see below, Part Three of the report) has made it possible to assess more precisely the nature and scope of certain provisions and practices existing in various countries, and to determine their relationship to the provisions of the Convention. The Committee must once again stress the fact that, for various reasons, this review is of a preliminary nature. In a number of cases where the Convention is already in force, it has proved impossible to assemble all the necessary material, and to translate and examine all the legislative and other texts which sometimes appear liable to be used for the purpose of exacting forced labour in forms prohibited by the Convention. Moreover, as pointed out on several occasions in the above-mentioned general conclusions on the Conventions and Recommendations relating to forced labour, it is frequently necessary to have detailed information on national practice before a view can be formed as to the extent to which effect is given to the Abolition of Forced Labour Convention, 1957 (No. 105).

For all these reasons, the Committee has refrained again this year from making detailed observations on the application of this Convention; it has however addressed direct requests to the governments of various countries in which the Convention is in force and it trusts that these governments will furnish detailed replies in their next reports.

In 1961 the Committee asked the governments of all countries in which the Convention was in force to make a careful examination of all their laws and regulations to satisfy themselves that there were no provisions by virtue of which any form of forced or compulsory labour might be imposed for any of the purposes enumerated in the Convention. In view of the relatively short time allowed to governments for replying, it is perhaps not surprising that the examination in question has so far hardly yielded any results. The Committee must therefore renew its request and, in the light of the more detailed particulars given in the general review, call upon the governments of countries where the Convention is in force to give special consideration, in the said examination, to the legislative texts enumerated below:

(a) As regards forced labour for political purposes, dealt with in Article 1 (a) of the Convention, it would be appropriate to bear in mind the following texts:

- legislation respecting martial law and emergencies;
- legislation respecting the internal and external safety of the State;
- legislation respecting means of controlling the dissemination of opinions;
- legislation respecting private and public assemblies and respecting societies;
- rules governing prison labour.

(b) As regards forced labour for economic purposes, dealt with in Article 1 (b) of the Convention, it would be appropriate to bear in mind the following texts:

- legislation respecting cases of *force majeure*;
- legislation respecting compulsory military service.

(c) As regards forced labour as a means of labour discipline, dealt with in Article 1 (c) of the Convention, it would be appropriate to bear in mind the following texts:

- legislation respecting conditions of work in certain establishments, undertakings or industries (posts and telecommunications, land transport, air transport, etc.);
  - legislation respecting seamen's conditions of work.
- (d) As regards forced labour as a punishment for having participated in strikes, dealt with in Article 1 (d) of the Convention, it would be appropriate to bear in mind the following texts:
- legislation respecting labour disputes in essential services;
  - legislation applying to seamen in case of labour disputes.
- (e) Finally, as governments will be asked to examine the problem of discrimination in employment in connection with the reports to be considered next year on the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, they should ascertain on this occasion that there is no provision in the national legislation which would, directly or indirectly, permit the exaction of forced labour as a discriminatory measure, contrary to Article 1 (e) of the Convention.

*Portugal* (ratification: 1959). The Committee notes that the application of this Convention in the overseas provinces of Angola, Guinea and Mozambique was the subject of a complaint by Ghana under article 26 of the Constitution of the International Labour Organisation, that this complaint was referred to a Commission of Inquiry in accordance with the said article 26, and that the Commission's report was presented to the Governing Body of the International Labour Office at its 151st Session (March 1962) and noted by it. The Committee further notes that, at this session of the Governing Body, the parties indicated that they accepted the Commission's findings and recommendations.

The Committee observes that, in paragraph 778 of the above-mentioned report, the Commission appointed under article 26 of the Constitution recommended that Portugal should indicate regularly in reports under article 22 of the Constitution the action taken to give effect to the recommendations made by it. The Committee accordingly requests the Government to supply information in this respect in a report for the period 1961-62.<sup>1</sup>

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Austria, Chad, Denmark, Dominican Republic, Finland, Israel, Norway, Pakistan, Portugal, Switzerland, Tanganyika, United Kingdom.*

**Convention No. 106: Weekly Rest (Commerce and Offices), 1957**

Requests regarding certain points are being addressed directly to the following States: *Cuba, Guatemala, Haiti, Mexico, Yugoslavia.*

**Convention No. 108: Seafarers' Identity Documents, 1958**

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

<sup>1</sup> The Government is requested to report in detail for the period 1961-62.

**Convention No. 111: Discrimination (Employment and Occupation), 1958***General Observation*

For the first time, the Committee had before it reports on this Convention, and it is addressing direct requests for additional information to the governments concerned.

The Committee will be called upon already next year to make a comprehensive review of the effect given to this instrument—which came into force in 1960—on the occasion of the examination of the reports on the Convention and on the complementary Recommendation which the Governing Body has requested under article 19 of the I.L.O. Constitution. The Committee learned with interest in this connection that the Governing Body has asked the Director-General to draw the special attention of all governments to the exceptional importance which the Governing Body attaches to the question of discrimination, and to request that the fullest possible reports be supplied under articles 19 and 22 of the Constitution in respect of all the Members of the Organisation and of all non-metropolitan territories.

The Committee trusts that the data which will become available in response to this appeal will render possible a precise assessment of the effect given to the Convention in the various countries. This assessment would in fact be greatly facilitated if the reports would reply in detail to all the questions included in the forms of report adopted by the Governing Body. As the implementation of the Convention may involve the adoption of both legislative and practical measures, the governments' reports should indicate on the one hand any legislation containing discriminatory elements or prohibiting discrimination and should also specify on the other hand what action has been taken or is contemplated in order to declare and pursue a national policy to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination (Article 2 of the Convention).

\* \* \*

Requests are being addressed directly to the following States: *Israel, Libya, Norway, Portugal, Tunisia, Ukraine.*

**Convention No. 112: Minimum Age (Fishermen), 1959**

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



**Appendix I. Detailed Reports Received and Detailed Reports Not Received  
by 27 March 1962**

Reports received: 1,090. Reports not received: 272. Total: 1,362.

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Afghanistan . . . . .	6	4, 13, 14, 41, 45, 95.	0	—	6
Albania . . . . .	0	—	8	4, 6, 10, 16, 29, 52, 77, 78.	8
Argentina . . . . .	29	2, 4, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 29, 32, 34, 41, 42, 45, 52, 53, 73, 77, 78, 79, 81, 88, 90, 95, 105.	0	—	29
Australia . . . . .	12	10 *, 12 *, 16, 18 *, 19 *, 22, 29 *, 45 *, 63, 85, 88, 105 *.	1	42.	13
Austria . . . . .	22	2, 4, 6, 10, 12, 13, 17, 18, 19, 24, 25, 29, 33, 42, 45, 63, 81, 89, 94, 95, 101, 105.	0	—	22
Belgium . . . . .	29	2, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 29, 42, 45, 53, 55, 56, 69, 73, 74, 81, 82, 85, 88, 89, 94, 96, 101, 102.	0	—	29
Bolivia . . . . .	6	5 *, 14 *, 19 *, 26 *, 42 *, 96 *.	0	—	6
Brazil . . . . .	16	6, 12, 16, 19, 29, 42, 45, 52, 53, 81, 88, 89, 92, 95, 96, 101.	0	—	16
Bulgaria . . . . .	33	2 *, 4 *, 6 *, 10 *, 12 *, 13 *, 16 *, 17 *, 18 *, 19 *, 22 *, 23 *, 24 *, 25 *, 34 *, 42 *, 43 *, 45 *, 49 *, 52 *, 55 *, 56 *, 69 *, 73 *, 77 *, 78 *, 79 *, 81 *, 87 *, 88 *, 94 *, 95 *, 98 *.	7	11, 20, 29, 44, 53, 62, 68.	40
Burma . . . . .	13	2, 4, 6, 16, 17, 18, 19, 22, 29, 41, 42, 52, 87.	0	—	13

\* Reports received too late to be summarised in Report III (Part I).

REPORT OF THE COMMITTEE OF EXPERTS

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Byelorussia. . . . .	0	—	9	10, 16, 29, 52, 77, 78, 79, 87, 90.	9
Cameroun . . . . .	6	4, 6, 13, 29, 85, 95.	0	—	6
Canada . . . . .	8	16, 22, 63, 69, 73, 74, 88, 105.	0	—	8
Central African Republic .	0	—	10	4, 6, 13, 29, 33, 41, 84, 85, 87, 95.	10
Ceylon . . . . .	10	16, 18, 29, 41, 45, 58, 63, 81, 90, 96.	0	—	10
Chad . . . . .	7	4, 6, 13, 29, 41, 95, 105.	0	—	7
Chile . . . . .	18	2, 4, 6, 10, 11, 12, 13, 16, 17, 18, 19, 22, 24, 25, 29, 34, 45, 63.	0	—	18
China . . . . .	6	16, 19, 22, 23, 45, 105.	0	—	6
Colombia . . . . .	11	2, 4, 12, 16, 17, 18, 19, 22, 23, 24, 25.	1	13.	12
Congo (Brazzaville) . . . .	6	4, 6, 13, 29, 41, 95.	0	—	6
Congo (Leopoldville) . . .	6	14, 26, 27, 62, 64, 89.	12	4, 11, 12, 17, 18, 19, 29, 42, 50, 84, 85, 94.	18
Costa Rica. . . . .	2	29, 105.	3	92, 106, 107.	5
Cuba . . . . .	0	—	32	4, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 29, 42, 45, 52, 63, 77, 78, 79, 81, 87, 88, 89, 90, 92, 94, 95, 96, 101, 104, 105, 110.	32
Cyprus . . . . .	9	16, 19, 29, 45, 81, 88, 94, 95, 105.	0	—	9
Czechoslovakia . . . . .	25	4, 10, 12, 13, 17, 18, 19, 24, 25, 34, 35, 36, 37, 38, 39, 40, 42, 44, 45, 48, 52, 63, 88, 89, 90.	1	29.	26
Dahomey . . . . .	9	4, 6, 13, 18, 29, 41, 84, 85, 95.	0	—	9
Denmark . . . . .	12	2, 6, 12, 16, 18, 19, 42, 52, 53, 63, 81, 92.	3	29, 94, 105.	15
Dominican Republic . . .	10	1, 10, 19, 52, 81, 88, 89, 90, 104, 105.	3	29, 45, 79.	13

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Ecuador . . . . .	5	26, 29, 45, 95, 98.	1	100.	6
Finland . . . . .	20	2, 12, 13, 16, 17, 18, 19, 22, 29, 42, 45, 52, 53, 63, 73, 81, 92, 94, 96, 105.	0	—	20
France . . . . .	36	2, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 24, 42, 44, 45, 52, 53, 55, 56, 63, 69, 73, 74, 77, 78, 81, 82, 85, 88, 89, 92, 94, 95, 96, 97, 101.	1	29.	37
Gabon . . . . .	0	—	10	4, 6, 13, 26, 29, 41, 84, 85, 87, 95.	10
Germany (Federal Republic)	22	2, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 42, 45, 56, 63, 81, 88, 96, 97 *, 101, 105.	0	—	22
Ghana . . . . .	12	16, 19, 26, 29, 45, 65, 81, 84, 85, 89, 98, 105.	0	—	12
Greece . . . . .	16	1, 2, 6, 13, 16, 17, 19, 29, 41, 42, 45, 52, 81, 88, 89, 95.	0	—	16
Guatemala . . . . .	13	77, 78, 79, 81, 87, 88, 89, 90, 94, 95, 96, 105, 106.	0	—	13
Guinea . . . . .	8	4 *, 6, 13, 18, 29, 41 *, 81, 95.	0	—	8
Haiti . . . . .	14	12, 17, 19, 24, 25, 29, 42, 77, 78, 81, 90, 105, 106, 107.	0	—	14
Honduras . . . . .	2	29, 105.	0	—	2
Hungary . . . . .	21	2, 6, 10, 12, 13, 16, 17, 18, 19, 24, 29, 41, 42, 45, 48, 52, 77, 78, 87, 95, 101.	0	—	21
Iceland . . . . .	0	—	2	2, 29.	2
India . . . . .	12	4, 6, 16, 18, 19, 22, 29, 45, 81, 88, 89, 90.	0	—	12
Indonesia . . . . .	0	—	4	19, 29, 45, 98.	4
Iran . . . . .	2	104, 105.	1	29.	3
Iraq . . . . .	11	14 *, 17 *, 18, 19 *, 41, 42, 77, 81, 88, 105 *, 111 *.	0	—	11

\* Reports received too late to be summarised in Report III (Part I).

REPORT OF THE COMMITTEE OF EXPERTS

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Ireland . . . . .	19	2, 6, 10, 12, 16, 19, 22, 23, 29, 42, 44, 45, 63, 69, 74, 81, 89, 92, 105.	0	—	19
Israel . . . . .	15	10, 19, 29, 52, 77, 78, 79, 81, 88, 90, 94 *, 95, 101, 105, 111.	1	102.	16
Italy . . . . .	34	2, 4, 6, 10, 12, 13, 16, 18, 19, 22, 23, 29, 42, 44, 45, 48, 52, 53, 55, 59, 60, 69, 73, 77, 78, 79, 81, 88, 89, 90, 94, 95, 96, 101.	0	—	34
Ivory Coast . . . . .	8	4, 6, 13, 18, 29, 41, 85, 95.	0	—	8
Japan . . . . .	13	2, 10, 16, 18, 19, 22, 29, 42, 45, 73, 81, 88, 96.	0	—	13
Jordan . . . . .	1	105.	0	—	1
Liberia . . . . .	3	53, 55, 58.	3	29, 110, 111.	6
Libya . . . . .	2	29, 105.	0	—	2
Luxembourg . . . . .	33	2, 4, 6, 7 *, 8 *, 10, 12, 13, 15 *, 16 *, 17, 18, 19, 21 *, 22 *, 23 *, 24, 25, 27 *, 28 *, 30 *, 42, 45, 59, 60, 77 *, 78 *, 79, 81 *, 88, 90, 96.	4	26, 87, 89, 98.	37
Malagasy Republic . . . .	7	4, 6, 13, 29, 41, 87, 95.	0	—	7
Malaya . . . . .	7	17, 19, 29, 45, 65, 85, 105.	0	—	7
Republic of Mali . . . . .	1	26.	10	4, 6, 11, 13, 29, 41, 84, 85, 87, 95.	11
Mauritania . . . . .	0	—	14	4, 5, 6, 11, 13, 14, 18, 26, 29, 33, 41, 85, 87, 95.	14
Mexico . . . . .	20	12, 13, 16, 17, 19, 23, 29, 32, 34, 42, 45, 52, 53, 55, 63, 90, 95, 105, 106.	2	107, 110.	22
Morocco . . . . .	16	2 *, 4, 12, 13, 17, 18, 19, 22, 29, 41, 42, 45, 52, 55 *, 81, 94.	0	—	16

\* Reports received too late to be summarised in Report III (Part I).

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Netherlands . . . . .	28	2, 10, 12, 13, 16, 17, 19, 22, 23, 29, 42, 45, 48, 63, 69, 73, 74, 81, 87, 88, 89, 90, 92, 94, 95, 96, 101, 105.	0	—	28
New Zealand . . . . .	20	2, 10, 12, 17, 21, 22, 29, 42, 44, 45, 52, 53, 63, 65, 82, 88, 89, 91, 101, 104.	0	—	20
Nicaragua . . . . .	0	—	26	1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30.	26
Niger . . . . .	9	4, 6, 13, 18, 29, 41, 85, 87, 95.	0	—	9
Nigeria . . . . .	9	16, 19, 29, 45, 65, 81, 94, 95, 105.	0	—	9
Norway . . . . .	23	2, 10, 13, 18, 19, 22, 29, 42, 44, 53, 63, 69, 73, 81, 88, 90, 92, 95, 96, 100, 101, 105, 111.	0	—	23
Pakistan . . . . .	14	4, 6, 16, 18, 19, 22, 29, 45, 81, 87, 89, 90, 96, 105.	0	—	14
Panama . . . . .	0	—	10	3, 12, 17, 30, 42, 45, 52, 81, 87, 100.	10
Peru . . . . .	8	4 *, 10 *, 19 *, 24 *, 25 *, 29 *, 41 *, 45 *.	0	—	8
Philippines . . . . .	8	17, 23, 87, 88, 89, 90, 94, 95.	0	—	8
Poland . . . . .	29	2, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 24, 25, 29, 42, 45, 48, 69, 73, 74, 77, 78, 79, 87, 92, 95, 96, 101, 105.	0	—	29
Portugal . . . . .	16	4 *, 6, 7, 12, 17, 18, 19, 26, 29, 45, 69, 73, 74, 92, 105, 111.	0	—	16
Rumania . . . . .	10	2 *, 6 *, 10 *, 13 *, 16 *, 24 *, 29 *, 87 *, 89 *, 98 *.	0	—	10
El Salvador . . . . .	0	—	3	12, 104, 105.	3

\* Reports received too late to be summarised in Report III (Part I).

REPORT OF THE COMMITTEE OF EXPERTS

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Senegal . . . . .	9	4, 6, 13, 18, 29, 41, 85, 87, 95.	0	—	9
Sierra Leone . . . . .	13	16, 17, 19, 22, 29, 45, 65, 81, 88, 94, 95, 101, 105.	0	—	13
Somali Republic . . . . .	0	—	3	29, 65, 85.	3
Former Trust Territory of Somaliland . . . . .	0	—	6	16, 17, 19, 22, 23, 45.	6
Former British Somaliland	0	—	5	50, 64, 94, 95, 105.	5
Republic of South Africa .	6	2, 19, 42, 45, 63, 89.	0	—	6
Spain . . . . .	23	1, 2, 4, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 24, 25, 29, 30, 34, 42, 45, 48, 89, 95.	0	—	23
Sudan . . . . .	0	—	3	2, 19, 29.	3
Sweden . . . . .	17	2, 10, 12, 13, 16, 17, 19, 29, 42, 45, 63, 81, 88, 92, 96, 101, 105.	0	—	17
Switzerland . . . . .	16	2, 6, 8, 15, 16, 18, 19, 23, 29, 44, 45, 63, 81, 88, 89, 105.	0	—	16
Tanganyika <sup>1</sup> . . . . .	8	29, 65, 81, 88, 94, 95, 101, 105.	0	—	8
Togo . . . . .	0	—	7	4, 6, 13, 29, 41, 85, 95.	7
Tunisia . . . . .	16	4, 6, 12, 13, 17, 18, 19, 45, 52, 62, 81, 89, 95, 99, 105, 111.	0	—	16
Turkey . . . . .	8	2, 42, 45, 58, 81, 88, 96, 105.	0	—	8
Ukraine . . . . .	5	29, 52, 77, 78, 79.	6	10, 11, 16, 58, 87, 90.	11
U.S.S.R. . . . .	9	10, 16, 29, 52, 77, 78, 79, 87, 90.	0	—	9
United Arab Republic. . .	16	2, 19, 29, 41, 45, 52, 53, 63, 81, 87, 88, 89, 94, 95, 101, 104.	8	1, 14, 17, 18, 96, 105, 106, 107.	24
United Kingdom . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	26

<sup>1</sup> Has also submitted reports on Conventions Nos. 16, 17, 19, 45.

## OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

Country	Reports received		Reports not received		Total
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
United States . . . . .	3	53, 55, 74.	0	—	3
Upper Volta . . . . .	8	4, 6, 13, 18, 29, 41, 85, 95.	0	—	8
Uruguay . . . . .	0	—	47	1, 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, 32, 42, 43, 45, 52, 58, 59, 60, 62, 63, 67, 73, 77, 78, 79, 87, 89, 90, 94, 95, 97, 98, 99, 101, 103.	47
Venezuela . . . . .	8	2, 6, 13, 19, 22, 29, 41, 45.	0	—	8
Viet-Nam . . . . .	6	4, 6, 13, 29, 45, 52.	0	—	6
Yugoslavia . . . . .	18	2, 12, 13, 16, 17, 18, 19, 23, 24, 25, 29 *, 45, 52, 56 *, 81 *, 88 *, 90, 101.	3	22, 48, 89.	21
<i>State not a Member of the I.L.O.</i>					
Western Samoa . . . . .	17	2, 10, 12, 17, 22, 29, 42, 44, 45, 52, 53, 63, 65, 82, 88, 89, 101.	2	81, 104.	19

\* Reports received too late to be summarised in Report III (Part I).

# REPORT OF THE COMMITTEE OF EXPERTS

## Appendix II. Statistical Table of Annual Reports on Ratified Conventions

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee <sup>1</sup>		Reports received in time for the session of the Conference	
		Number	%	Number	%	Number	%
1931-1932	447	—	—	406	90.8	423	94.6
1932-1933	522	—	—	435	83.3	453	86.7
1933-1934	601	—	—	508	84.5	544	90.5
1934-1935	630	—	—	584	92.7	620	98.4
1935-1936	662	—	—	577	87.2	604	91.2
1936-1937	702	—	—	580	82.6	634	90.3
1937-1938	748	—	—	616	82.4	635	84.9
1938-1939	766	—	—	588	76.8	— <sup>2</sup>	—
1943-1944	583	—	—	251	43.1	314	53.9
1944-1945	725	—	—	351	48.4	523	72.2
1945-1946	731	—	—	370	50.6	578	79.1
1946-1947	763	—	—	581	76.1	666	87.3
1947-1948	799	—	—	521	65.2	648	81.1
1948-1949	806	134 <sup>3</sup>	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1,026	212	20.6	840	81.8	917	89.3
1953-1954	1,175	268	22.8	1,077	91.7	1,119	95.2
1954-1955	1,234	283	22.9	1,063	86.1	1,170	94.8
1955-1956	1,333	332	24.9	1,234	92.5	1,283	96.2
1956-1957	1,418	210	14.7	1,295	91.3	1,349	95.1
1957-1958	1,558	340	21.8	1,484	95.2	1,509	96.8
1958-1959	995 <sup>4</sup>	200	20.4	864	86.8	902	90.6
1958-1960	1,100 <sup>4</sup>	256	23.2	838	76.1	963	87.4
1959-1961	1,362 <sup>4</sup>	243	18.1	1,090	80.0	—	—

<sup>1</sup> The opening date of the session of the Committee of Experts has, in general, been the end of March or the beginning of April. In a number of cases, however, the session has opened on other dates, varying between 29 February, in 1932, and 23 July, in 1945; the date limit for the receipt of reports has accordingly varied. <sup>2</sup> The Conference did not meet in 1940. <sup>3</sup> First year for which this figure is available. <sup>4</sup> As a result of a decision by the Governing Body, detailed reports were requested on only certain ratified Conventions.



## II. Observations on the Application of Conventions in Non-Metropolitan Territories (Article 22 and Article 35, paragraphs 6 and 8, of the Constitution)

### A. GENERAL OBSERVATIONS

#### *Australia*

The Committee regrets to note that only one of the 13 reports due in respect of Norfolk Island has been supplied. It hopes that in future all reports requested will be submitted.

#### *Belgium*

The Committee regrets to note that 20 of the 31 reports requested in respect of Ruanda-Urundi have not been supplied, including the report on the Forced Labour Convention, 1930, in respect of which observations have been outstanding for a number of years. The Committee also observes that several reports contain no information in reply to observations (Convention No. 42) or direct requests (Conventions Nos. 89 and 94), which it must accordingly repeat. The Committee trusts that all reports and information requested will be supplied in future.

#### *France*

##### *Overseas Departments.*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961 that the position regarding these territories was being reconsidered and that in any case the information requested by the Committee of Experts would be supplied in future either in the reports for metropolitan France or in separate reports. The Committee observes that in fact information has been supplied in respect of a certain number of Conventions with regard to these territories.

The Committee has also noted that the Government has communicated replies to observations regarding the Overseas Departments and a general note concerning the application of Conventions in French Guiana. Since these were not received until just before or during its meeting, the Committee has had to defer a detailed examination thereof until its next session. It has, however, noted that in certain cases the replies to observations are of a relatively summary nature, and would accordingly be grateful for any further particulars which the Government might be able to supply for its next session. The Committee also hopes that appropriate information in respect of the Overseas Departments will in future be supplied by the date requested for all Conventions on which detailed reports are due.

With regard to French Guiana, the Committee notes the Government's statement that "almost all" metropolitan legislation has been extended to this territory, but that there remain nevertheless "certain deficiencies and gaps due to the state of development and population of French Guiana". The Committee would accordingly consider it desirable if the Government would indicate for this Department—and, in

so far as the situation may be similar, also for the other Overseas Departments—precisely to what extent metropolitan legislation relevant to the application of ratified Conventions may or may not have been extended, and the points in respect of which deficiencies and gaps may still require to be made good.

#### *Netherlands*

The Committee regrets that none of the 42 reports requested in respect of Surinam has been supplied. In a number of these cases the Committee had made observations (Conventions Nos. 62 and 87) and direct requests (Conventions Nos. 13, 17, 19, 29, 42, 62, 87, 88, 95 and 96), which it is repeating.

The Committee trusts that the 42 reports in question, including full information on all observations and direct requests, will be available for examination at its next session, and that in future all reports will be supplied by the date requested.

#### *Portugal*

See the general observations in Part Two, Chapter I A.

#### *Spain*

The Committee must record its disappointment that, notwithstanding the explanations provided by the Conference Committee in 1961 and the hope expressed by it that full information would be supplied, the Government has once again this year failed to supply any of the reports due in respect of the application of Conventions ratified by Spain in its non-metropolitan territories.

The Committee notes the statement made by a Government representative to the Conference Committee in 1961 concerning the status of the territories in question, but notes that no formal written communication concerning this matter has been sent to the Director-General of the International Labour Office. It must accordingly draw the Government's attention once again to the views expressed by it on a number of previous occasions and endorsed by the Conference, when adopting the report of the Committee on the Application of Conventions and Recommendations in 1961—

(a) that, when a member State decides that a non-metropolitan territory should henceforth be an integral part of the national territory, all Conventions previously ratified become *ipso jure* applicable to the territory without modification;

(b) that a written communication should be sent to the Office, to prevent all uncertainty as to the scope of the international obligations existing in respect of ratified Conventions;

(c) that, whatever the status of the territory may be, full information must be supplied in the reports provided for in the I.L.O. Constitution, so that the Committee of Experts and the Conference may determine to what extent ratified Conventions are applied in the territory.

The Committee trusts that the Government will not continue to disregard its obligations in this matter, but will in future supply all necessary information on the application of the Conventions ratified by it in the territories concerned.

#### *United Kingdom*

The Committee has noted with satisfaction the Government's decision to set aside its earlier reservations concerning the legal obligations in regard to the making of declarations under article 35 of the Constitution of the I.L.O. in regard to Conventions ratified before 20 April 1948 and to set in train the procedures for the sub-

mission of declarations concerning Conventions ratified by the United Kingdom prior to that date. It has commented on this matter in paragraph 30 of its general report.

The Committee also notes the high percentage of reports supplied (over 96 per cent.) although in respect of two territories an appreciable number of reports were not submitted: Barbados (14 out of 28) and Jamaica (10 out of 26). It also observes that certain reports which were supplied in respect of the latter territory (Conventions Nos. 94 and 105) did not contain replies to the Committee's direct requests, which it must accordingly repeat.

The Committee is also repeating the following requests to which, in the absence of reports, no replies were available: Convention No. 81—Barbados, Jamaica; Convention No. 82—Barbados, Dominica, Grenada, Jamaica, Nyasaland; Convention No. 94—Dominica, Grenada; Convention No. 95—Barbados.

Finally, the Committee notes the statement in the report on Convention No. 85 for the Solomon Islands that legislation concerning labour inspection has been enacted and that it is considered that the Convention may therefore be applied without modification. The Government will no doubt wish to examine the possibility of making a new declaration under article 35 accordingly.

#### B. INDIVIDUAL OBSERVATIONS

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

###### *France*

###### *Algeria.*

See Chapter I, under Convention No. 6, *France*.

###### *Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion).*

See Chapter I, under Convention No. 6, *France*.

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

###### *Denmark*

###### *Faroe Islands.*

The Committee regrets to note that legislation to prohibit night work for young persons and to give effect to the Convention has not yet been adopted despite the assurances repeatedly given by the Government since 1957. The Committee urges that effect will be given to the Convention without further delay.

###### *France*

###### *Algeria.*

See Chapter I, under Convention No. 6, *France*.

###### *Overseas Departments (Martinique, Réunion).*

See Chapter I, under Convention No. 6, *France*.

###### *French Somaliland.*

The Committee notes that the Government does not indicate any progress made in amending the local regulations to bring them into harmony with Article 2, paragraph 2, of the Convention (exceptions from the night work prohibition to be limited

specifically to five categories of industries). The Committee hopes that measures will be taken to ensure full conformity between the legislation and the Convention on this point.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Denmark* (Greenland), *France* (Comoro Islands, New Caledonia, St. Pierre and Miquelon).

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

*Belgium*

*Ruanda-Urundi.*

The Committee notes with satisfaction that Ordinance No. 222/212 of 24 June 1961 has repealed section 3 of the decree of 25 January 1957 and the provisions of the ordinance issued in application thereof which restricted the rights of association of persons engaged under contracts of service.

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

*France*

*Comoro Islands.*

Following its previous requests, the Committee notes with satisfaction that Order No. 14 IT/C dated 17 January 1959 regulates the use of white lead and all compounds containing lead in cases where such use is authorised.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to: *France* (St. Pierre and Miquelon), *Netherlands* (Surinam).

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

A request regarding certain points is being addressed directly to *Denmark* (Greenland).

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

A request regarding certain points is being addressed directly to the *Netherlands* (Surinam).

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

*France*

*Algeria.*

See Chapter I, under Convention No. 42, *France*.

*Overseas Departments* (French Guiana, Guadeloupe, Martinique, Réunion).

See Chapter I, under Convention No. 42, *France*.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *Denmark* (Faroe Islands).

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

Requests regarding certain points are being addressed directly to the following States: *Denmark* (Greenland), *Netherlands* (Surinam).

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

Requests regarding certain points are being addressed directly to the *United Kingdom* (Guernsey, Jersey).

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

*Netherlands*

*Surinam.*

Since the report for 1959-61 has not been received, the Committee regrets to note that for the fourth time in succession the Government has not replied to its requests bearing on the practical application of the Convention. Consequently, it urges the Government to supply without fail in its next report the information requested under Point V of the report form, and to indicate in particular the number and nature of any contraventions which may have been reported.<sup>1</sup>

**Convention No. 29: Forced Labour, 1930**

*Belgium*

*Ruanda-Urundi.*

The Committee notes with satisfaction Ordinance No. 05/232 of 24 June 1961, which has repealed section 1 (1) of Ordinance No. 112/FP of 12 June 1940, which authorised recourse to compulsory portage.

In 1961 the Committee noted with interest the statement made by a Government representative to the Conference that the cancellation of the modifications subject to which the Convention had been declared applicable was contemplated. It expressed the hope that the cancellation of these modifications would prove possible in the near future.

A Government representative stated to the 1961 Conference that: "an ordinance has just been issued whereby the modifications subject to which the Convention had been made applicable in Ruanda-Urundi have been abrogated."

The Committee greatly regrets to note that these statements have not yet been given effect.

Finally, the Committee notes with regret that, in spite of the specific request which it made in 1961 for a detailed report for 1959-61, the Government has not supplied a report on this Convention. It must therefore once more repeat its request, and asks the Government to take the necessary steps in order that the next report may contain all the information requested.<sup>1</sup>

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

*United Kingdom**Bechuanaland.*

The Committee notes that it has not yet been possible to refer draft legislation on forced labour to the Bechuanaland African Council, and hopes that this legislation will be adopted at an early date and that the Government will be in a position to supply full information thereon in its next report.

*Fiji.*

The Committee notes with satisfaction that Regulation No. 13, which allowed for the exaction of forced labour for personal services to chiefs, has now been repealed.

*North Borneo.*

The Committee notes with satisfaction that, in response to the comments made by it in a general observation in 1958 and in subsequent direct requests, the Rural Government Ordinance was amended by Ordinance No. 23 of 1959 so as to delete provisions permitting the imposition of various forms of compulsory labour in cases of shortages of food.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *Netherlands* (Surinam), *United Kingdom* (Antigua, Bechuanaland, Bermuda, Fiji, Gambia, Grenada, Kenya, Montserrat, Northern Rhodesia, Nyasaland, St. Christopher-Nevis-Anguilla, St. Vincent, Solomon Islands, Swaziland, Uganda).

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

*France*

*Overseas Departments* (French Guiana, Guadeloupe, Martinique, Réunion).

See Chapter I, under Convention No. 42, *France*.

*Netherlands**Netherlands Antilles.*

The Committee notes with regret that no amendments have yet been made in the national legislation to complete the list of occupational diseases and bring it into conformity with the Convention.

It notes that priority had to be given to the over-all Old-Age Insurance Scheme and that the advice required with regard to the modified Accident Insurance Scheme has been obtained; however, it trusts that the amendments already announced in 1957 will be introduced in the very near future and that the Government will not fail to supply in its next report information concerning the progress achieved to this effect.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *Netherlands* (Surinam), *Republic of South Africa* (South West Africa).

**Convention No. 52: Holidays with Pay, 1936**

A request regarding certain points is being addressed directly to *Denmark* (Faroe Islands).

**Convention No. 53: Officers' Competency Certificates, 1936**

A request regarding certain points is being addressed directly to the *United States* (Trust Territory of the Pacific Islands).

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

A request regarding certain points is being addressed directly to the *United States* (American Samoa).

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

Requests regarding certain points are being addressed directly to the *United Kingdom* (Guernsey, Jersey).

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

*Overseas Departments* (French Guiana, Guadeloupe, Martinique, Réunion).

See Chapter I, under Convention No. 62, *France*.

*Netherlands**Surinam.*

The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee noted with interest that a draft resolution providing for safety regulations for the building industry, in accordance with the Convention, is in an advanced stage of preparation. It looks forward to receiving further information on the progress made in implementing the provisions of the Convention, and in particular Articles 6, 12, 13 and 16 which are not applied, and Articles 1, 2, 3, 7, 8, 9, 10, 14 and 15 which are only partially applied.

In the absence of this information which has been requested since 1958, the Committee must entertain serious doubts as to the degree of application of the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *France* (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion), *Netherlands* (Surinam).

**Convention No. 65: Penal Sanctions (Indigenous Workers), 1939***United Kingdom**Bechuanaland.*

The Committee has noted that the Government is still examining the possibility of legislative measures to abolish penal sanctions for breach of contract. In this

connection, the Committee draws attention to the repeated assurances given by the Government. It expresses the hope that these measures will be adopted as soon as possible (particularly with a view to repealing the penal sanctions provided for in the Masters and Servants Act (sections 13-18) and in the Native Labour Proclamation, (section 40).

*British Guiana.*

The Committee has noted with satisfaction the repeal by Ordinance No. 8 of 1960 of section 36 (1) of the Labour Ordinance which provided penal sanctions for breaches of employment contract.

*Swaziland.*

The Committee has noted with satisfaction that the amendments made to the Masters and Servants Act through Proclamation No. 59/1960, and to the African Labour Proclamation through Proclamation No. 58/1960, have abolished penal sanctions for breach of contract, in accordance with Article 1, paragraph 2, of the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the *United Kingdom* (Basutoland, Kenya, Mauritius, Northern Rhodesia, Uganda).

**Convention No. 69: Certification of Ships' Cooks, 1946**

A request regarding certain points is being addressed directly to the *Netherlands* (Netherlands Antilles).

**Convention No. 81: Labour Inspection, 1947**

*Netherlands*

*Netherlands Antilles.*

The Committee has noted the Government's statement to the Conference in 1960, in reply to the observation made by the Committee, as well as the written information supplied in this connection. It appears from these various indications that, while there are no legislative provisions giving effect to Article 12, paragraph 1 (c), of the Convention, in practice the inspectors have full power to carry out the various examinations, tests and inquiries provided for under this Article, particularly since the "National Order" of 1959 invests them with the powers of "extraordinary police agents".

In view of the factual situation described above, the Committee considers that the adoption of legislative measures in this field should not involve difficulty and requests the Government to take the necessary measures to ensure that the powers of labour inspectors provided for under Article 12, paragraph 1 (c), of the Convention shall not be subject to any doubt.

*Surinam.*

The Committee notes with regret that the report for 1959-61 has not been received. This is all the more disappointing because a Government representative had assured the Conference Committee in 1960 that new legislation was being prepared. The Committee is bound, therefore, to repeat its previous observation, which was as follows:



The Committee notes from the Government's reply to the requests of 1958 and 1959 that there exists no special legislation on the functioning of the Labour Inspection and Safety Service, but that the Government will consider introducing legislation to ensure the proper functioning of the Service in accordance with the provisions of the Convention.

The Committee trusts that the contemplated legislation will be adopted in the near future and will give full effect in particular to Articles 6 to 9, 12 and 13 of the Convention.

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

### *United Kingdom*

#### *British Honduras.*

Article 12, paragraph 1, subparagraph (b), of the Convention. The Committee notes with interest that section 10 (a) of the Labour Ordinance, 1959, which came into force in 1960, gives full effect to this subparagraph. In these circumstances the Government may wish to consider the possibility of cancelling the modification previously made in respect of this provision of the Convention.

Article 15, paragraph (c). The Committee notes with satisfaction that section 14 (1) (b) of the Labour Ordinance, 1959, requires labour inspectors to treat as absolutely confidential the source of any complaint.

Part II. The Committee notes with interest the Government's statement that labour inspectors now carry out inspections of commercial workplaces and that the system of inspection conforms with the requirements of Articles 3 to 21. In these circumstances the Government may wish to consider the possibility of extending its declaration of acceptance to include Part II of the Convention.

#### *Gibraltar.*

The Committee notes with interest from the Government's report that it is intended to accept Part II of the Convention (labour inspection in commerce) but that staff changes have necessitated the recruitment and training of a new Factory Inspector and that in the circumstances acceptance of additional obligations has been deferred. The Committee hopes that the acceptance of Part II will prove possible in due course.

#### *Hong Kong.*

The Committee thanks the Government for the information supplied in answer to the direct request made in 1960. It notes with satisfaction that the Factories Ordinance is amended by the addition of a new section 4 (A) which prohibits officials from revealing the source of any complaint (Article 15 (c) of the Convention).

Furthermore, the Committee hopes that the amendment to the Workmen's Compensation Ordinance, 1953, will be introduced shortly, so that occupational diseases will also be covered by this instrument and so that, as the Government indicates, there will be no further obstacle to rendering compulsory the notification of such diseases to the Labour Inspectorate, as provided for under Article 14 of the Convention.

#### *Mauritius.*

Article 15 of the Convention. The Committee notes with satisfaction that paragraph 12 of Labour Department Circular Instruction No. 8/61 contains provisions which give full effect to this Article.

Articles 22 to 24. The Committee notes with interest the Government's statement that these Articles are now fully applied and that the provisions which apply Part I of the Convention apply equally to labour inspection in commercial workplaces.

In these circumstances the Government may wish to consider the possibility of extending its declaration of acceptance to include Part II of the Convention.

*North Borneo.*

The Committee notes with interest from the Government's reply to the direct request made in 1960 that the statistical information required under clauses (d), (e) and (g) of Article 21 has been included in table VIII of the Annual Reports of the Department of Labour for 1959 and 1960. However, as copies of these reports have not been forwarded to the International Labour Office since the Convention was declared applicable to the territory, the Committee ventures to draw the Government's attention to the provisions of Article 20, which lay down that an annual general report on the work of the inspection services should be transmitted to the Office within three months after its publication. It trusts, therefore, that the Government will take steps to ensure that this requirement of the Convention is complied with in the future.

*Singapore.*

The Committee thanks the Government for its reply to the direct request made in 1960 and notes with satisfaction the terms of the Factories Ordinance 1958, which lays down the powers and duties of labour inspectors, in accordance with Article 12 of the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Netherlands* (Netherlands Antilles), *United Kingdom* (Antigua, Barbados, British Guiana, British Honduras, Brunei, Grenada, Jamaica, Kenya, Malta, Mauritius, North Borneo, St. Vincent, Sarawak, Singapore, Southern Rhodesia, Uganda).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947

*Belgium*

*Ruanda-Urundi.*

The Committee thanks the Government for the detailed report supplied in response to its direct requests of 1959 and 1960.

Article 18 of the Convention. The Committee notes with interest that the Royal Decree of 13 January 1959 has laid down regulations of employment which apply equally to all employees of the Administration. It takes, moreover, due note of the Government's statement that the general revision of legislation at present in force will be carried out in the near future to eliminate all remaining elements of discrimination between African and non-African workers.

The Committee reiterates the hope that these measures will secure full compliance with the above Article of the Convention, particularly in regard to the exaction of forced labour and the imposition of penal sanctions for breaches of contracts of employment by legislation applicable to only one section of the population.

*United Kingdom*

*Bermuda.*

In reply to the Committee's direct requests of 1959, 1960 and 1961, the Government states that the submission of a Bill to the Legislature fixing the minimum age of employment at 12 years is contemplated and that this Bill will prohibit employment during school hours.

The Committee trusts that this legislation will be enacted shortly so as to ensure full compliance with Article 19, paragraph 2, of the Convention and that a copy of the measures enacted will be supplied in due course.

*Mauritius.*

Further to its request of 1958, the Committee notes with satisfaction that subsection 4 of section 123 and subsection 3 of section 54 of the Employment and Labour Ordinance as revised by the Amendment Ordinance, 1961, give effect to paragraphs 1 and 5 of Article 15 of the Convention (payment of wages).

*Montserrat.*

The Committee regrets to note that no legislation has yet been passed to give effect to the provisions of Article 16 of the Convention. It calls the attention of the Government to the obligation assumed under this Article to regulate the maximum amounts and manner of repayment of advances on wages and expresses once more the hope that the next report will contain details of progress made in this respect and will include a copy of the new legislation.

*Northern Rhodesia.*

Article 18 of the Convention. The Committee notes the Government's statement, in reply to its direct requests of 1959 and 1960, that active consideration is being given to the amendment of the existing Workmen's Compensation Ordinance with a view to achieving a uniform system of workmen's compensation for workers of all races, and to the repeal of sections 74 and 75 of the Employment of Natives Ordinance and the drafting of a comprehensive Employment Bill with a completely non-racial basis. The Committee trusts that the enactment of this legislation will permit compliance with this Article of the Convention.

*Southern Rhodesia.*

Article 18 of the Convention. The Committee notes with interest that the Public Services Amendment (No. 2) Act, 1960, has removed restrictions on the entry of non-Europeans to the public service. The Committee also notes with interest the Government's statement that, in accordance with its policy of abolishing discrimination between the races in all legislation, the General Employment Bill will repeal the Native Labour Regulations Act. The Committee hopes, therefore, that information will be supplied in future reports on the progress made in the adoption of this legislation and on other measures to remove all remaining elements of racial discrimination among workers.

*Swaziland.*

Article 18 of the Convention. See under Convention No. 65.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *France* (Comoro Islands, French Polynesia, French Somaliland, New Caledonia), *United Kingdom* (Aden, Antigua, Bahamas, Barbados, Basutoland, Bechuanaland, British Guiana, British Virgin Islands, Brunei, Dominica, Gambia, Gibraltar, Grenada, Jamaica, Kenya, Mauritius, Northern Rhodesia, Nyasaland, St. Christopher-Nevis-Anguilla, St. Lucia, St. Vincent, Seychelles, Southern Rhodesia, Swaziland, Trinidad and Tobago).

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

*Belgium**Ruanda-Urundi.*

See under Convention No. 11.

*United Kingdom**Hong Kong.*

The Committee has noted with interest that, according to the information supplied in the report, a Bill to amend Ordinance No. 8 of 1948, the drafting of which is in a fairly advanced stage, will if enacted eliminate the possibility of the Registrar's refusing to register a trade union if "he is satisfied that any previously registered trade union adequately represents for that particular trade, the objects of the proposed trade union"; the Bill will also introduce an appeals procedure against refusal to register or cancellation of registration.

The Committee expresses the hope that these amendments, which in accordance with Article 2 of the Convention will contribute to guaranteeing the right of employers and workers to organise, will be adopted without delay.<sup>1</sup>

\* \* \*

In addition, a request regarding certain points is being addressed directly to *Belgium* (Ruanda-Urundi).

## Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947

*United Kingdom**Bahamas.*

The Committee noted the statement of a Government representative in the Conference Committee in 1960 that the appointment of an Assistant Labour Officer was approved by the Legislature in May 1960. However, the report for the period 1959-61 does not state whether this officer has taken up his duties.

Furthermore, since the Government has not answered the observation made in 1960, the Committee must inquire once again whether the officers of the Labour Department enjoy all the powers and are subject to all the rules provided for in the Convention.

Lastly, the Committee would be glad if the next report of the Government would contain the information on the working of the labour inspection system, mentioned in the report for 1959-61.

*Dominica.*

The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to refer to its observation of 1959, repeated in 1960, which was as follows:

... there exists no law or regulation governing the code of conduct of the labour officer who, according to the Government's report, undertakes inspection duties (Article 5 of the Convention), nor would this officer appear to have any powers of inspection except under the Labour Statistics Ordinance and the Labour (Minimum Wage) Act (Article 4, paragraph 2, of the Convention).

The Committee trusts that the Government will find it possible to ensure that the powers and duties of the inspection officer will fully conform to the provisions of the Convention.

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

In view of the delay which has occurred, the Committee can only reiterate the hope that action will be taken without further delay.

*Gambia.*

Following its previous requests and observation, the Committee has taken note with interest of the information supplied by the Government in its report on Convention No. 81, according to which labour inspection services are set up within the framework of the Labour Department and that qualified officials, in particular an inspector who is at present being trained, have been appointed.

The Committee hopes that these measures constitute a first step towards the full application of the Convention and that the Government will thus be in a position to take the necessary steps to invest labour inspectors with the powers specified in Article 4 of the Convention, since the present legislation does not provide for such powers.

*Northern Rhodesia.*

The Committee notes with interest from the Government's reply to the direct request made in 1960 that legislation is under consideration to provide progressively in the various ordinances for the confidential treatment of the sources of complaints as provided in Article 5 (c) of the Convention. It hopes that the above-mentioned measures will be adopted at an early date so as to give effect to this basic requirement.

*Nyasaland.*

For several years, the Committee has been drawing the Government's attention to the discrepancy between section 5, paragraph 2 (b), of the African Employment Ordinance, under which the employer may ask to be present when a worker is interviewed by a labour officer and Article 3 of the Convention which expressly provides that "workers . . . shall be afforded every facility for communicating freely with the inspectors".

The Committee further notes that the Government had informed the Conference Committee in 1960 that this ordinance was under review and that the above-mentioned provision was to be repealed. It regrets that the report for 1959-61 simply repeats the information given to the Conference.

In view of the serious nature of this discrepancy the Committee trusts that the Government will take the necessary measures to eliminate it in the shortest possible time.<sup>1</sup>

*St. Christopher-Nevis-Anguilla.*

The Committee notes from the Government's reply to the observation and direct request made in 1960 that an amending Bill, to give effect to Articles 4 and 5 of the Convention, is with the Crown Law officers and that the Factories Ordinance, 1955, is shortly to be proclaimed. It further notes that the inspection duties under the Employment of Women, Young Persons and Children Act and the Shops Regulation Ordinance, at present performed by the police, will be transferred to officers of the Labour Department after the above Bill becomes law.

The Committee hopes that the above-mentioned measures will be adopted in the near future.

---

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the period 1961-62.

*St. Lucia.*

Following its previous requests, the Committee has taken note with interest of the new labour legislation adopted in 1959 and 1960 which deals in particular with the powers and duties of labour inspectors.

*Southern Rhodesia.*

The Committee has noted the Government's statement in its report that it hopes to be able to present the General Employment Bill to Parliament in 1962, containing a provision to give effect to Article 4, paragraph 2 (c) (iv), of the Convention. Since a similar indication was given by the Government to the Conference in 1958, the Committee hopes that it will be possible to give effect to this provision of the Convention during the current year.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *France* (Comoro Islands, French Polynesia, French Somaliland, New Caledonia, St. Pierre and Miquelon), *United Kingdom* (Aden, British Virgin Islands, Malta, Montserrat, St. Helena, St. Lucia, Trinidad and Tobago).

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

*Netherlands**Surinam.*

In 1961, noting that the Government had twice in succession failed to submit a report on the application of the Convention, the Committee requested the Government to supply, in a report covering the period 1 July 1958 to 30 June 1961, the complementary information it had been asking for in vain since 1958. The Committee notes with regret that this report has not been supplied. In view of the importance, from the point of view of freedom of association, of the questions raised, the Committee trusts that the Government will not fail to answer them in its next report. These questions were the following:

- (a) Can appeal be made against the Government's refusal to grant legal personality? If so, to what tribunal? (Please supply references to any relevant legislative texts.)
- (b) What provisions apply to the suspension and dissolution of workers' and employers' organisations?

Convention No. 88: Employment Service, 1948

*Netherlands**Netherlands Antilles.*

The Committee notes with interest from the information supplied in reply to the direct requests, made in 1959 and 1960 that the Government has decided to establish advisory committees, in conformity with Article 4 of the Convention. The Committee trusts that the establishment of such committees will be confirmed in the next report.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Netherlands* (Surinam), *United Kingdom* (British Guiana, Gibraltar, Kenya, Malta, Mauritius, Singapore, Uganda).

## Convention No. 89: Night Work (Women) (Revised), 1948

*France*

*Overseas Departments* (Martinique, Réunion).

See Chapter I, under Convention No. 6, *France*.

*Netherlands*

*Netherlands Antilles.*

The Committee notes with satisfaction from the reply to its direct requests of 1959 and 1960 that the draft amendment of article 17 (2) of the Labour Regulations, 1952, was approved on 19 September 1961 by the Parliament of the Netherlands Antilles. The Committee would be grateful if the Government would communicate a copy of this amendment with its next report.

*Netherlands New Guinea.*

The Committee has noted the information supplied by the Government in 1960, in reply to the Committee's observation, indicating that a draft ordinance was being prepared to meet the requirements of the Convention. Since the most recent report contains no new information on this matter the Committee wishes to recall that the ordinance of 17 December 1925 (section 3) prohibits work by women at night during seven hours (from 10 p.m. to 5 a.m.), whereas under Article 2 of the Convention the night period must be not less than 11 consecutive hours.

The Committee urges the Government to eliminate this basic divergency without further delay.<sup>1</sup>

*Republic of South Africa*

*South West Africa.*

The Committee notes with interest from the reply to the observation of 1960 that the possibility of a suitable amendment to the Mines, Works and Minerals Ordinance of 1954 will be considered when the ordinance comes up for amendment. The Committee hopes that it will thus be possible at an early date to prohibit night work of women in mines (above ground) as required by the Convention.

As there is no progress in adopting legislative provisions prohibiting night work for women in factories employing less than five persons as well as in the building industry, the Committee urges the Government to take the necessary measures without delay to bring the legislation into conformity with Article 1 (scope of application) of the Convention.

It trusts that the next report will indicate the progress made in bringing the legislation into full harmony with the Convention in respect of the above-mentioned points.

\* \* \*

In addition, a request regarding certain other points is being addressed directly to *Belgium* (Ruanda-Urundi).

---

<sup>1</sup> The Government is asked to supply full particulars to the Conference at its 46th Session and to report in detail for the 1961-62 period.

## Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

*Netherlands**Netherlands Antilles.*

The Committee notes with satisfaction from the reply to its observation of 1961 that the modification in the Labour Regulations, 1952 designed to extend the prohibition of night work by persons under 18 years to dockers and maritime and aviation workers has been approved on 20 September 1961. The Committee would be grateful if the Government would communicate a copy of this amendment.

As regards Article 4, paragraph 2, of the Convention (exceptions in case of emergencies) and Article 5 (suspension of the prohibition of night work when in case of serious emergency the public interest demands it) the Committee expresses once again the hope that the legislation will be amended without further delay to limit such exceptions to young persons between the ages of 16 and 18.

## Convention No. 94: Labour Clauses (Public Contracts), 1949

*Netherlands**Netherlands Antilles.*

The Committee thanks the Government for the information supplied in answer to the observation and direct request made in 1961.

Article 2 of the Convention. The Committee notes with interest the terms of the letter of 30 September 1959 addressed to the Antilles authorities directing that labour clauses be inserted in public contracts. It further notes that the model contract annexed to the report provides that "wages and conditions of work" of those engaged on public contracts shall be not less favourable than those provided to workers employed in private enterprise, and that provision is made to withhold one-twentieth of the payment from an employer to enable the workers concerned to obtain the wages to which they are entitled.

Article 5, paragraph 1. The specification referred to above does not appear to provide for the application of adequate sanctions for failure to observe the labour clauses on the part of the employers. As such sanctions would be of particular importance to ensure payment of wages at current rates, given the limited extent to which minimum rates have been fixed, the Committee would be glad if the Government would consider taking appropriate measures to give effect to this requirement of the Convention.

Referring to the requests made in 1959 and 1961, the Committee regrets to note that the Government has still not supplied information on the measures taken to give effect to Article 1, paragraphs 2 and 3, of the Convention (regarding contracts by authorities other than the central authorities and the obligations of subcontractors and assignees) and Article 2, paragraphs 3 and 4 (regarding the consultation of employers' and workers' organisations on the terms of labour clauses and measures to bring the clauses to the notice of persons tendering for public contracts). The Committee trusts that the Government will not fail to provide the above-mentioned information.

*Surinam.*

The Committee notes with regret that the report for 1959-61 has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows :



The Committee notes with interest that, in the light of the observations made by it in previous years, the Government intends to introduce regulations to give effect to the Convention. The Committee hopes that these regulations will be issued at an early date.

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

*United Kingdom*

*St. Lucia.*

The Committee notes with satisfaction that the Labour Clauses (Public Contracts) Ordinance, 1959, was enacted to give effect to the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *Belgium* (Ruanda-Urundi), *Netherlands* (Netherlands Antilles), *United Kingdom* (Aden, Bahamas, Bermuda, British Honduras, British Virgin Islands, Brunei, Dominica, Gilbert and Ellice Islands, Grenada, Jamaica, Kenya, Mauritius, North Borneo, St. Lucia, St. Vincent, Sarawak, Solomon Islands, Trinidad and Tobago, Uganda, Zanzibar).

Convention No. 95: Protection of Wages, 1949

*Netherlands*

*Netherlands New Guinea.*

The Committee regrets to note that the Government's report for 1959-61 fails to indicate that any measures have been taken to amend the Civil Code of the former Dutch East Indies to ensure the application of the Convention to all categories of workers. The Government stated in its reports for 1957-59 that the provisions of the Seventh Title A, in so far as they relate to the provisions of Convention No. 95, would have to be made applicable "to all categories of workers, irrespective of the work they perform", and that the legislation would also contain a specific provision to apply Article 13, paragraph 2, of the Convention (prohibition of payment of wages in taverns, etc.).

The Committee trusts that the necessary amendments will be enacted without further delay.

*United Kingdom*

*British Honduras.*

The Committee thanks the Government for its detailed report in reply to the direct request made in 1960 and notes with satisfaction that the Labour Ordinance 1959, which came into force in 1960, gives effect, *inter alia*, to Articles 5, 8 (paragraph 2) and 15 (d), of the Convention.

*Grenada.*

The Committee notes with interest from the reply to the direct request made in 1961 that the Government has recommended the enactment of general legislation concerning the protection of wages and that the new ordinance will cover the points raised by the Committee in connection with Article 3, paragraph 1, Article 4, paragraph 1, Article 6, Article 8, paragraph 2, Article 10, Article 13 and Article 15 (b), (c) and (d), of the Convention. In this connection, the Government might also wish to consider giving legislative effect as suggested by the Committee to Article 4,

paragraph 2, of the Convention, which provides that allowances in kind must be appropriate for the personal use and benefit of the worker and that the value attributed to such allowances be fair and reasonable.

The Committee also notes that consideration is being given to the repeal of section 13 (2) (3) of Ordinance No. 4 of 1951, which is not in conformity with Article 4 of the Convention.

The Committee hopes that the above-mentioned measures will be adopted at an early date and would be glad if the Government's next report would provide full information on the progress made in this matter, including copies of any legislation enacted.

#### *Mauritius.*

The Committee notes with satisfaction from the Government's reply to the direct request made in 1960, that the Employment and Labour Ordinance as amended in 1961 ensures full application of Articles 4 and 13 of the Convention.

#### *Solomon Islands.*

The Committee notes with interest the Government's statement that the new Labour Regulation, 1960, makes unnecessary the modifications set out in the original declaration of application as regards several Articles of the Convention.

In these circumstances the Government may wish to give consideration to cancelling these modifications.

#### *Zanzibar.*

The Committee notes with satisfaction from the Government's reply to the direct request made in 1961 that the Labour Decree, 1946 has been further amended to give effect to Articles 2, 5, 6, 9 and 13 of the Convention.

\* \* \*

In addition, requests regarding certain other points are being addressed directly to the following States: *France* (Comoro Islands, French Polynesia, French Somaliland, New Caledonia, St. Pierre and Miquelon), *Netherlands* (Surinam), *United Kingdom* (Aden, Bahamas, Barbados, British Guiana, British Honduras, Brunei, Dominica, Gibraltar, Jersey, Malta, Mauritius, North Borneo, St. Lucia, St. Vincent, Sarawak, Solomon Islands, Trinidad and Tobago, Uganda, Zanzibar).

#### Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

A request regarding certain points is being addressed directly to the *Netherlands* (Surinam).

#### Convention No. 97: Migration for Employment (Revised), 1949

Requests regarding certain points are being addressed directly to the *United Kingdom* (British Guiana, British Virgin Islands).

#### Convention No. 98: Right to Organise and Collective Bargaining, 1949

Requests are being addressed directly to the *United Kingdom* (Malta, Singapore).

**Convention No. 101: Holidays with Pay (Agriculture), 1952**

Requests regarding certain points are being addressed directly to the *United Kingdom* (British Honduras, Isle of Man, St. Lucia, St. Vincent, Singapore).

**Convention No. 102: Social Security (Minimum Standards), 1952**

A request regarding certain points is being addressed directly to the *United Kingdom* (Isle of Man).

**Convention No. 105: Abolition of Forced Labour, 1957**

See General Observation in Part Two, Chapter I B, under Convention No. 105.

*United Kingdom**Hong Kong.*

Following its examination of the Government's first report, the Committee observed in a direct request in 1961 that, by virtue of the Compulsory Service Ordinance, 1951 and the Essential Services Corps Ordinance (Cap. 197), both men and women might be called up to perform a wide range of services, and requested information on the measures taken or contemplated to ensure that, in accordance with Article 1 (b) of the Convention, no use was made of any form of forced or compulsory labour as a method of mobilising and using labour for purposes of economic development.

The Committee notes with satisfaction that, by virtue of Ordinance No. 22 of 22 June 1961 and Proclamation No. 4 of 3 August 1961, the operation of the Compulsory Service Ordinance has been suspended and that membership of the Essential Services Corps is now based on voluntary enrolment.

\* \* \*

In addition, requests regarding certain points are being addressed directly to the *United Kingdom* (Antigua, Bahamas, Basutoland, Bermuda, British Virgin Islands, Brunei, Dominica, Grenada, Guernsey, Hong Kong, Jersey, St. Christopher-Nevis-Anguilla, St. Lucia, St. Vincent, Singapore, Swaziland, Trinidad and Tobago).

**Convention No. 106: Weekly Rest (Commerce and Offices), 1957**

Requests regarding certain other points are being addressed directly to *Denmark* (Faroe Islands, Greenland).

**Appendix. Detailed Reports Received and Detailed Reports Not Received  
by 27 March 1962**

*(Non-Metropolitan Territories)*

Reports expected: 1,939. Reports received: 1,551. Reports not received: 388.

The numbers of Conventions in respect of which declarations of application without modification or declarations of application with modifications had been registered by 30 June 1961 are printed in *italic type*.

The territories enumerated below are listed without prejudice to any questions of a political character, regarding which the Committee is not competent to express an opinion.

Countries and territories	Reports received		Reports not received		Popula- tion <sup>1</sup> (thous- ands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Australia . . . . .	40		12		
Nauru . . . . .	13	10, 12, 16, 18, 19, 22, 29, 42, 45, 63, 85, 88, 105.	0	—	4
New Guinea . . . . .	13	10, 12, 16, 18, 19, 22, 29, 42, 45, 63, 85, 88, 105.	0	—	1,376
Norfolk Island . . . . .	1	10.	12	12, 16, 18, 19, 22, 29, 42, 45, 63, 85, 88, 105.	1
Papua . . . . .	13	10, 12, 16, 18, 19, 22, 29, 42, 45, 63, 85, 88, 105.	0	—	480
Belgium . . . . .	11		20		
Ruanda-Urundi <sup>2</sup> . . . . .	11	11, 12, 17, 18, 19, 42, 82, 84, 85, 89, 94.	20	2, 6, 10, 13, 16, 22, 23, 29, 45, 53, 55, 56, 69, 73, 74, 81, 88, 96, 101, 102.	4,780
Denmark . . . . .	31		0		
Faroe Islands. . . . .	16	2, 6, 12, 16, 18, 19, 29, 42, 52, 53, 63, 81, 92, 94, 105, 106.	0	—	34
Greenland . . . . .	15	2, 6, 12, 16, 18, 19, 29, 42, 52, 53, 63, 81, 92, 94, 105.	0	—	30
France <sup>3</sup> . . . . .	278		183		
Overseas Departments:					
French Guiana . . . . .	35	2 *, 5 *, 6 *, 10 *, 11 *, 13 *, 14 *, 17, 18, 19, 24, 27 *, 29 *, 33 *, 42, 44 *, 45 *, 49 *, 52 *, 55, 62 *, 77 *, 78 *, 81 *, 84 *, 85 *, 87 *, 88 *, 89 *, 94 *, 95 *, 96 *, 97 *, 98 *, 101 *.	20	8, 9, 12, 15, 16, 22, 23, 36, 38, 43, 53, 56, 58, 63, 68, 69, 73, 74, 82, 92.	31

For footnotes see end of table.

NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
France (cont.)					
Overseas Depts. (cont.)					
Guadeloupe . . . . .	37	2*, 5*, 6*, 10*, 11*, 12*, 13*, 14*, 17, 18*, 19, 24, 27*, 29*, 33*, 42*, 44*, 45*, 49*, 52*, 55, 62*, 77*, 78*, 81*, 82*, 84*, 85*, 87*, 88*, 89*, 94*, 95*, 96*, 97*, 98*, 101*.	18	8, 9, 15, 16, 22, 23, 36, 38, 43, 53, 56, 58, 63, 68, 69, 73, 74, 92.	274
Martinique . . . . .	11	6*, 10, 17, 18, 19, 24, 42, 55, 62*, 81*, 89*.	44	2, 5, 8, 9, 11, 12, 13, 14, 15, 16, 22, 23, 27, 29, 33, 36, 38, 43, 44, 45, 49, 52, 53, 56, 58, 63, 68, 69, 73, 74, 77, 78, 82, 84, 85, 87, 88, 92, 94, 95, 96, 97, 98, 101.	271
Reunion . . . . .	11	— ditto —	43	2, 5, 8, 9, 11, 12, 13, 14, 15, 16, 22, 23, 29, 33, 36, 38, 43, 44, 45, 49, 52, 53, 56, 58, 63, 68, 69, 73, 74, 77, 78, 82, 84, 85, 87, 88, 92, 94, 95, 96, 97, 98, 101.	324
Algeria . . . . .	4	17, 18, 19, 42.	58	2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 24, 26, 27, 29, 33, 35, 36, 37, 38, 43, 44, 45, 49, 52, 53, 55, 56, 58, 62, 63, 68, 69, 73, 74, 77, 78, 81, 82, 84, 85, 87, 88, 89, 92, 94, 95, 96, 97, 98, 99, 100, 101.	10,930
Overseas Territories:					
Comoro Islands . . .	36	2, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 24, 29, 42, 44, 45, 52, 53, 55, 56, 63, 69, 73, 74, 77, 78, 81, 82, 85, 88, 89, 92, 94, 95, 96, 101.	0	—	185

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
France ( <i>cont.</i> )					
Overseas Territories ( <i>cont.</i> )					
French Polynesia . . .	36	2, 6, 10, 12, 13, 16, 17, 18, 19, 22, 23, 24, 29, 42, 44, 45, 52, 53, 55, 56, 63, 69, 73, 74, 77, 78, 81, 82, 85, 88, 89, 92, 94, 95, 96, 101.	0	—	80
French Somaliland . .	36	— ditto —	0	—	70
New Caledonia . . .	36	— ditto —	0	—	70
St. Pierre and Miquelon	36	— ditto —	0	—	5
Netherlands . . . . .	54		42		
Netherlands Antilles . .	27	2, 10, 12, 13, 16, 17, 19, 22, 23, 29, 42, 45, 48, 63, 69, 73, 74, 81, 88, 89, 90, 92, 94, 95, 96, 101, 105.	0	—	195
Netherlands New Guinea	27	2, 10, 12, 13, 16, 17, 19, 22, 23, 29, 42, 45, 48, 63, 69, 73, 74, 81, 88, 89, 90, 92, 94, 95, 96, 101, 105.	0	—	700
Surinam . . . . .	0	—	42	2, 5, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 21, 22, 23, 26, 27, 29, 33, 42, 45, 48, 58, 62, 63, 68, 69, 73, 74, 81, 87, 88, 89, 90, 92, 94, 95, 96, 97, 99, 101, 105.	255
New Zealand . . . . .	22		16		
Cook Islands and Niue. .	18	2, 10, 12, 17, 22, 29, 42, 44, 45, 52, 53, 63, 65, 82, 88, 89, 101, 104.	1	81.	23
Tokelau Islands . . . .	4	29, 65, 82, 104.	15	2, 10, 12, 17, 22, 42, 44, 45, 52, 53, 63, 81, 88, 89, 101.	2
Spain . . . . .	0		74		
Spanish Guinea . . . .	0	—	37	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, 32, 33, 34, 42, 45, 48, 62, 89, 95.	216

NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
Spain ( <i>cont.</i> )					
Spanish West Africa . . .	0	—	37	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, 32, 33, 34, 42, 45, 48, 62, 89, 95.	145
Republic of South Africa .	6		0		
South West Africa . . .	6	2, 19, 42, 45, 63, 89.	0	—	554
United Kingdom . . . . .	1,091		41		
Aden . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	810
Antigua <sup>4</sup> . . . . .	28	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 87*, 88, 92, 94, 95, 97*, 98*, 101, 105.	0	—	58
Bahamas . . . . .	28	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85*, 87, 88, 92, 94, 95, 98, 101, 105.	1	97.	103
Barbados <sup>4</sup> . . . . .	14	12*, 16*, 19*, 22*, 29*, 65*, 69, 74, 87*, 92, 94*, 97*, 98*, 105*.	14	2, 17, 24, 25, 42, 44, 45, 56, 63, 81, 82, 88, 95, 101.	238
Basutoland <sup>a</sup> . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	674
Bechuanaland <sup>a</sup> . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29*, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	337
Bermuda . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	44
British Guiana . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 97, 101, 105.	0	—	549

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
United Kingdom ( <i>cont.</i> )					
British Honduras . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 97, 101, 105.	0	—	90
British Virgin Islands . . .	27	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 97, 101, 105.	0	—	30
Brunei . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	83
Dominica <sup>4</sup> . . . . .	23	2*, 12*, 16*, 17*, 19*, 22*, 24*, 25*, 29*, 42*, 44*, 45*, 56*, 63*, 65*, 69, 74, 81*, 88*, 92, 95*, 101*, 105*.	4	82, 85, 94, 97.	66
Falkland Islands . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	2
Fiji . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 95, 101.	1	94.	38
Gambia . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	301
Gibraltar . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	26
Gilbert and Ellice Islands.	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	45
Grenada <sup>4</sup> . . . . .	23	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 92, 95, 97, 101, 105.	3	82, 88, 94.	92
Guernsey . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	46



NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
United Kingdom ( <i>cont.</i> )					
Hong Kong . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 84, 88, 92, 94, 95, 101, 105.	0	—	2,857
Jamaica <sup>4</sup> . . . . .	16	12 *, 16 *, 19 *, 22 *, 24 *, 25 *, 29 *, 44 *, 45 *, 56 *, 65 *, 69, 74, 92, 94 *, 105 *.	10	2, 17, 42, 63, 81, 82, 88, 95, 97, 101.	1,671
Jersey . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	57
Kenya . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	1	98.	6,450
Malta . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 98, 101, 105.	0	—	325
Isle of Man . . . . .	27	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 68, 69, 74, 81, 82, 88, 92, 94, 95, 101, 102, 105.	0	—	54
Mauritius . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	621
Montserrat <sup>4</sup> . . . . .	29	2 *, 12 *, 16 *, 17 *, 19 *, 22 *, 24 *, 25 *, 29 *, 42 *, 44 *, 45 *, 56 *, 63 *, 65 *, 69, 74, 81 *, 82 *, 85 *, 87 *, 88 *, 92, 94 *, 95, 97 *, 98 *, 101 *, 105 *.	0	—	15
North Borneo . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	419
Northern Rhodesia <sup>25</sup> . . . . .	27	2, 12, 16, 17, 19, 22, 24, 25, 29, 42 *, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 97, 101, 105 *.	0	—	2,360
Nyasaland <sup>25</sup> . . . . .	24	2, 12, 16, 17, 19, 22, 24, 25, 29 *, 42, 44, 45, 56, 63, 65, 69, 74, 81, 85, 88, 92, 95, 97, 101.	3	82, 94, 105.	2,770

REPORT OF THE COMMITTEE OF EXPERTS

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (thousands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
United Kingdom ( <i>cont.</i> )					
St. Christopher-Nevis-Anguilla <sup>4</sup> . . . . .	27	2*, 12*, 16*, 17*, 19*, 22*, 24*, 25*, 29*, 42*, 44*, 45*, 56*, 63*, 65*, 69*, 74, 81*, 82*, 85*, 87*, 88*, 92, 94*, 95*, 98*, 103*.	2	97, 101.	59
St. Helena . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	5
St. Lucia <sup>4</sup> . . . . .	27	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 97, 101, 105.	0	—	93
St. Vincent <sup>4</sup> . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88*, 92, 94*, 95, 101, 105.	1	97.	83
Sarawak . . . . .	25	2, 12, 16, 17, 19, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	688
Seychelles . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85*, 88, 92, 94, 95, 101, 105.	0	—	43
Singapore . . . . .	28	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 87, 88, 92, 94, 95, 97, 98, 101, 105.	0	—	1,580
Solomon Islands . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	115
Southern Rhodesia <sup>3</sup> . . . . .	25	2, 12, 16, 17, 19, 22, 24, 25, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 97, 101, 105*.	1	29.	2,770
Swaziland . . . . .	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	250

NON-METROPOLITAN TERRITORIES

Countries and territories	Reports received		Reports not received		Population <sup>1</sup> (th us- ands)
	Number received	Conventions Nos.	Number not received	Conventions Nos.	
United Kingdom ( <i>cont.</i> )					
Trinidad and Tobago <sup>4</sup>	27	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 97, 101, 105.	0	—	817
Uganda <sup>5</sup>	25	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 101, 105.	0	—	6,517
Zanzibar	26	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 45, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105.	0	—	304
United States of America	18		0		
American Samoa	3	53, 55, 74.	0	—	20
Guam	3	53, 55, 74.	0	—	69
Panama Canal Zone <sup>6</sup>	3	53, 55, 74.	0	—	42
Puerto Rico	3	53, 55, 74.	0	—	2,347
Trust Territory of Pacific Islands	3	53, 55, 74.	0	—	73
Virgin Islands	3	53, 55, 74.	0	—	30

\* Reports received too late to be summarised in Report III (Part I). <sup>1</sup> Source : United Nations: *Demographic Year-Book, 1960*. <sup>2</sup> Territories having no seaboard. <sup>3</sup> Reports on Convention No. 89 also include Convention No. 4 (applicable). <sup>4</sup> Federation of the West Indies. <sup>5</sup> Federation of Rhodesia and Nyasaland. <sup>6</sup> In reporting on the application of Conventions to the Panama Canal Zone, the United States Government has pointed out that the Panama Canal Zone is not a territory of the United States, although by treaty between the United States and the Republic of Panama the United States has all the rights, power and authority within the Zone which the United States would possess and exercise if it were the sovereign of the territory.

### III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference (Article 19 of the Constitution)

#### *Afghanistan*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961 that the Government would submit to the competent authorities all Conventions and Recommendations, whatever might be its intention with regard to these instruments. It hopes that the Government will be able to indicate in the near future the measures to be taken to this effect as regards the instruments adopted at the 41st, 42nd, 43rd and 44th Sessions and also as regards Recommendation No. 98 (37th Session) and that it will furnish all the information requested in the *Memorandum concerning the Obligation to Submit Conventions and Recommendations to the Competent Authorities*, adopted by the Governing Body.

#### *Albania*

As the Government has not supplied any new information the Committee feels bound to repeat the observation which it made in 1960 and again in 1961 in the following terms:

... The Committee noted that the Praesidium of the People's Assembly, to which Conventions and Recommendations are submitted, reports to the People's Assembly on the activities which it has carried out between the sessions of the Assembly, particularly as regards the international field, and that the People's Assembly is thus ultimately informed. The Committee once again expresses the hope that the Government will indicate whether, in conformity with this procedure, all the Conventions and Recommendations, as well as the decisions adopted in regard to them by the Praesidium, are ultimately submitted to the People's Assembly, which constitutes the most representative legislative body provided for under the national Constitution.

#### *Bolivia*

The Committee notes that the Government has supplied certain information on the instruments adopted at the 44th Session, from which it would appear that these instruments have not yet been submitted to the competent authorities. It is furthermore bound to express its regret that no information has been received as regards the measures which the Government intends to take to submit to the competent authorities all the other Conventions and Recommendations adopted by the Conference since the 31st Session (with the exception of Convention No. 96), in spite of the observations which have been made on several occasions. The Committee trusts that the Government will make all efforts to implement the obligations which bind all member States in virtue of article 19 of the Constitution of the I.L.O.

#### *Bulgaria*

With reference to the observation made in 1961, the Committee notes the statements made by a Government representative to the Conference Committee concerning the respective functions of the Praesidium of the National Assembly, particularly in regard to the examination of Conventions and Recommendations, and of

the National Assembly itself. It notes with interest that according to these statements the National Assembly is the supreme body and that it can examine a Convention and decide to ratify it even if the Praesidium disagrees. The Committee understands therefore that the instruments in question and the decisions of the Praesidium concerning them are in practice laid before the National Assembly, which may reconsider the question. It hopes therefore that the Government will supply information on the measures thus taken as well as information on the examination of Conventions and Recommendations by the Praesidium.

### *Byelorussia*

Referring to the statement made by a Government representative to the Conference Committee in 1961, the Committee wishes to point out that in providing for the submission of each Convention or Recommendation "to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action", and for the supply of information on "the action taken by them", article 19 of the Constitution of the I.L.O. clearly refers to the legislative authority or authorities with the power of final decision, as provided for by the Constitution of each country.

Moreover, as in particular the Conference Committee has pointed out on several occasions, the obligation contained in article 19 is also intended to inform public opinion and this objective cannot be considered as fully satisfied if the Conventions and Recommendations are not submitted to the most representative body provided for by the Constitution of each country.

The Committee hopes that the Government will supply further information on the submission of Conventions and Recommendations for examination in the Praesidium of the Supreme Soviet indicating the measures taken to bring these instruments before the Supreme Soviet itself, which constitutes, under the national Constitution, the supreme state body invested with legislative power.

### *Canada*

The Committee regrets to note that the Government has not given effect to the requests which have been addressed to it on several occasions, that the submission of Conventions and Recommendations to Parliament should be accompanied by proposals or comments of the Government on the effect to be given to these instruments. It would point out that in providing for submission of each Convention and Recommendation to the competent authorities "for the enactment of legislation or other action" and to supply information on "the action taken by them", article 19 of the Constitution of the I.L.O. implies that the competent authorities should be able to decide whether or not it is necessary to take the measures in question; this condition cannot be implemented if the Government merely lays before Parliament the texts of Conventions and Recommendations without accompanying them with comments or proposals. As this principle has been reiterated on several occasions by the Committee, by the Governing Body and by the Conference, the Committee hopes that the Government will find it possible to present appropriate proposals or comments to Parliament.

### *China*

The Committee notes with interest the information supplied by the Government to the Conference Committee in 1961, that several Conventions adopted since the

31st Session (of which certain will probably be ratified) are either in course of examination before the Executive Council or in course of study at the Ministry of the Interior. It would be glad if the Government would indicate whether these Conventions have been finally submitted to the Legislative Council. It would draw attention to the fact that Conventions must be submitted to the competent authorities *in all cases* and not only when ratification is proposed. It hopes that the Government will indicate in the near future the measures taken to submit also to the Legislative Council the various other instruments adopted since the 31st Session which are mentioned in the last column of the table in Appendix I to the present chapter.

### *Colombia*

The Committee notes with satisfaction the information supplied by the Government following the observations made in previous years, concerning the submission to Congress of the Conventions and Recommendations adopted since the 38th Session, with the documents containing the comments and proposals of the Government on the measures envisaged as regards these instruments.

### *Cuba*

The Committee notes with regret that the information supplied by the Government to the Conference Committee in 1960 did not indicate any progress as regards the submission to the competent authorities of the various Conventions and Recommendations referred to in previous observations, as also of the instruments adopted at the 44th Session. It would point out that the obligation of submission called for under article 19 of the Constitution of the I.L.O. not only is required in the case of Conventions which can be ratified but is applicable to *all Conventions and to Recommendations*.

The Committee addresses an urgent appeal to the Government to take the necessary measures to implement in this respect its obligations arising from article 19 and hopes that it will be able to supply in the near future all the information requested in the *Memorandum* on this subject adopted by the Governing Body.

### *Czechoslovakia*

The Committee takes note of the statements made by a Government representative to the Conference Committee of 1961, that Conventions and Recommendations would be submitted to the Praesidium of the National Assembly which exercised the functions of the National Assembly when the Assembly was not in session. It also takes note of the provisions of the new Czechoslovak Constitution of 1960 (particularly articles 2, 39 and 60). The Committee would point out that in providing for the submission of each Convention or Recommendation "to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action", and in providing for the communication of information on "the action taken by them", article 19 of the Constitution of the I.L.O. clearly refers to the legislative authority or authorities having final power of decision, as provided for under the Constitution of each country. Moreover, as the Conference Committee, in particular, has pointed out on several occasions the obligation provided for in article 19 is also intended to inform public opinion, and this objective cannot be considered as fully satisfied if the Conventions and Recommendations are not submitted to the most representative body provided for under the Constitution of each country.

The Committee accordingly hopes that the Government will indicate the measures which have been taken or are contemplated to bring Conventions and Recommendations also before the National Assembly, which constitutes, under the national Constitution, the supreme state body invested with legislative power.

Finally, the Committee hopes that the Government will indicate whether the following instruments have been submitted to the competent authorities: Recommendation No. 87 (32nd Session), Recommendation No. 88 (33rd Session), Convention No. 99 and Recommendations Nos. 89, 91 and 92 (34th Session), and all the Conventions and Recommendations adopted at the 35th, 36th, 39th, 40th, 41st, 42nd, 43rd and 44th Sessions, supplying, in this respect, the information requested in the *Memorandum* adopted by the Governing Body.

#### *Ecuador*

The Committee noted in 1961 that the Conventions and Recommendations were still being examined with a view to the discharge of the obligations arising under the Constitution of the I.L.O. as regards the submission of the Conventions and Recommendations to the competent authorities, and that certain Conventions had been submitted to Congress for ratification. The information supplied since then does not indicate any progress and the Committee is bound to urge the Government to take the necessary measures to submit to the competent authorities all the instruments mentioned in the last column of the table in Appendix I to the present chapter and to supply the information on this subject called for in the *Memorandum* adopted by the Governing Body. It would point out once more that the instruments in question must be submitted *in all cases*; this does not imply that Conventions must be ratified or that the Recommendations must be incorporated in national legislation.

#### *Ethiopia*

The Committee regrets to note that the Government has not supplied any information in reply to the observation made in 1961, which was in the following terms:

The Committee notes the statement made by the Government representative to the Conference Committee in 1960, according to which the Government hopes to be able to ratify a certain number of Conventions in the near future. The Committee wishes to remind the Government that article 19 of the Constitution of the I.L.O. imposes the obligation to submit the instruments adopted by the Conference to the competent authorities of each member State, not only when it is proposed to ratify Conventions, but *in all cases*, whatever be the intention of the Government as regards ratification of Conventions or the measures to give effect to Recommendations. The Committee therefore urges the Government once more to take the necessary measures and to supply full information on the submission to the competent authorities of all the Conventions and Recommendations adopted since the 31st Session.

The Committee trusts that the Government will be able to take the measures and furnish the above-mentioned information without delay.

#### *Greece*

The Committee notes the statement of a Government representative to the Conference Committee in 1961, from which it appears that a tripartite committee has been formed at the Ministry of Labour to study the possibilities of ratification of Conventions; it also notes the information given as regards the prospects of ratification of certain Conventions.

The Committee would point out that Conventions, as also Recommendations, must be submitted to the competent authorities *in all cases* and not only when it is

proposed to ratify Conventions or to give effect to Recommendations. In this respect it notes that certain difficulties have been encountered from the fact that as a rule the Government can only submit Bills to Parliament; it trusts that these difficulties will be overcome, as in other countries where similar problems have arisen, and it regrets that in spite of the indication given by the Government to the Conference in 1960 that a solution was in sight, no progress has yet been made in this respect. It expresses the hope that the Government will indicate in the near future the measures which have been taken to submit to the competent authorities all the instruments mentioned in the last column of the table in Appendix I to the present chapter.

#### *Guatemala*

The Committee notes that the Convention and the Recommendations adopted at the 44th Session have been transmitted to the administrative services concerned for examination. It would draw the Government's attention to the fact that, in virtue of article 19 of the Constitution of the I.L.O., Conventions and Recommendations must be submitted to the authorities competent to legislate in the fields with which these instruments deal. The Committee hopes that the Government will indicate whether the above-mentioned instruments have been submitted to the competent legislative body.

The Committee also notes with interest that decrees have been adopted with a view to ratifying a certain number of Conventions. It recalls in this respect the statement made by a Government representative to the Conference Committee in 1960, that the Government would in future, in accordance with article 19, submit to Congress *all* Conventions and Recommendations, and not only Conventions whose ratification was proposed. The Committee hopes therefore that the Government will be able to indicate in the near future the measures taken to submit to Congress the various instruments mentioned in the last column of the table in Appendix I to the present chapter.

#### *Haiti*

The Committee notes with interest that the instruments adopted at the 44th Session have been submitted to Parliament. It must, however, express regret that no information has yet been supplied on the submission of the various instruments adopted from the 31st to the 39th Sessions, which are listed in the last column of the table in Appendix I to the present chapter. The Committee emphasises once more the obligation of each State Member of the I.L.O. to submit all Conventions and Recommendations to the competent authorities, and it trusts that the Government will take without further delay the measures necessary to discharge this obligation in regard to the above-mentioned instruments.

#### *Hungary*

Referring to the observation made in 1961, the Committee notes that, according to the statement made by a Government representative to the Conference Committee, Conventions and Recommendations are submitted for examination by the Presidential Council, which is competent to legislate and to take other measures when the National Assembly is not sitting and that the Presidential Council regularly reports on its activities to the National Assembly which is free to initiate measures and to propose the ratification of the Convention even if the Presidential Council is opposed to this. The Committee accordingly understands that the instruments in question and the examination made by the Presidential Council are in practice the object of a report to



the National Assembly. It hopes therefore that the Government will communicate information on the measures thus taken and also information relative to the examination of Conventions and Recommendations by the Presidential Council.

#### *Indonesia*

The Committee takes note of the information concerning the submission to the competent authorities of the instruments adopted at the 44th Session, and of the statement made by the Government representative at the Conference Committee in 1961. It expresses the hope that the Government will overcome the difficulties, due to lack of personnel, which have prevented the normal discharge of its obligations under article 19 of the Constitution and will soon be able to supply in full the information on the submission to the competent authorities of all the instruments mentioned in the last column of the table in Appendix I to the present chapter. It emphasises that the Conventions and Recommendations must be submitted to Parliament *in all cases* and not only when their approval is proposed.

#### *Iraq*

The Committee notes with interest that according to the statement made by a Government representative to the Conference Committee in 1961, the Government will make every effort to fulfil its obligations under article 19 of the Constitution and that preliminary consideration is being given to the Conventions and Recommendations with a view to their submission to the competent authorities. It hopes, therefore, that the Government will be able to indicate without delay the measures taken to submit to the competent authorities the various instruments mentioned in the last column of the table in Appendix I of the present chapter, and will supply all the information called for in this respect in the *Memorandum* adopted by the Governing Body.

#### *Jordan*

The Committee notes that according to the statement made by a Government representative to the Conference Committee in 1961, the Labour Department is at present studying the Conventions and Recommendations and is examining the possibility of ratifying certain Conventions. The Committee hopes, therefore, that the Government will indicate in the near future the measures taken to submit to the competent authorities all the instruments mentioned in the last column of the table in Appendix I to the present chapter. It would point out that the Conventions and Recommendations must be submitted to the competent authorities *in all cases*, whatever may be the Government's intentions as to ratification of the Conventions or the measures proposed to give effect to the Recommendations.

The Committee also trusts that the Government will indicate the competent authority to which the Conventions and Recommendations are to be submitted, and would provide all the other information requested in the *Memorandum* adopted by the Governing Body.

#### *Lebanon*

The Committee notes the statement made by a Government representative to the Conference Committee in 1961, that measures would be taken to ensure the fulfilment of the obligations arising under article 19 of the Constitution. It also takes note of the explanations given as regards the proposed ratification of certain Conventions and would point out that the problem of submission to the competent author-

ities is distinct from that of ratification of Conventions; *all Conventions, as also Recommendations*, must be submitted to the competent authorities whatever the Government may intend as regards the ratification of Conventions or the measures to be taken on Recommendations.

The Committee notes that, in spite of the assurances previously given, information on the submission to the competent authorities of the instruments adopted since the 31st Session has been supplied only as regards Conventions Nos. 89 and 90. In these circumstances, it once again addresses an urgent appeal to the Government to take the necessary measures without delay to submit to the competent authorities the various other instruments adopted since the 31st Session and to supply in this respect all the information requested in the *Memorandum* adopted by the Governing Body.

#### *Liberia*

The Committee notes the statement made by a Government representative to the Conference Committee in 1961, that certain Conventions had been ratified and that as regards the ratification of other Conventions it would first be necessary to ensure the conformity of the legislation with these instruments. The Committee would draw the Government's attention to the distinction which must be made between the ratification of Conventions, on the one hand, and the obligations relating to the submission to the competent authorities, on the other hand. These obligations do not imply that Conventions must necessarily be ratified; they do, however, apply *in all cases*, even when measures for their ratification are not envisaged; moreover, they are equally applicable to Recommendations, which are not capable of ratification.

The Committee hopes that the Government will take the necessary measures to submit to the competent authorities the numerous instruments on which no information has been supplied and which are mentioned in the last column of the table in Appendix I to the present chapter.

#### *Libya*

The Committee notes the statement made by a Government representative to the Conference Committee in 1961, that the reorganisation of the Ministry of Labour will permit the Government to discharge in the near future its obligations regarding submission under article 19 of the I.L.O. Constitution. It trusts therefore that the Government will be able to communicate in the near future all the information asked for in the *Memorandum* adopted by the Governing Body concerning the submission to the competent authorities of the various instruments which are mentioned in the last column of the table in Appendix I to the present chapter.

#### *Luxembourg*

The Committee notes the detailed information supplied by the Government to the Conference Committee in 1961 on the examination of the various Conventions and Recommendations by the Ministers concerned. It would draw the Government's attention to the fact that the Conventions and Recommendations must be submitted to the competent legislative authorities *in all cases*, whatever the decisions envisaged as regards the ratification of the Conventions or the measures proposed to give effect to the Recommendations. The Committee accordingly hopes that the Government will be able to indicate in the near future the measures taken to submit to Parliament the instruments adopted from the 40th to the 44th Sessions.

*Malaya*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961, that all the Conventions and Recommendations adopted since the 41st Session are being examined with a view to their submission to the competent authorities. It also takes note of the information supplied since then on the decisions taken by the Government in regard to the effect to be given to several of the instruments adopted since the above-mentioned session. No information has yet been supplied, however, on the submission of these instruments to Parliament, which, as the Government has stated, constitutes the competent authority in accordance with article 19 of the I.L.O. Constitution.

The Committee therefore expresses the hope that the Government will indicate shortly whether all the Conventions and Recommendations adopted since the 41st Session have finally been submitted to Parliament. It recalls that according to article 19 of the Constitution Conventions and Recommendations must be submitted to the competent authorities *in all cases*, whatever may be the steps contemplated by the Government with regard to the ratification of Conventions or to the effect to be given to Recommendations.

*Mexico*

A statement made by a Government representative to the Conference Committee in 1961 indicated once more that Conventions are submitted to the Senate and Recommendations to the Ministry of Labour, which is responsible for applying them. The Committee must therefore point out once more to the Government, at it has already stressed in previous requests and observations, that the authorities to which the instruments adopted by the Conference must be submitted in accordance with article 19 of the I.L.O. Constitution are the authorities competent to legislate, i.e. under the Constitution of Mexico, the two Chambers of Congress. The Committee had also emphasised that Recommendations must also be submitted to Congress "even in cases where other bodies would customarily take administrative or other measures to give effect to these instruments". It recalls in this connection that one of the aims of the procedure laid down in article 19 of the I.L.O. Constitution is to inform public opinion in member States. It hopes therefore that the Government will take the necessary steps to submit all Conventions and Recommendations to the two Chambers of Congress, which constitute the most representative legislative body under the national Constitution.

*Netherlands*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961, that the submission to the competent authorities of all the instruments which were referred to in the observation of 1961, as well as of the instruments adopted at the 44th Session, was in preparation and that the Government would re-examine the present procedure of submission with a view to accelerating it. It hopes therefore that the Government will be able to indicate shortly whether the above-mentioned instruments have been submitted to the States-General and to supply all the information called for in this connection by the *Memo-randum* adopted by the Governing Body.

*Nicaragua*

The Committee regrets to note that the Government has still not stated whether Conventions and Recommendations have been submitted to the competent author-

ities. The Committee had previously noted that such submission would be made on the adoption of new labour legislation which was being prepared. In the absence of further information since then, the Committee feels bound strongly to urge the Government to take without further delay the necessary measures to submit all the instruments adopted since the 40th Session to the legislature and to supply all the information called for by the *Memorandum* adopted by the Governing Body with regard to this question. The Committee expresses the hope that the Government will no longer fail to recognise the fundamental importance of the obligations laid down in article 19, paragraphs 5 (b) and (c), and 6 (b) and (c), of the I.L.O. Constitution for all States Members of the Organisation.

#### *Panama*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961 that the Government was concerned to give effect to the obligations arising out of the Constitution in regard to the submission of Conventions and Recommendations to the competent authorities. It expresses the hope that the Government will overcome the constitutional difficulties which have delayed the implementation of these obligations and will be able to supply in the near future all the information required by the *Memorandum* adopted by the Governing Body concerning the submission to the legislature of the various instruments referred to in the last column of the table in Appendix I to the present chapter.

#### *Paraguay*

The Committee notes with regret that the only information supplied by Paraguay since it rejoined the I.L.O. refers merely to the transmission of Conventions and Recommendations to the competent body, without further details. In these circumstances the Committee cannot ascertain whether or not effect has been given to the provisions of article 19 of the I.L.O. Constitution. It must therefore draw the attention of the Government to the fact that the authorities to which Conventions and Recommendations must be submitted are the authorities competent to legislate in regard to the matters dealt with by these instruments. The Committee therefore urges the Government to state whether all the instruments adopted since the 40th Session have been submitted to the legislature and to supply with regard to them the information called for by the *Memorandum* adopted in this connection by the Governing Body.

#### *Peru*

With reference to the observation made in 1961, the Committee notes with interest the information supplied by the Government on the submission to the competent authorities of the texts of Convention No. 98 and Recommendations Nos. 83 to 110, adopted since the 31st Session.

#### *Rumania*

The Committee notes with interest the information supplied by the Government in regard to the amendments which were made in the national Constitution in 1961. It notes the information given concerning the functions of the Council of State, in particular with regard to the examination of Conventions and Recommendations. It also notes with interest that the sessions of the Grand National Assembly are devoted to the examination of important economic and social questions, that the Council of

State reports to the Assembly on its activities, and that the Assembly may itself decide whether a Convention should or should not be ratified, whatever may be the opinion of the Council of State. In the light of these considerations the Committee understands that in practice a report is made to the Grand National Assembly concerning the instruments in question and the examination of them made by the Council of State. It hopes therefore that the Government will supply information on the measures thus taken as well as information on the examination of Conventions and Recommendations by the Council of State.

#### *El Salvador*

The Committee notes the statement made by a Government representative to the Conference Committee in 1961. It trusts that the Government has overcome the administrative difficulties to which it has referred since 1958 and which have prevented it from implementing the obligations arising out of article 19 of the I.L.O. Constitution with regard to the submission of Conventions and Recommendations to the competent authorities. The Committee once more urges the Government to take without further delay the necessary steps to submit to the competent authorities all the instruments referred to in the last column of the table in Appendix I to the present chapter, and to supply the information required with regard to this matter by the *Memorandum* adopted by the Governing Body.

#### *Senegal*

The Committee notes with interest the information supplied by the Government on the measures taken with a view to submitting in the near future to the National Assembly the instruments adopted at the 44th Session, and also the documents prepared for this purpose, containing the proposals and comments on the effect to be given to these instruments. The Committee also notes that the instruments in question could not be submitted to the competent authorities within the time laid down in article 19 of the Constitution of the I.L.O. due to the fact that Senegal was represented at the 44th Session by the Federation of Mali.

#### *Sudan*

The Committee regrets to note that the Government has not supplied the information requested by the *Memorandum* adopted by the Governing Body with regard to the submission of the instruments adopted at the 41st, 42nd, 43rd and 44th Sessions. It hopes that the Government will indicate shortly whether these instruments have been submitted to the competent authorities and will supply the detailed information requested in this regard.

#### *Thailand*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961 that no effort would be spared to give effect in the near future to the obligations arising out of article 19 of the I.L.O. Constitution by the submission to Parliament of Conventions and Recommendations after they had been studied by the services and organisations concerned. It regrets to note, however, that no information has since then been supplied with regard to the implementation of these obligations. The Committee must once more address an urgent appeal to the Government to take without further delay the necessary measures to submit to Parliament all the instruments adopted from the 37th to the 44th Sessions and to supply with regard thereto the information called for by the *Memorandum* adopted by the Governing Body.

*Ukraine*

As the Government has furnished no new information on the points raised in the observation made in 1961, the Committee must repeat its observation, which was as follows:

The Committee takes note of the statement by a Government representative to the Conference Committee in 1960, from which it appears that the submission of Conventions and Recommendations to the Praesidium of the Supreme Soviet has, *inter alia*, the result of ensuring that these instruments are brought to the notice of public opinion. Consequently, the Committee expresses the hope that the Government will soon confirm and generalise the present practice by submitting all Conventions and Recommendations to the Supreme Soviet, which constitutes the most representative legislative body provided for in the national Constitution.

The Committee hopes that the Government will supply information on the measures in question.

*U.S.S.R.*

As the Government has supplied no new information on the points raised in the observation made in 1961 the Committee is obliged to repeat its previous observation which was as follows:

The Committee takes note of the statement made by a Government representative to the Conference Committee in 1960, from which it appears that Conventions and Recommendations submitted to the Praesidium of the Supreme Soviet are also the subject of several measures of publicity, particularly within the Supreme Soviet. Consequently the Committee expresses the hope that the Government will soon be able to confirm and generalise the present practice by submitting all Conventions and Recommendations to the Supreme Soviet, which constitutes the most representative legislative body provided for in the Constitution of the U.S.S.R.

The Committee hopes that the Government will supply information on the measures in question.

*Uruguay*

The Committee notes that, according to the statement made by a Government representative to the Conference Committee in 1961, an inter-ministerial committee charged with the function of studying I.L.O. questions had been set up and that the Government was to supply information shortly. The Committee regrets to note that the Government has supplied no information on the submission of Conventions and Recommendations to the competent authorities, and feels bound once more to address an urgent appeal to the Government to take the necessary steps with regard to the various instruments referred to in the last column of the table in Appendix I to the present chapter and to supply all the information requested in the *Memorandum* on this question adopted by the Governing Body.

*Yugoslavia*

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1961, in which it is reaffirmed that Conventions and Recommendations are submitted in all cases to the Federal People's Assembly and indicated that a report had been submitted to this Assembly not only on the Conventions and Recommendations adopted at the 44th Session but also on all instruments previously adopted. The Committee notes with regret, however, that the information and documents requested in this connection by the *Memorandum* adopted by the Governing Body have not been received. The Committee trusts that this information will shortly be supplied.

\* \* \*

In addition, requests on certain other points are being addressed to the following States: *Albania, Argentina, Australia, Austria, Brazil, Bulgaria, Burma, Byelorussia, Cameroun, Ceylon, Chile, China, Colombia, Costa Rica, Dominican Republic, Finland, France, Ghana, Guinea, Haiti, Honduras, Hungary, Iceland, Iran, Republic of Mali, New Zealand, Pakistan, Peru, Philippines, Poland, Portugal, Rumania, Republic of South Africa, Spain, Syrian Arab Republic, Togo, Tunisia, Turkey, Ukraine, U.S.S.R., United Arab Republic, Venezuela, Viet-Nam.*

**Appendix I. Position of the Individual Members with Regard to the Obligation  
to Submit Conference Decisions to the Competent Authorities**

*(31st to 44th Sessions of the International Labour Conference, 1948-50)*

*Note.* The number of the Convention or Recommendation is given in brackets, preceded by the letter "C" or "R" as the case may be, when only some of the decisions adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Afghanistan . . . . .	31st to 36th, 38th to 40th.	37th, 41st, 42nd, 43rd and 44th.
Albania . . . . .	31st to 44th.	—
Argentina . . . . .	31st to 41st and 42nd (C 110, 111).	42nd (R 110, 111), 43rd and 44th.
Australia . . . . .	31st to 44th.	—
Austria . . . . .	31st to 42nd, 44th.	43rd.
Belgium . . . . .	31st to 44th.	—
Bolivia . . . . .	32nd (C 96).	31st, 32nd (C 91, 92, 93, 94, 95, 97, 98; R 84, 85, 86, 87), 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Brazil . . . . .	31st to 43rd.	44th.
Bulgaria . . . . .	31st to 42nd, 44th.	43rd.
Burma . . . . .	31st to 43rd.	44th.
Byelorussia <sup>1</sup> . . . . .	37th to 44th.	—
Cameroun <sup>2</sup> . . . . .	—	44th.
Canada . . . . .	31st to 44th.	—
Ceylon . . . . .	31st to 43rd.	44th.
Chile . . . . .	31st to 42nd.	43rd and 44th.

<sup>1</sup> Byelorussia became a Member of the Organisation in 1954.

<sup>2</sup> Cameroun became a Member of the Organisation at the 44th Session.



SUBMISSION TO COMPETENT AUTHORITIES

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
China . . . . .	31st (R 83), 32nd (R 84, 85, 86, 87), 33rd, 34th, 35th (R 93, 94, 95), 36th, 37th, 38th (R 99, 100), 39th, 40th, (C 105; R 103, 104), 41st (R 105, 106, 107, 108, 109), 42nd (C 111; R 110, 111), 43rd (C 112, 113, 114) and 44th.	31st (C 87, 88, 89, 90), 32nd (C 91, 92, 93, 94, 95, 96, 97, 98), 35th (C 101, 102, 103), 38th (C 104), 40th (C 106, 107), 41st (C 108, 109), 42nd (C 110) and 43rd (R 112).
Colombia . . . . .	31st to 40th (C 105, 106, 107; R 103), 41st (C 109; R 105, 106, 108) to 44th.	37th, 40th (R 104) and 41st (C 108; R 107, 109).
Costa Rica . . . . .	31st (C 87, 88, 89, 90), 32nd (C 91, 92, 93, 94, 95, 96, 97, 98), 34th (C 99, 100), 35th (C 101, 102, 103), 38th (C 104), 39th, 40th, 41st, 42nd and 43rd.	31st (R 83), 32nd (R 84, 85, 86, 87), 33rd, 34th (R 89, 90, 91, 92), 35th (R 93, 94, 95), 36th, 37th 38th (R 99, 100) and 44th.
Cuba . . . . .	31st, 32nd, 34th, 35th (C 101, 103; R 93, 95), 38th, 40th and 42nd (C 110).	33rd, 35th (C 102; R 94), 36th, 37th, 39th, 41st, 42nd (C 111; R 110, 111), 43rd and 44th.
Czechoslovakia . . . . .	31st, 32nd (C 91, 92, 93, 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 100; R 90), 37th and 38th.	32nd (R 87), 33rd, 34th (C 99; R 89, 91, 92), 35th, 36th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Denmark . . . . .	31st to 44th.	—
Dominican Republic . . .	31st to 43rd.	44th.
Ecuador . . . . .	32nd (C 91, 92, 93, 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 99, 100; R 89, 90), 35th (C 102, 103), 36th, 38th (C 104), 40th (C 105), 42nd (C 111).	31st, 32nd (R 87), 33rd, 34th (R 91, 92), 35th (C 101; R 93, 94, 95), 37th, 38th (R 99, 100), 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd (C 110; R 110, 111) 43rd and 44th.
Ethiopia . . . . .	—	31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Finland . . . . .	31st to 43rd.	44th.
France . . . . .	31st to 44th.	—
Germany (Federal Republic) <sup>1</sup> . . . . .	34th to 44th.	—
Ghana <sup>2</sup> . . . . .	40th to 44th.	—

<sup>1</sup> The Federal Republic of Germany became a Member of the Organisation at the 34th Session.

<sup>2</sup> Ghana became a Member of the Organisation at the 40th Session.

REPORT OF THE COMMITTEE OF EXPERTS

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Greece . . . . .	31st, 32nd, 34th (C 99, 100) and 35th (C 101, 102, 103).	33rd, 34th (R 89, 90, 91, 92), 35th (R 93, 94, 95), 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Guatemala . . . . .	31st, 32nd (C 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 99, 100), 35th (C 101, 102), 39th, 40th (C 105, 106), 41st, 42nd and 43rd (C 112, 113, 114).	32nd (C 91, 92, 93; R 87), 33rd, 34th (R 89, 90, 91, 92), 35th (C 103; R 93, 94, 95), 36th, 37th, 38th, 40th (C 107; R 103, 104), 43rd (R 112) and 44th.
Guinea <sup>1</sup> . . . . .	43rd (C 112, 113, 114).	43rd (R 112) and 44th.
Haiti . . . . .	31st (C 90), 32nd (C 98), 34th (C 99, 100), 40th to 44th.	31st (C 87, 88, 89; R 83), 32nd (C 91, 92, 93, 94, 95, 96, 97; R 84, 85, 86, 87), 33rd, 34th (R 89, 90, 91, 92), 35th, 36th, 37th, 38th and 39th.
Honduras <sup>2</sup> . . . . .	39th to 44th.	—
Hungary . . . . .	31st to 44th.	—
Iceland . . . . .	31st to 43rd.	44th.
India . . . . .	31st to 44th.	—
Indonesia <sup>3</sup> . . . . .	34th (C 100), 40th, 41st, 43rd and 44th.	33rd, 34th (C 99; R 89, 90, 91, 92), 35th, 36th, 37th, 38th, 39th and 42nd.
Iran . . . . .	31st to 40th.	41st, 42nd, 43rd and 44th.
Iraq . . . . .	31st (C 88), 40th (C 105, 106), 42nd (C 111) and 43rd (C 112, 113, 114).	31st (C 87, 89, 90; R 83), 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th (C 107; R 103, 104), 41st, 42nd (C 110; R 110, 111), 43rd (R 112) and 44th.
Ireland . . . . .	31st to 44th.	—
Israel <sup>4</sup> . . . . .	32nd to 44th.	—
Italy . . . . .	31st to 44th.	—

<sup>1</sup> Guinea became a Member of the Organisation on 21 January 1959.

<sup>2</sup> Honduras re-entered the Organisation on 1 January 1955.

<sup>3</sup> Indonesia became a Member of the Organisation at the 33rd Session.

<sup>4</sup> Israel became a Member of the Organisation at the 32nd Session.

# SUBMISSION TO COMPETENT AUTHORITIES

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Japan <sup>1</sup> . . . . .	35th to 44th.	—
Jordan <sup>2</sup> . . . . .	40th (C 105).	39th, 40th (C 106, 107; R 103, 104), 41st, 42nd, 43rd and 44th.
Lebanon . . . . .	31st (C 89, 90).	31st (C 87, 88; R 83), 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Liberia . . . . .	42nd and 43rd (C 112, 113, 114).	31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 43rd (R 112) and 44th.
Libya <sup>3</sup> . . . . .	40th (C 105) and 42nd (C 111).	35th, 36th, 37th, 38th, 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd (C 110; R 110, 111), 43rd and 44th.
Luxembourg . . . . .	31st to 39th.	40th, 41st, 42nd, 43rd and 44th.
Malaya <sup>4</sup> . . . . .	—	41st, 42nd, 43rd and 44th.
Republic of Mali <sup>5</sup> . . . . .	—	44th.
Mexico . . . . .	31st, 32nd (C 95), 34th (C 99, 100; R 89, 90) 40th to 44th.	32nd (C 91, 92, 93, 94, 96, 97, 98; R 84, 85, 86, 87), 33rd, 34th (R 91, 92), 35th, 36th, 37th, 38th and 39th.
Morocco <sup>6</sup> . . . . .	39th to 44th.	—
Netherlands . . . . .	31st to 40th (C 105).	40th (C 106, 107; R 103, 104), 41st, 42nd, 43rd and 44th.
New Zealand . . . . .	31st to 43rd.	44th.
Nicaragua <sup>7</sup> . . . . .	—	40th, 41st, 42nd, 43rd and 44th.
Norway . . . . .	31st to 44th.	—

<sup>1</sup> Japan re-entered the Organisation after the closure of the 34th Session.

<sup>2</sup> Jordan became a Member of the Organisation on 26 January 1956.

<sup>3</sup> Libya became a Member of the Organisation at the 35th Session.

<sup>4</sup> Malaya became a Member of the Organisation on 11 November 1957.

<sup>5</sup> The Federation of Mali, which consisted of the present Republic of Mali and Senegal, became a Member of the Organisation at the 44th Session; the Republic of Mali became a Member, separately, on 22 September 1960.

<sup>6</sup> Morocco became a Member of the Organisation at the 39th Session.

<sup>7</sup> Nicaragua re-entered the Organisation on 9 April 1957.

# REPORT OF THE COMMITTEE OF EXPERTS

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Pakistan . . . . .	31st to 44th.	—
Panama . . . . .	31st (C 87) and 34th (C 100).	31st (C 88, 89, 90; R 83), 32nd, 33rd, 34th (C 99; R 89, 90, 91, 92) 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Paraguay <sup>1</sup> . . . . .	—	40th, 41st, 42nd, 43rd and 44th.
Peru . . . . .	31st to 41st, 42nd (C 110, 111; R 110), 43rd (C 112, 113, 114).	42nd (R 111), 43rd (R 112) and 44th.
Philippines . . . . .	31st to 44th.	—
Poland . . . . .	31st (C 7), 32nd (C 91, 92, 95, 96, 98), 34th (C 100; R 90), 35th (C 101), 36th, 40th (C 105) and 42nd (C 111).	31st (C 88, 89, 90; R 83), 32nd (C 93, 94, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 91, 92), 35th (C 102, 103; R 93, 94, 95), 37th, 38th, 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd (C 110; R 110, 111), 43rd and 44th.
Portugal . . . . .	31st to 42nd.	43rd and 44th.
Rumania <sup>2</sup> . . . . .	39th to 44th.	—
El Salvador . . . . .	38th (C 104) and 40th (C 105, 107).	31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th (R 99, 100), 39th, 40th (C 106; R 103, 104), 41st, 42nd, 43rd and 44th.
Senegal <sup>3</sup> . . . . .	—	44th.
Republic of South Africa . . . . .	31st to 44th.	—
Spain <sup>4</sup> . . . . .	39th to 43rd (C 112, 113, 114), 44th (C 115).	43rd (R 112) and 44th (R 113, 114).
Sudan <sup>5</sup> . . . . .	39th and 40th.	41st, 42nd, 43rd, and 44th.
Sweden . . . . .	31st to 44th.	—

<sup>1</sup> Paraguay re-entered the Organisation on 5 September 1956.

<sup>2</sup> Rumania re-entered the Organisation on 11 May 1956.

<sup>3</sup> The Federation of Mali, which consisted of Senegal and the present Republic of Mali, became a Member of the Organisation at the 44th Session; Senegal became a Member, separately, on 4 November 1960.

<sup>4</sup> Spain re-entered the Organisation on 28 May 1956.

<sup>5</sup> Sudan became a Member of the Organisation at the 39th Session.

**SUBMISSION TO COMPETENT AUTHORITIES**

States	Sessions of which the decisions have been submitted to the authorities considered as competent by governments	Sessions of which the decisions have not been submitted (including cases in which no information has been supplied)
Switzerland . . . . .	31st to 44th.	—
Syrian Arab Republic . .	31st (C 87, 88, 89), 32nd (C 94, 95, 96, 98), 34th (C 100), 35th (C 101, 103), 36th (R 97), 38th (C 104), 39th (R 102), 40th and 42nd.	31st (C 90; R 83), 32nd (C 91, 92, 93, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th (C 102; R 93, 94, 95), 36th (R 96), 37th, 38th (R 99, 100), 39th (R 101), 41st, 43rd and 44th
Thailand . . . . .	31st to 36th.	37th, 38th, 39th, 40th, 41st, 42nd, 43rd and 44th.
Togo <sup>1</sup> . . . . .	—	44th.
Tunisia <sup>2</sup> . . . . .	39th to 44th.	—
Turkey . . . . .	31st to 44th.	—
Ukraine <sup>3</sup> . . . . .	37th to 44th.	—
U.S.S.R. <sup>4</sup> . . . . .	37th to 44th.	—
United Arab Republic . .	31st (C 87, 88, 89; R 83), 32nd (C 94, 95, 96, 98), 34th (C 100), 35th (C 101), 38th, 39th, 40th and 42nd.	31st (C 90), 32nd (C 91, 92, 93, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th (C 102, 103; R 93, 94, 95), 36th, 37th, 41st, 43rd and 44th.
United Kingdom . . . .	31st to 44th.	—
United States . . . . .	31st to 44th.	—
Uruguay . . . . .	31st to 36th, 38th (R 99, 100) and 40th (C 105).	37th, 38th (C 104), 39th, 40th (C 106, 107; R 103, 104), 41st, 42nd, 43rd and 44th.
Venezuela <sup>5</sup> . . . . .	31st to 44th.	—
Viet-Nam <sup>6</sup> . . . . .	33rd to 42nd.	43rd and 44th.
Yugoslavia . . . . .	31st to 44th.	—

<sup>1</sup> Togo became a Member of the Organisation at the 44th Session.

<sup>2</sup> Tunisia became a Member of the Organisation at the 39th Session.

<sup>3</sup> Ukraine became a Member of the Organisation in 1954.

<sup>4</sup> The U.S.S.R. re-entered the Organisation in 1954.

<sup>5</sup> Venezuela withdrew from the Organisation on 3 May 1957 and re-entered the Organisation on 16 March 1958.

<sup>6</sup> Viet-Nam became a Member of the Organisation at the 33rd Session.

**Appendix II. Tables Showing the Position of Members with Regard to the Obligation  
to Submit Conference Decisions to the Competent Authorities**

**TABLE I. NUMBER OF STATES WHICH HAVE COMMUNICATED, WITHIN THE  
PRESCRIBED TIME LIMITS, INFORMATION INDICATING THAT CONVENTIONS AND  
RECOMMENDATIONS HAVE BEEN SUBMITTED TO THE COMPETENT AUTHORITIES**

Number of States in which, according to information supplied by governments—	Sessions at which decisions were adopted <sup>1</sup>													
	31st 1948	32nd 1949	33rd 1950	34th 1951	35th 1952	36th 1953	37th 1954	38th 1955	39th 1956	40th 1957	41st 1958	42nd 1958	43rd 1959	44th 1960
All the decisions have been submitted . .	16	17	21	25	25	28	29	24	38	38	33	36	34	39
Some of these decisions have been submitted	7	2	— <sup>a</sup>	4	3	1	— <sup>a</sup>	4	1	13	3	6	8	1
None of these decisions has been submitted (including cases in which no informa- tion has been sup- plied by the govern- ment). . . . .	37	42	42	35	38	37	40	41	37	26	43	37	38	43
Number of States which which were Members of the Organisation at the time of the session . . . . .	60	61	63	64	66	66	69	69	76	77	79	79	80	83

<sup>1</sup> Except for the 41st Session (April-May) all sessions of the Conference were held in June. <sup>a</sup> At this session the Conference adopted one Recommendation only.

TABLE II. OVER-ALL POSITION OF MEMBERS AS AT 15 MARCH 1962

Number of States in which, according to information supplied by governments—	Sessions at which decisions were adopted <sup>1</sup>													
	31st 1948	32nd 1949	33rd 1950	34th 1951	35th 1952	36th 1953	37th 1954	38th 1955	39th 1956	40th 1957	41st 1958	42nd 1958	43rd 1959	44th 1960
All the decisions have been submitted . .	46	44	44	46	45	48	45	49	56	55	51	51	43	39
Some of these decisions have been submitted	9	12	— <sup>2</sup>	12	9	—	— <sup>2</sup>	5	1	10	2	8	7	1
None of these decisions has been submitted (including cases in which no informa- tion has been sup- plied by the govern- ment) . . . . .	5	5	19	6	12	18	24	15	19	12	26	20	30	43
Number of States which were Members of the Organisation at the time of the session .	60	61	63	64	66	66	69	69	76	77	79	79	80	83

<sup>1</sup> Except for the 41st Session (April-May) all sessions of the Conference were held in June. <sup>2</sup> At this session the Conference adopted one Recommendation only.