

International Labour Conference
59th Session 1974

Report III
(Part 1)

Third Item on the Agenda

Information and Reports on the Application
of Conventions and Recommendations

Summary of Reports on Ratified Conventions

(Articles 22 and 35 of the Constitution)



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INTRODUCTION

Article 22 of the Constitution of the International Labour Organisation provides that "each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request". Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organisations of employers and workers.

As decided by the Governing Body at its 142nd Session and endorsed by the Conference at its 43rd Session (both held in Geneva in June 1959) and confirmed by these bodies in 1961, Conventions in force have been divided into two groups, and detailed reports are requested in alternate years on each of these groups. The present summary covers primarily reports on Conventions in the appropriate group¹ as well as other reports due under the above-mentioned decision: (a) first reports; (b) reports relating to cases in which serious divergences between national law and practice and the provisions of a ratified Convention have been noted by the Committee of Experts or the Conference Committee.

A decision taken by the Governing Body at its 134th Session (March 1957) was designed to reduce the size of the volume to a strict minimum. The present volume therefore includes, as regards first reports after ratification, the principal laws and regulations giving effect to a Convention, information on the manner in which each of its substantive Articles is implemented and a brief record of the way in which it is applied in practice. Subsequent reports are listed at the end of the summary, with an indication of the type of information they contain.

The present summary, which covers the period from 1 July 1971 to 30 June 1973, contains information on the Conventions in force at that time. First reports received too late for inclusion in last year's summary have been taken into account in preparing the present summary.

Voluntary reports (in respect of Conventions which are not in force for the countries concerned) supplied by certain governments have been also taken into account.

¹ The Conventions concerned are as follows: Nos. 2, 4, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 34, 41, 42, 44, 48, 52, 53, 55, 56, 63, 65, 69, 71, 73, 74, 77, 78, 79, 81, 82, 85, 88, 89, 90, 92, 94, 95, 96, 101, 104, 105, 113, 114, 115, 117, 118, 121, 124, 125, 126, 127, 129 and 130.

The summaries of reports on the application of Conventions in non-metropolitan territories are printed under each Convention following those concerning metropolitan countries.

The present volume covers reports received by the Office up to 31 December 1973. The report of the Committee of Experts on the Application of Conventions and Recommendations, which examines the reports, is communicated separately to the Conference as Report III (Part 4).

APPLICATION OF CONVENTIONS

(Articles 22 and 35 of the Constitution)

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

BURUNDI

Legislative Order No. 001/31 dated 2 June 1966: Labour Code
(Official Gazette, No. 9 "bis", dated 15 September 1966).

Under the Labour Code, hours of work must not exceed eight a day and forty-eight a week. As regards possible exceptions, various bills and draft regulations have been prepared and will shortly be submitted, for comments, to the National Labour Council. Hours of work must be posted up.

LIBYA

Labour Code (Act No. 58-2970 of 1 May 1970). (LS 1970 - Libya 1).

Order of the Minister of Labour and Social Affairs to determine the maximum hours to be worked by cleaning and caretaking staff in undertakings.

Sections 85 to 90 of the Labour Code govern all matters relating to hours of work as required by Articles 2, 3, 5, 8(1)(a) and 8(2) of the Convention.

The requirements of Article 4 of the Convention are met by the Ministerial Order specifying the continuous processes where there is no rest period.

No exceptions are made within the meaning of Article 6, and accordingly Article 8(1)(c) of the Convention is inapplicable.

There have been no cases of suspension during the period covered by the report.

Convention No. 2: Unemployment, 1919

AUSTRALIA

Re-establishment and Employment Act, 1945-66.

Social Services Act, 1947-1972 (which incorporated the provisions of the Unemployment and Sickness Benefits Act, 1944).

Article 1 of the Convention. All relevant information, statistical or otherwise, concerning unemployment is forwarded to the International Labour Office by the Department of Labour and the Commonwealth Bureau of Census and Statistics as soon as possible after it is collected or prepared.

Article 2. A network of district offices located as conveniently as possible for employers and workers alike has been developed to serve each area. There is co-operation between the Employment Service and the university appointments boards and professional associations, which are the major private employment agencies not conducted with a view to profit.

Article 3. There is no system of insurance against unemployment but benefits are provided from public funds. No test of nationality is applied.

III. The authority responsible for the application of this Convention is the Department of Labour.

New Guinea

Employment Placement Service Ordinance, 1966.

Article 1 of the Convention. No statistics on unemployment are currently available. However, statistics on applicants registered for employment each month by the National Employment Service are available.

Article 2. The Papua New Guinea Department of Labour acts as a central authority in operating the only free public employment service. The Papua New Guinea Labour Advisory Council, a tripartite advisory body with an equal number of representatives of employer and employee organisations, meets regularly and advises on the carrying on of these agencies.

Article 3. There is no system of insurance against unemployment in Papua New Guinea and it is not envisaged for some time.

The Department of Labour is the administrative authority responsible for the operation of the National Employment Service.

No courts of law or other courts have given any decisions involving questions of principle relating to the application of the Convention.

Papua

See under New Guinea.

Convention No. 3: Maternity Protection, 1919

LIBYA

Act No. 58-2970-Labour Code. Dated 1 May 1970 (LS 1970 - Libya 1), as amended by Act No. 108 of 1971 and No. 72 of 1972.

Social Insurance Act, No. 53 (1957). Assented to on 20 February 1957 (LS 1957 - Libya 1), as amended in 1962, 1967, 1968 and 1970.

Article 1 of the Convention. The Government indicates that "industrial undertakings" have not yet been "determined".

Article 2. The Labour Code does not define the term "woman".

Article 3(a, b and c). As regards the application of these provisions, the Government refers to section 43 of the Labour Code and to section 24 of the Social Insurance Act, which provide for maternity leave of 50 days and a daily cash allowance.

Article 3(d). This provision is given effect by virtue of the Labour Code, section 97, which provides for nursing breaks.

Article 4. The Government quotes sections 43 and 45, which contain provisions relating to the protection of a woman against dismissal during her maternity leave, and the prolongation of such leave because of sickness due to pregnancy or confinement.

By virtue of the Labour Code and the regulations applying it, it is the Ministry of Labour which is responsible for seeing that the appropriate laws are complied with; this it does through its Labour Inspection Department.

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

IRAN

Labour Code (Labour Act of 17 March 1959) (LS 1959 - Iran 1).

Article 1 of the Convention. All the establishments listed in clauses (a), (b), (c) and (d) of this Article fall within the scope of the law.

Article 2. The provisions of section 14 of the Labour Code ensure that effect is given to this Article of the Convention. Where, with the worker's consent, another day of the week is permanently fixed as the rest day, such day is regarded as the weekly rest day.

Article 3. Effect is given to this Article by the provisions of section 7 of the Labour Code.

Articles 4, 5, 6 and 7(b). The provisions of section 14 of the Labour Code ensure that effect is given to these Articles of the Convention.

Article 7, clause (a). Effect is given to this clause in practice.

LIBYA

Labour Code (Act No. 58-2970 of 1 May 1970) (LS 1970 - Libya 1).

Effect is given to Articles 2, 4 and 7 of the Convention by the provisions of section 88 of the Labour Code.

There are no provisions corresponding to Articles 3, 5 and 6 of the Convention.

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

IRAN

Act of 11 May 1960 respecting social insurance for workers (LS 1960 - Iran 1).

All foreign nationals employed in establishments subject to the provisions of the Social Insurance Act enjoy, without any condition as to reciprocity, equality of treatment with Iranian nationals in respect of workmen's compensation.

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

AUSTRALIA

New Guinea

Migration Ordinance, 1963-1969.

Native Employment Ordinance, 1958-1971.

Navigation Ordinance, 1889-1966 (Papua).

United Kingdom Merchant Shipping Act, 1894.

Water Police Act of 1853.

During the period under review there have not been any changes in the legislative or other measures by which Articles 1 to 14 of the Convention are applied in Papua New Guinea but the following comments are made on the information provided in previous detailed reports.

Article 6. The Certificate of Discharge and Record of Service provides for the details required by subparagraph (1) to be shown and the requirements of subparagraph (2) are satisfactorily covered by the terms and conditions stipulated in the current seamen's articles of agreement.

Article 14. It is not the practice in Papua New Guinea to issue a separate certificate relating to quality of work. However, it is considered that the arrangement whereby a seaman who so desires may have a report on character included on his discharge certificate affords all the protection which is contemplated in the Convention.

The administration of maritime matters is under the jurisdiction of the Department of Transport while the Department of Labour is responsible for the over-all administration and supervision of the Native Employment Ordinance which complements maritime legislation in regard to employment of local seamen.

Papua

See under New Guinea.

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

JAPAN

Labour Standards Law (Law No. 49 of 5 April 1947, Official Gazette, 7 April 1947, No. 303) (LS 1947 - Jap. 3).

Minimum Wages Law (Law No. 137 of 15 April 1959, Kampoo, 15 April 1959, No. 46 Extraordinary) (LS 1959 - Jap. 1).

Enforcement Ordinance of the Minimum Wages Law (Ministry of Labour Ordinance No. 16 of 10 July 1959).

Industrial Home Work Law (Law No. 60 of 16 May 1970, Kampoo, 16 May 1970) (LS 1970 - Jap. 1).

Mariners Law (Law No. 100 of 1 September 1947) (LS 1947 - Jap. 5).

Ministry of Transportation Ordinance No. 35 of 1959 concerning minimum wages of mariners.

Scope of the machinery. The Minimum Wages Law applies to all workers, except national and local public employees in the regular service. Under section 8 of the Law, the employer may apply for authorisation not to pay the minimum rate to handicapped, part-time or probational workers or workers engaged in light or intermittent work or workers being provided training.

The Industrial Home Work Act applies to home workers and their principals.

Articles 1 and 2 of the Convention. Two types of procedures are stipulated for fixing minimum wages, namely, minimum wages based on research and deliberation by the Minimum Wages Council and extension of the application of a collective agreement. In both cases, minimum wages fixing is subject to a prior deliberation by the Central Minimum Wages Council or the Prefectural Minimum Wages Council (Ad hoc Committee on Minimum Wages of the Mariners Labour Relations Commissions, in respect of mariners), composed of equal number of members representing workers, employers and the public interest and the way of reflecting the opinions of the workers and employers concerned is also open. Thus, wherever the minimum wages are to be fixed for a specific industry, opinions of the workers and employers concerned are heard, at such places as the said Councils, on the necessity of fixing minimum wages for the industry concerned.

As regards minimum home work wages, minimum home work wages fixing based on research and deliberation by the Councils is provided for, and the above-mentioned procedure for fixing minimum wages is applied mutatis mutandis. Thus, a prior deliberation by the Home Work Council is required and the opinions of the home workers and principals concerned are heard.

Persons representing the whole or part of the workers or employers concerned are entitled to propose to the Minister of Labour or the Chief of the Prefectural Labour Standards Office to decide minimum wages. There is a similar stipulation for minimum home work wages also.

Article 3, paragraphs 1 and 2(1) and (2). As mentioned under Articles 1 and 2 above, minimum wages are fixed after deliberation by the Minimum Wages Council and respecting the opinions of the Council, whose members participate in the deliberation on an equal footing.

Minimum home work wages are fixed after deliberation by the Home Work Council and respecting the opinions of the Council.

The following methods are followed in fixing, adjusting or cancelling minimum wages:

A. Regional minimum wages based on collective agreement. The Minister of Labour or the Chief of the Prefectural Labour Standards Office may, in case the greater part of workers of the same kind employed in establishments in a specific region and of employers employing them are covered by one collective agreement containing a provision concerning the minimum amount of wages or in case they are covered by any one of two or more collective agreements containing provisions of which the contents are substantially the same in respect of the minimum amount of wages, and when an

application has been made by mutual consent of all the trade unions or employers (including employers' organisations) which are the parties to the collective agreement concerned, decide, based on these provisions concerning the minimum amount of wages, minimum wages applicable to all the workers of the same kind employed in establishments in the specific region and to all the employers employing them (Minimum Wages Law, section 11).

The essential point of the application must be published and the workers or employers not covered by the collective agreement involved but to be covered by minimum wages may raise an objection against it. The opinion of the Minimum Wages Council must be asked by the competent authority, who may, on the basis of this opinion, postpone the application of the minimum wages to a specified time-limit or make separate provisions for the amount of minimum wages, in respect of a specified category of undertakings.

All decisions relating to minimum wages must be made after consultation of the Minimum Wages Council and pay due regard to its opinion.

The Minimum Wages Council is required, in case it deems it necessary to do so at its deliberation, to hear the opinion of the workers and employers concerned as well as the opinion of other persons concerned.

The Minister of Labour or the Chief of the Prefectural Labour Standards Office must, in case he deems it difficult to comply with the opinion of the Minimum Wages Council, request the Council to reconsider the matter, with reasons therefor.

Decisions concerning minimum wages must be published.

B. Minimum wages based on research and deliberation by the Minimum Wages Council. The Minister of Labour or the Chief of the Prefectural Labour Standards Office may, in case he deems it necessary for the purpose of improving the conditions of work of low-paid workers in a specific industry, occupation or region, request the Minimum Wages Council to make investigation into and deliberation on the matter and ask its opinion (Minimum Wages Law, section 16). Those representing the whole or part of the workers or employers concerned may also propose to the competent authority to decide minimum wages applicable to the workers or the employers concerned.

The provisions mentioned under A, concerning publication of proposals, objection by employers and workers concerned, consultation of the Minimum Wages Council and of the employers and workers concerned, and publication of minimum wages decisions are applicable.

C. Minimum Home Work Wages. The Minister of Labour or the Chief of the Prefectural Labour Standards Office may, where he deems it necessary for the purpose of improving the conditions of work of low-paid home workers engaged in specific work in a specific region, request the Home Work Council to make investigation and deliberation and ask its opinion. Those representing the whole or part of the home workers or principals concerned may also propose to the competent authority to decide minimum home work wages applicable to the home workers or the principals concerned.

The procedure described under A is applicable, mutatis mutandis, to the fixing of minimum home work wages.

Paragraph 2(3). Section 5(1) of the Minimum Wages Law provides that "the employer shall pay to the workers to whom the minimum wages are applicable wages which are equal to or exceeding the amount of the minimum wages, and section 5(2) of the said Act provides that any contract which violates this provision shall be null and void and that, in this case, that part of the contract which is thus null and void shall be regarded as being substituted by the said minimum wages. There are similar provisions for minimum home work wages also.

Article 4, paragraph 1. Enforcement of the Minimum Wages Law is the responsibility of the Labour Standards Bureau of the Ministry of Labour, various offices of the Bureau and labour standards inspectors. A fine of up to 10,000 yen may be imposed for contraventions of the laws (section 44 of the Minimum Wages Law and section 34 of the Industrial Home Work Act). Measures of publicity are provided for in sections 17 and 19 of the Minimum Wages Law and section 12 of the Industrial Home Work Act.

Paragraph 2. The limitation of time for recovery of wages due is two years, under section 115 of the Labour Standards Law and section 173(2) of the Civil Code.

Article 5. There are no differences in rates by age or sex. Home work rates vary according to the work involved (piecework), so no statistics of time rates can be provided. Statistics are provided for 462 cases of wage fixing covering over 23 million workers.

The Spring Offensive Joint Struggle Committee (composed of the General Council of Trade Unions of Japan - SOHYO and the Federation of Independent Unions - CHURITSU - ROREN) submitted its observations to the following effect.

The Committee demands that the Government should, as a basic measure, introduce a minimum wages system with a uniform rate applicable to all industries throughout the country, on which an additional series of industry-wide minimum wages of general application should be built up and that the amount of minimum wages should be adjusted by a sliding scale in accordance with increases in the cost of living.

With regard to the suggested minimum wages system with a uniform rate for all industries throughout the country, the Government recalls that the Central Minimum Wages Council, having continued deliberations on a desirable system of minimum wages for about five years, submitted to the Minister of Labour its recommendations. The Council confirmed that there exist fairly extensive differences in the level of wages between different areas and industries, and, therefore, it was not in a position to expect, at present, any effectiveness of a minimum wages system with a uniform rate for all industries throughout the country; on the other hand, it considered it desirable that all workers be effectively covered by minimum wages of some sort or another.

The Government is making efforts, in pursuance of the purpose of the Council's recommendations, to expand effective minimum wages by industry, occupation and region.

BYELORUSSIA

Law governing internal water transport in the USSR, adopted by Order of the Council of Ministers of the USSR of 15 October 1955.

Rules for the transport of loads and the towing of rafts and ships by the river fleet, based on the aforementioned Law.

Chapter I of the Law lays down, among other requirements with respect to the load, the requirement that the load be properly marked.

Paragraph 5 of the Rules provides that the consignor shall clearly indicate on the outside of any package its gross and net weight. Packages which do not bear an indication of weight are not accepted for transport.

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

KENYA

East African Harbours Regulations, 1952 (Legal Notice No. 7 of 1952).

East African Harbours (Amendment) (No. 2) Regulations, 1964 (Legal Notice No. 63 of 1964).

Railway Tariff Book No. 5.

The legislation above provides for the marking of all single packages weighing 2,200 lb. or more. The application of the legislation is entrusted to Railway and Harbours Corporation's authorised staff.

UKRAINE

Merchant Shipping Code of the USSR - adopted by Decree of the Presidium of the Supreme Soviet of the USSR - on 17 September 1968.

Order No. 52 of the Merchant Fleet Ministry of USSR - dated 19 February 1957.

Provisional technical conditions for placing and fastening heavy and large cargo aboard seagoing ships - adopted by the Merchant Fleet Ministry of the USSR - in 1966.

A package or object of which the weight is one or more tons cannot be taken on board ship without the exact weight being indicated. Supervision and enforcement of the indication of the weight of a package rests with the administration of the consignor's seaport.

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

BYELORUSSIA

The Fundamental Principles governing the labour legislation of the USSR and the Union Republics (LS 1970 - USSR 1).

Labour Code of the Byelorussian SSR adopted on 23 June 1972.

Occupational Safety and Health Rules concerning loading and unloading work in ports and docks, issued by the Ministry of the River Fleet and adopted by an Order of the Presidium of the Central Council of the Maritime and River Fleet Workers' Union on 27 December 1967.

Rules respecting the installation and safe operation of cranes, approved by the State Technical Safety Inspectorate, 30 December 1969.

Article 1 of the Convention. The definitions contained in this Article correspond to those used in the national legislation.

Articles 2-16. These provisions are fully covered by the statutory instruments listed above.

Article 4. Articles 31-38 of the Occupational Safety and Health Rules provide in detail for the safety of workers to be transported by water to or from ship.

Article 6. Occupational safety rules for work in port require that before unloading starts, temporary barriers be erected in front of coamings if these are less than 0.75 metres high.

Article 9. All weight-lifting equipment on board ships, its mechanism and parts may be passed for operation only after being tested and certified by proper technical documents.

Article 11. In accordance with rules in force load-lifting equipment and removable parts may not be operated if they are in a defective state.

Article 12. Articles 371-552 of the Occupational Safety and Health Rules provide for measures to ensure the occupational safety of port workers in handling various types of cargo, including dangerous and harmful cargoes.

Article 15. No exceptions have been made to the provisions of the Convention.

Article 17. The rules in force specify the competent persons and bodies responsible for enforcing these rules.

PANAMA

Labour Code, sections 8, 282, 283, 284 (LS 1971 - Pan. 1).

Article 1 of the Convention. The meaning of the term "processes" corresponds with the definition in the Convention. "Worker" is defined in section 82 of the Labour Code to mean any person who undertakes on the basis of a verbal or written contract to give his services or perform work under the orders and authority of or subordinate to another.

Article 2. In Panama there is compliance with the requirement of safe and efficient lighting of workplaces and inspections are carried out to ensure that this is so. Provision is also made for clear spaces on wharves and the marking of yellow lines within which goods must be stacked, and for adequate metal fencing.

Article 3. Provision is made for means of access, such as thirty inch ladders.

Article 4. Launches are required to have on board as many lifejackets as there are persons on board.

Article 5. The ladders are required to be five inches in depth and five inches in width; the other requirements of this Article are also respected.

Article 6. Provision is made for the installation of wooden covers over the hatchways giving access to the hold.

Article 7. Provision is made for efficient lighting in addition to the use of luminous lettering.

Article 8. The requirement that hatches be closed is fulfilled by the installation of metal bars which are replaced when their condition deteriorates.

Article 9. Provision is made for fixed hoisting gear on board and it is inspected at periodic intervals, three times a year. All accessories, such as chains, hooks and eyebolts, are duly inspected and replaced if their condition has deteriorated. All hoisting machinery is marked with the maximum working load. Shafts and cogwheels are provided with safety fencing. Provision is also made for the elimination of exhaust steam or live steam so that workers shall have the best possible visibility.

Article 10. It is provided that employed persons shall have sufficient experience of the task entrusted to them.

Article 11. In Panama the requirements relating to the mechanical moving of cargoes and its safe performance are complied with. Stages must be securely fastened. Vessels used in Panama are for light cargo, while heavy-tonnage shipping passes through the Canal zone.

Article 12. The Occupational Safety Department requires that workers shall be provided with masks, gloves and other equipment for their personal protection.

Article 13. Provision is made for first aid in case of accident.

Article 14. Persons who install equipment are authorised to do so and do not remove it without reason.

Article 17. Supervision and inspection are the responsibility of the Occupational Safety Section and the Merchant Marine Section of the Ministry of Labour and Social Welfare, and of the inspectors of the Occupational Hazards Section of the Social Insurance Fund.

DENMARK

Greenland

The Directorate of Labour Inspection has set up a working group with the object of preparing instructions by means of which the stipulations of the Convention will be satisfied as far as possible.

Convention No. 44: Unemployment Provision, 1934

SPAIN

Decree 907 dated 21 April 1966 - initial consolidated text of the Social Security Act 193/1963 (Boletín Oficial del Estado, 22 April 1966) (LS 1966 - Sp. 3).

Decree 909 dated 21 April 1966 - second consolidated text of the Social Security Act 193/1963 - Act respecting Labour Procedure (BOE 23 April 1966).

Order dated 5 May 1967 - Standards for the application and development of unemployment benefits (BOE 19 May 1967).

Order dated 10 February 1973 - Investment Plan and General Regulations applicable to the National Labour Protection Fund (BOE 22 February 1973).

Article 1 of the Convention. The General Social Security Scheme incorporates a system of unemployment benefit based on compulsory contributions by employers and workers (Order dated 5 May 1967).

Article 2. The law has only made exceptions of categories (a) persons employed in domestic service; (e) public servants;

(g) persons in receipt of a retiring or old-age pension; and (i) members of the employer's family. The Social Security Unemployment Scheme applies to seafarers and fishermen, but agricultural workers are excluded.

Article 3. An unemployment allowance is payable when the working day or the number of working days has been reduced by at least one-third of normal working hours (section 2(b) and section 12, 1(b) of the Order dated 5 May 1967).

Article 4. The worker must have been declared to be unemployed by the competent authority and is obliged to register at the Employment Office in order to qualify (sections 9 and 27 of the Order dated 5 May 1967).

Article 5. In addition to the conditions or disqualifications laid down in Articles 8, 9, 10 and 11 of the Convention, a claimant may be disqualified from the receipt of benefit if he receives employment which cannot be classed as marginal, or if he is in receipt of a retiring or old-age pension (section 14 of the Order dated 5 May 1967).

Article 6. The law requires a minimum contribution period of six months within the eighteen months immediately preceding the date of unemployment, reduced working hours or suspension (section 9 of the Order dated 5 May 1967).

Article 7. There is no waiting period (section 11 of the Order dated 5 May 1967).

Article 8. The right to benefit is forfeited in the event of unjustified refusal or obstruction of opportunities for upgrading, training or retraining (section 14 of the Order dated 5 May 1967).

Article 9. The Ministry of Labour subsidises private schemes to relieve unemployment. Refusal to take part in these causes the payment of unemployment benefit to cease.

Article 10. 1. Entitlement to an unemployment allowance is forfeited by refusal to accept suitable work. Work away from the place of residence is only considered suitable when the worker can continue to live with his family or when he can obtain suitable accommodation in the area in which he is to be employed (section 14 of the Order dated 5 May 1967).

2. The right to receive benefit is cancelled or suspended when: (a) the Labour Tribunal decides that dismissal, in the event of collective disputes, was justified; (b) the worker left his employment voluntarily or was dismissed because of misconduct; (c) the claimant tried to obtain unemployment benefit fraudulently (sections 4 and 14 of the Order dated 5 May 1967).

3. The law does not deal with situations in which the worker receives compensation from his employer other than severance pay, the latter being compatible with unemployment benefit.

Article 11. Benefits are received for a period of six months in the case of total unemployment, and for 182 calendar days in the case of partial unemployment, which may be extended to a year if the

circumstances justifying the initial granting of the benefit continue to exist when social security benefit expires. At the end of a year, an identical allowance may be obtained for six months from the National Labour Protection Fund (section 1 of the Rules approved by the Order dated 10 February 1973).

Article 12. Entitlement to benefit is in no case conditional upon proof of need.

Article 13. Benefits are always received in cash and never in kind.

Article 14. The Labour Tribunals are the courts responsible for resolving disputes between workers and the National Provident Institute (Decree 909 dated 21 April 1966).

Article 15. Transfer of residence abroad results in loss of entitlement to benefit.

Article 16. The following persons are placed on the same footing as Spanish nationals: nationals of Latin American countries, Andorra, the Philippines, Portugal and Brazil residing on Spanish territories. The status of nationals of other countries is governed by the provisions of Conventions or agreements ratified or concluded for this purpose or according to the standards applying to them by virtue of rules of reciprocity tacitly or expressly recognised.

The National Provident Institute, a body subject to the Ministry of Labour, is responsible for the application of regulations on unemployment benefit. Enforcement of employers' and workers' obligations is carried out by the Inspectorate of Labour. Appeal to the Provincial Labour Tribunal is provided for.

Convention No. 52: Holidays with Pay, 1936

CAMEROON

Law dated 12 June 1967 to institute the Labour Code (LS 1967 - Cam. 1).

Decree No. 68/DF/254 dated 10 July 1968 - Official Gazette of the Federal Republic of Cameroon.

Decree No. 13/MTLS of 18 June 1968.

National legislation (Labour Code, sections 96 to 100) and the regulations issued thereunder (Decree No. 68/DF/254 dated 10 July 1968) apply the provisions of the Convention.

Part 2 of the employers' register, instituted by Order No. 13/MTLS dated 18 June 1968, corresponds to the record laid down in Article 7 of the Convention.

SPAIN

Decree to approve the Consolidated Texts of the First Book of the Act respecting Contracts of Employment dated 26 January 1944 (ES 1944 - Sp. 1A).

Order dated 29 December 1945 on Holidays for Workers (Male) under 21 and Workers (Female) under 17.

Order dated 30 April 1948 on Holidays for Directors of Groups of Undertakings.

Consolidated Text of the Conditions of Employment (Merchant Marine) Act dated 23 December 1952.

Order dated 20 May 1969 approving the Merchant Marine Employment Ordinance.

Labour Regulations and Ordinances and Trade Union Collective Agreements in force in various branches of the economy.

Consolidated Text of the Labour Procedures dated 21 April 1966.

Labour Inspection Act dated 21 July 1962 and Regulations dated 23 July 1971.

Provincial Labour Delegations Act dated 10 November 1942 and Regulations dated 3 April 1971.

II

Article 1. Paid holidays are prescribed, in general, for all activities governed by the Employment Contracts Act dated 26 January 1944 (section 35). The Order dated 29 December 1945 extends the statutory holidays laid down for male workers under 21 and female workers under 17, admitted to youth camps, hostels, sanatoria, marches and short training courses. The Order dated 30 April 1948 extended the scope of this Order to the heads of Trade Union Organisation plant branches.

For merchant marine personnel, section 48 of the Order dated 23 December 1952 lays down how long holidays shall be; this Order gives approval to the Consolidated Text of the Basic Act of 19 December 1951. This clause has been replaced by section 153 of the Merchant Marine Employment Ordinance, approved by Order dated 20 May 1969, which makes more favourable provision in this regard.

The question of the length of holidays is likewise governed by Labour Regulations and Ordinances for various branches of the economy, and not infrequently, too, by trade union collective agreement.

Article 2, paragraph 1. Section 35 of the Employment Contract Act lays down that the worker shall enjoy not less than seven consecutive working days of leave; in almost all occupations this period

is considerably extended by Labour Regulations and Ordinances and by numerous trade union collective agreements.

Paragraph 2. Under the Order dated 29 December 1945, male workers under 21 and female workers under 17 are entitled to twenty working days in which to attend youth camps, hostels, preventoria, marches and short training courses. At present there is no branch of activity in which less than fifteen days of holiday are granted.

Paragraph 3. The days referred to in this paragraph are not counted as part of annual paid leave.

Paragraph 4. As a general rule, holidays are taken without interruption.

Exceptionally, and because of an agreement reached between the parties concerned (leading to approval of the respective Labour Ordinances, including that applicable to the iron and steel industry on 29 July 1970), it has been laid down that the annual paid holiday shall be twenty calendar days, of which at least fifteen shall be taken without interruption. In the Textile Industries Ordinance dated 7 February 1972, it is laid down that a holiday of eighteen working days may be taken in two parts, one of which shall not be less than twelve working days.

Paragraph 5. In many Regulations and Labour Ordinances too, and in not a few collective agreements, the more senior a worker is in his undertaking, the more annual leave he becomes entitled to.

Article 3. Section 35 of the Employment Contract Act lays down that cash payment for the period of leave shall be made by the employer when that leave begins, and payments in kind - if such there are - will be made in the ordinary way, or that suitable compensation shall be paid.

Article 4. Section 9(2) of the Employment Contract Act (26 January 1944) lays down that any agreement renouncing the right to leave shall be null and void. This section specifies that since the agreement is reached by common consent, then, provided the object pursued is legitimate, the conditions imposed on the worker may not be less favourable to him than those laid down by laws, decrees and administrative orders.

Article 5. Section 35 of the aforementioned Employment Contract Act specifies that if a worker, during his paid leave, undertakes work for himself or others which runs counter to the purpose of the leave, he shall refund to his employer the pay he has received for his holiday.

Article 6. Section 35 lays down that whenever a worker leaves an undertaking before having taken his annual paid holiday, he shall be paid a sum commensurate with the period in question.

Section 103 of the Second Consolidated Text of the Basic Social Security Act (21 April 1966) lays down that if a Labour Magistrate disagrees with a decision to dismiss a worker, he may demand reinstatement or require the undertaking to pay specific compensation; such compensation must not, however, exceed one year's wages, this expression being taken to include all the worker

would have earned in return for his services, including, of course, his right to holidays.

Article 7. Some of the data to which this Article refers appear in the Registration Book which under the Order dated 7 July 1967 every undertaking has to keep. All such data form part of the records which the undertaking must keep available for inspection by the Labour Inspectors, so that the latter may ascertain whether the law is being complied with.

Article 8. The Labour Inspection Department has to ensure compliance with the rules which give effect to the Convention, under the Act dated 21 July 1962 and the Regulations thereto, dated 23 July 1971. Sanctions for failure to comply are imposed by the Provincial Labour Delegations, under the Act dated 10 November 1942 and Regulations dated 3 April 1971.

Compliance with existing laws and regulations derived from the provisions of this Convention is ensured by officials belonging to the National Labour Inspection Department.

Convention No. 53: Officers' Competency
Certificates, 1936

CUBA

Presidential Decree No. 2003 (18 December 1929) on the creation of a Merchant Marine Nautical College.

Article 1 of the Convention. National legislation has not availed itself of the provisions mentioned in paragraph 2 of this Article.

Article 3. Under national legislation, the following certificates are issued: Captain, Merchant Marine; Pilot, Sea-Going; First Engineer; Second Engineer. To be captain or mate it is necessary to possess the first of these tickets.

Presidential Decree 2003 (1929) provided for recognition of foreign certificates for these duties. Although there are no separate national definitions, the duties listed in Article 3 are interpreted in accordance with the definitions given in Article 2 of the Convention.

Article 4. Decree 2003 lays down a minimum age for entering the Naval College and the experience required of candidates for each certificate, and provides for the competent authorities to organise the requisite examinations of proficiency. Thus, candidates for the sea-going pilot's certificate must have covered at least 20,000 nautical miles and done the calculations and other work normally entrusted to a pilot. To qualify as a Merchant Marine Captain, the candidate must have covered at least 30,000 miles as a sea-going pilot. To become a Second Engineer, the candidate must have spent a year in a workshop and at least one year afloat as assistant engineer. To become a First Engineer,

the candidate is required to have spent at least two years as engineer afloat.

Article 5. Under current Cuban legislation, the officers in charge of Cuban ports, and Cuban consulates abroad, are entitled to arrest any Cuban ship not observing the provisions of the Convention.

Article 6. The Social Defence Code lays down that the penalty for the offences mentioned in Article 6(2) shall be imprisonment for three months to two years, apart from the question of any material damage which might result from the illegitimate performance of the duties in question.

The Merchant Marine and Ports Ministry and the Ministry of the Revolutionary Armed Forces are the authorities called upon to ensure that the Convention is complied with; state-run undertakings only are entitled to transport goods and passengers by sea.

SPAIN

Decree No. 629/1963 of 14 March 1963 respecting certificates of professional capacity (merchant and fishing fleets) (Boletín Oficial del Estado, 6 April 1963).

Order of 23 March 1965 establishing schedules for examinations with a view to a seafaring career (BOE, 18 March 1963).

Ministerial Order No. 913/1964 of 9 March 1964 establishing schedules for examinations for skippers of coasters and fishing vessels, inland waterway navigation and ships' engineers (BOE, 22 April 1964).

Article 3 of the Convention. The Decree of 1963 specifies the different types of certificates of competency in the merchant navy as well as the manner of obtaining them and the qualifications to which they attest.

Article 4. The Decree stipulates that the master and chief engineer of a vessel must be over 21 years of age. The rest of the crew must be over 18 years of age. If a candidate for a competency examination is under the required age the certificate will be delivered to him only upon reaching that age. The same applies to the professional experience necessary for the obtention of a certificate.

RATIFIED CONVENTIONS

C. 55

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

PANAMA

Act No. 7 of 26 January 1950, to amend and replace certain provisions of the Labour Code respecting the merchant marine of Panama and to provide other measures connected therewith (Gaceta Oficial, 8 February 1950) (LS 1950 - Pan. 1).

Labour Code (Ministerial Decree No. 252 of 30 December 1971) (Gaceta Oficial, 18 February 1972) (LS 1971 - Pan. 1).

Article 1 of the Convention. The Government makes all the exceptions it is allowed to make under the terms of the Convention.

Article 2. The owner of every vessel flying the Panamanian flag is obliged to take out insurance policies with private companies covering all the risks provided for in the Convention, in accordance with the provisions of Chapter VI of Part 18 of Book I of the Labour Code of 1947 (section 11 of Act No. 7 of 1950).

Articles 3 to 7. The matters referred to in these Articles are covered by the insurance policies.

Article 8. Effect is given to this Article by section 128(4) of the Labour Code.

Article 9. The procedure for dealing with labour disputes is based on an inquiry and is designed to save time and money, as a result of which every effort is made to expedite matters as rapidly as possible.

Article 10. The Government does not provide for such exemption as the insurance policies cover the risks in question.

Article 11. As concerns equality of treatment, reference is made to the reports on Conventions Nos. 19, 111 and 117.

Article 12. Effect is given to this Article by section 8 of the Labour Code.

The authorities responsible for ensuring the application of the relevant provisions are the labour courts, the Supreme Court of Justice, the General Directorate of Labour and the General Inspectorate of Labour.

SPAIN

Act No. 116 to provide for a special Social Security Scheme for Seafarers. Dated 30 December 1969 (Boletín Oficial del Estado, 31 December 1969) (LS 1969 - Sp. 3).

Decree No. 1867 dated 9 July 1970 (General Regulations applying Act No. 116) (BOE, 11 July 1970).

Decrees Nos. 907 and 909 dated 21 April 1966: Consolidated Texts I and II of Act No. 193 of 28 December 1963, to define the Basic Principles of Social Security (BOE, 22 and 23 April 1966) (LS 1966 - Sp. 3).

Decree No. 2186 dated 16 August 1968, on Technical Advisory Committees (BOE, 20 September 1968).

Article 1 of the Convention. The special seafarers' social security scheme does not cover the crews of ships belonging to a public authority (when the ships in question do not ply for purposes of trade), the crews of vessels of rudimentary construction when used for sporting purposes only, or dock hands.

Article 2. Spanish legislation provides for none of the exceptions set forth in this Article.

Article 3. Seamen get the same medical care as other workers under the Social Security Act. Should a seaman fall ill or suffer an accident abroad, provision is made for refund to the shipowner of any outlay incurred by him (Article 34, 3, of Act No. 116, 1969).

Article 4. Advisory Technical Committees (Decree 2186 dated 16 August 1968 and Ministerial Ordinances dated 8 May and 30 June 1969) provide a means whereby a check may be made to ascertain whether a sick or injured seaman has recovered, and what degree of residual invalidity remains.

Article 5. A sick or injured seaman is entitled to an allowance equivalent to 75 per cent of his assessable wage on the date on which incapacity began, to be paid by the social security authorities from the fourth day of incapacity. It is the shipowner who must pay, in full, the wages appropriate to the first three days (Act No. 116, 1969, sections 35 and 41).

Article 6. A sick or injured crewman must be repatriated by the shipowner to Spain for further treatment, the cost being refunded by the Merchant Marine Social Institute. The casualty is repatriated to the place at which he resided or to an appropriate hospital in Spanish territory (Merchant Marine Social Institute, Circular No. 7/73).

Article 7. Social security legislation lays down that a grant shall be made to cover burial expenses, the amount of the grant and the conditions being the same as those provided for in the General Social Security System (Act No. 116, section 38, and Decree 1867, section 80).

Article 9. The insured person may bring proceedings against decisions taken by the Merchant Marine Social Institute; such proceedings are rapid and neither the insured persons nor the employers are put to any expense. The case comes before a Labour Magistrate and an appeal can lie against his verdict to the Central Labour Tribunal and Supreme Tribunal (Consolidated Text II of the Social Security Act dated 21 June 1972).

Article 10. The shipowner is exempt from the obligations set forth in Articles 4, 6 and 7 by application of the legal provisions mentioned in our answers relating to these Articles.

The Ministry of Labour, acting through the Merchant Marine Social Institute, is responsible for applying the appropriate legal provisions.

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

PANAMA

Labour Code (Ministerial Decree No. 252 of 30 December 1971)
(Gaceta Oficial, 18 February 1972) (LS 1971 - Pan. 1).

Article 1 of the Convention. The Government makes all the exceptions it is allowed to make by the Convention.

Articles 2 to 4. The insurance policies to which reference is made in the report on Convention No. 55 cover the type of risk to which these Articles refer.

Article 5. Sections 107 and 110 of the Labour Code deal with the entitlement of women to paid leave in case of maternity.

Articles 6 and 7. See the report on Convention No. 55.

At present consideration is being given to the possibility of extending the social insurance scheme to seafarers, and an estimate has already been made of the cost likely to be entailed by the granting of each of the benefits provided for in the Convention.

SPAIN

Act No. 116 of 30 December 1969 to provide for a special security scheme for seafarers (Boletín Oficial del Estado, 31 December 1969) (LS 1969 - Sp. 3).

Decree No. 1867 of 9 July 1970, for the administration of the above Act (BOE, 11 July 1970).

Decree No. 907 of 21 April 1966: Consolidated Text I under the Social Security Act, No. 193/1963 (BOE, 22 April 1966) (LS 1966 - Sp. 3), as amended by Act No. 24 of 21 June 1972 (BOE, 22 June 1972).

Decree No. 909 of 21 April 1966: Consolidated Text II under the Social Security Act, No. 193/1963 (BOE, 23 April 1966).

Decree No. 2892 of 12 September 1970, to approve the general regulations governing offences and penalties in respect of the general social security scheme (BOE, 12 October 1970).

Decree No. 2766 of 16 November 1967, to lay down rules for the provision of health care benefits and the organisation of medical services under the general social security scheme (BOE, 28 November 1967).

Article 1 of the Convention. All categories of seafarers with the exception of pilots are covered by the compulsory insurance scheme for seafarers under Act No. 116 of 1969 and the regulations for its administration.

Article 2. Incapacity benefit is payable as from the fourth day of illness for a maximum period of twelve months, which may be extended for a further six months (section 29(1)(a) of Act No. 116 of 1969 and section 58 of Decree No. 1867 of 1970, taken in conjunction with Consolidated Text I under the Social Security Act). The insured person is entitled to an allowance equal to 75 per cent of the contribution base (sections 35 and 41 of Act No. 116 of 1969). The legislation does not provide for the withholding of benefit for the reasons stated in Article 2(4) of the Convention. It is deemed to be a serious offence for a worker to obtain fraudulently benefits to which he is not entitled or in excess of the amount due to him or to prolong the enjoyment of such benefits without justification. Such an offence is punishable by the suspension, loss or reduction of benefit or by a fine of from 500 to 1,000 pesetas (sections 7 and 8 of Decree No. 2892 of 1970).

Article 3. An insured worker is entitled to medical and pharmaceutical benefit for so long as the situation whereby he became eligible for such benefit persists. The legislation does not take advantage of the proviso in Article 3(2) of the Convention.

Article 4. Section 45 of Act No. 116 of 1969 and section 104 of Regulations No. 1867 of 1970 provide for the ex gratia payment of supplementary allowances to the insured person and his dependants.

Article 5. Insured women workers and the wives of insured men are entitled to medical attendance in case of maternity (section 14 of Decree No. 2766 of 1967).

Article 6. On the death of an insured person a death grant to defray funeral expenses is payable to the persons who incur such expenses, and a pension is payable to his widow and children under the conditions and to the amount laid down in section 38 of Act No. 116 and section 80 of Decree No. 1867.

Article 7. On termination of their engagement insured persons who have worked for a minimum of 90 days during the 365 days preceding termination preserve the right to medical care for a 90-day period. The duration of such care may not exceed 39 weeks. If at the time of termination of his engagement an insured person has not completed the required qualifying period he preserves only the right to continue receiving medical care he was already receiving at the time of termination, for a period of up to 39 weeks (section 6 of Decree No. 2766 of 1967).

Article 8. The financial resources are provided through the contributions of insured persons and employers. The law provides for a financial contribution by the State (sections 16 and 52 of Act No. 116).

Article 9. The special social security scheme for seafarers is administered by the Maritime Social Institute as a public corporation under the control, supervision and guidance of the Ministry of Labour. The workers and employers are represented in the

collegiate organs for the management of the scheme (sections 46, 47, 48 and 49 of Act No. 116 of 1969).

Article 10. In case of dispute the insured person has the right to appeal against the decisions of the Maritime Social Institute. The competent courts are the labour courts, against whose decisions an appeal may be made to the Central Labour Court and the Supreme Court. The procedure is rapid and involves neither the employers nor the insured persons in any expense (Decree No. 909 of 1966).

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

SPAIN

Ordinance respecting Employment in the Merchant Marine. Dated 20 May 1969 (LS 1969 - Sp. 1).

Act respecting the Organisation of an Inspectorate of Labour. Dated 21 July 1962.

Labour Inspection Regulations. Dated 23 July 1971.

Article 1 of the Convention. The scope of the provisions which give effect to the Convention is determined by section 1 of the 1969 Ordinance.

Article 2. Section 31, paragraph 3, of the Ordinance lays down that young people under fifteen may not be employed, which is more stringent than the Convention, since no exceptions are provided for.

Article 3. The Ordinance provides for the employment of firemen and stokers under eighteen (but not under fifteen) on board training ships, provided their work is approved of and supervised by the merchant marine authorities.

Article 4. Only with the authorisation of parents or guardians can young people under twenty-one be signed on.

The labour inspectors enforce the provisions which give effect to the Convention.

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

SPAIN

Contract of Employment Act (as amended by Decrees of 26 January and 31 March 1944) (LS 1944 - Sp. 1B).

Decree of 26 July 1957 concerning the Employment of Women and Young Persons (Dangerous or Unhealthy Occupations) (LS 1957 - Sp. 1).

Order of 28 January 1958 concerning the Employment of Persons under 18 Years of Age in Mines (BO, 3 February 1958).

Order of 7 July 1962 to establish a standard registration form (BO, 19 July 1967).

Act No. 39 of 21 July 1962 concerning the Organisation of the Inspectorate of Labour (LS 1962 - Sp. 4).

Decree No. 2122 of 23 July 1971 to Approve the Labour Inspection Regulations (LS 1971 - Sp. 5).

Provincial Labour Offices Act of 10 November 1942 (LS 1942 - Sp. 3).

Decree No. 799 of 3 April 1971 concerning the Organisation and Working of Delegations (BO, 24 April 1971).

General Act of 4 August 1970 concerning Education and the Financing of Educational Reform (BO, 6 August 1970).

Article 1 of the Convention. The legislation concerning the employment of children, which governs the relationships between young persons under 18 years of age and the persons or undertakings employing them (Contract of Employment Act, section 171) applies to all work performed on behalf of another person, whether in the public or the private sector.

Article 2. Section 171 of the Contract of Employment Act prohibits the employment of children under the age of 14 years. It excludes from its scope, inter alia, work performed in family workshops, which are defined as those in which only members of the family or foster-children are employed and work under the supervision of a member of the family. The Decree of 26 July 1957 prohibits the employment of boys under 18 years of age and women under 21 in certain activities or industries because of their dangerous or unhealthy character.

Article 3. Work in technical schools is subject to the approval and supervision of the public authorities.

Article 4. An Order of 7 July 1967 requires the employer to keep a register showing, among other things, the date of birth of each worker.

Article 5. The Contract of Employment Act (sections 172 and 176) and Decree No. 1156 of 2 June 1960 prohibit night work for young persons under 18 years of age and underground work for those

under 16; the Decree of 26 July 1957 concerning dangerous or unhealthy industries and work prohibits the employment of young men under 18 years of age and women under 21 years of age in specified industries and operations deemed to be dangerous or unhealthy, and also the employment of boys under 16 and girls under 18 on certain work which might shock their innocent minds.

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

SPAIN

Contract of Employment Act (amended by decrees dated 26 January and 31 March 1944) (LS 1944 - Sp. 1B).

Decree respecting the Industries and Employments Prohibited to Women and Young Persons on Account of Their Dangerous or Unhealthy Nature. Dated 26 July 1957 (LS 1957 - Sp. 1).

Decree No. 1119/60 (2 June 1960) concerning the Employment of Children under Fourteen in Domestic Service.

Decree No. 1156/60 (2 June 1960) on the Prohibition of Night Work by Minors under Eighteen (Boletín Oficial del Estado, 23 June 1960).

Act No. 39 respecting the Organisation of the Inspectorate of Labour. Dated 21 July 1962 (LS 1962 - Sp. 4).

Decree No. 2122 respecting the inspection of labour. Dated 23 July 1971 (LS 1971 - Sp. 4).

Act respecting the Organisation of Provincial Labour Delegations. Dated 10 November 1942 (LS 1942 - Sp. 3).

General Act on Education and the Financing of Educational Reform. Dated 4 August 1970 (BOE, 6 August 1970).

Article 1 of the Convention. Section 171 of the Contract of Employment Act lays down that no child under 14 may be employed in any capacity. Special legislation lays down the minimum age for employment in agriculture (Decree dated 25 September 1934), in the merchant marine (Act dated 19 December 1951), and in domestic service (Decree No. 1119/60 dated 2 June 1960).

Article 2. The general minimum age for employment is 14.

Article 3. See under Article 2 above. Section 178(3) of the Contract of Employment Act lays down that the employer must prove that the task to be done by anyone under eighteen does not exceed that person's strength. In any event, no authorisation can be given unless the father of the young person gives his consent, or, if there is no father, the mother or guardian, in the form of a signed statement made to the labour inspection authorities.

Article 4. By virtue of sections 176, 177 and 178 of the Contract of Employment Act, children under eighteen can appear in public spectacles, unless the latter are offensive to decency or involve dangerous exercises, balancing acts and the like, or, as regards children under sixteen, if such spectacles take place on days other than Thursdays, Sundays and certain feast days (during the morning).

Article 5. The Contract of Employment Act and Decree No. 1156/60 dated 2 June 1960 forbid night work for those under 18 and underground work for those under sixteen. The Decree dated 26 July 1957 on dangerous and unhealthy occupations forbids the employment of boys under eighteen and girls under twenty-one in industries and occupations so classified; it likewise forbids the employment of boys under sixteen and girls under eighteen in work likely to prove shocking or offensive to them.

Article 6. There are no specific provisions concerning jobs in trade and the itinerant occupations, or employment of a permanent kind in full view of the public.

Article 7. Act No. 39 (21 July 1962) and Decree No. 2122 (23 July 1971) describe how the labour inspection department is to be organised and run. By virtue of the Contract of Employment Act and the Order dated 7 July 1967 concerning books to be kept by the employer, every employer has to keep a register showing the names of all persons under eighteen employed by him.

The labour delegations are authorised to inflict penalties for breach of the labour regulations by virtue of a Decree dated 3 April 1971, on the organisation and workings of such delegations.

SPAIN

Decree dated 1 July 1931, laying down maximum hours of work per day (LS 1931 - Sp. 9).

Contract of Employment Act (amended by Decrees dated 26 January and 31 March 1944) (LS 1944 - Sp. 1A).

Decree No. 1156/60 (2 June 1960) forbidding Night Work by Minors under Eighteen (Official Gazette, 23 June 1960).

Decree No. 1119/60 (2 June 1960) forbidding the Employment of Children under Fourteen or Children subject to Compulsory Schooling, as Domestic Servants (Official Gazette, 15 June 1960).

Act No. 39 on the Organisation of the Inspectorate of Labour. Dated 21 July 1962 (LS 1962 - Sp. 4).

Act respecting the organisation of Provincial Labour Delegations. Dated 10 November 1942 (LS 1942 - Sp. 3).

Decree concerning the Industries and Employments prohibited to Women and Young Persons on account of their Dangerous or Unhealthy Nature. Dated 26 July 1957 (LS 1957 - Sp. 1).

Article 1 of the Convention. Spanish law, which forbids night work by children (Contract of Employment Act, 1944; Decree No. 1156/60 dated 2 June 1960, on night work by those under eighteen etc.) applies to anybody working for somebody else in any form of activity, except for work done within the family.

Articles 2 and 3. By virtue of Decree No. 1156/60 (2 June 1960), there is a general ban on night work by children under eighteen, night being defined as eleven hours between eight o'clock at night and seven o'clock in the morning.

Article 5. Under the Contract of Employment Act, no child under sixteen may be employed in a public spectacle unless the labour delegation has given its approval (if the child is a female under eighteen, this permission has to be obtained from the labour inspection authorities).

No authorisation can be given for employment in places producing written matter, advertisements, illustrations, emblems or anything else which might cause offence to a lad under sixteen or a girl under eighteen years of age.

Children under sixteen can work as actors only during the morning, on Thursdays, Sundays and feast days. Generally speaking no child may be asked to do a job beyond his strength.

Article 6. Act No. 39 (21 July 1962) and Decree No. 2122 (23 July 1971) lay down how the labour inspection services shall be organised and run. By virtue of the Contract of Employment Act and the Order dated 7 July 1967, on books to be kept by the employer, the latter has to keep a register recording the names of all those under eighteen years of age employed by him. The labour delegations can inflict sanctions for breaches of labour regulations, by virtue of the Decree dated 3 April 1971, describing how such delegations are to be organised and run.

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

SPAIN

Order of 15 November 1955 (BOE of 20 November 1955).

Decree of 11 September 1965 concerning the co-ordination of statistics by the National Institute of Statistics (BOE of 13 September 1965).

Article 1 of the Convention. (a) National statistics concerning wages and hours of work are compiled by the National Institute of Statistics.

(b) The publication of these statistics is the responsibility of the National Institute of Statistics; since the Convention came into force for Spain, on 5 May 1972, the following have appeared: "1972. Wages, 3rd and 4th quarters", published by the INE (NIS) in 1973.

(c) The statistical data concerning wages and hours of work are submitted annually by Spain to the ILO.

Article 4. The inquiries are carried out by the National Institute of Statistics, which publishes the results quarterly.

Article 5. The published information outlined in Article 1(b) and (c) is submitted annually by Spain to the ILO through its Bulletin of Labour Statistics (Boletín de Estadísticas del Trabajo).

Article 6. The statistics of average wages compiled in this country distinguish between the following items: wages and other statutory supplements; voluntary supplements; bonuses and incentives; gratuities and overtime pay.

Article 7. Remuneration in kind is not shown separately in our statistics.

Article 8. It has not proved possible to supplement the statistics of average wages by the average amount of family allowance.

Article 11. The centres covered by the inquiry are spread over the whole country.

Article 12. 1. Monthly Bulletin of Statistics, published by the INE.

2. Wages, April 1963, published by the INE.

3. Wages, April 1963, published by the INE.

Articles 13 and 14. Publications referred to in Article 1(c).

Article 15. Quarterly and annually.

Article 16. In the questionnaires transmitted to the ILO in which the wage rate is different from the hourly rate, information is supplied as to economic data and the statutory working day.

Article 18. The statistics cover the whole country.

Article 19. As regards scales of family allowances, the INE publication concerning wages gives figures for the average amounts received by each worker entitled to any supplement in each branch of economic activity.

Article 21, paragraphs 1 and 2. Monthly Bulletin of Statistics, published by the INE, which contains a monthly index of average remuneration per hour worked, based on the preliminary data for the Inquiry into Wages.

Paragraphs 3 and 4. Inquiry into Wages, 1963.

Article 22. "La Coyuntura Agraria" (The Agricultural Market Situation), published monthly by the Ministry of Agriculture.

The National Institute of Statistics is the body responsible for compiling statistical data in the form required by the Convention.

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

SPAIN

Ordinance respecting Employment in the Merchant Marine. Dated 20 May 1969. Amended by Order dated 16 July 1973 (LS 1969 - Sp. 1).

Order by the Ministry of Trade and Industry, dated 6 October 1972, concerning creation of a Certificate for Ships' Cooks.

Article 1 of the Convention. All Spanish ships are covered by the above-mentioned legislation.

Article 2. The Ministry of Labour, in consultation with the Ministry of Trade and Industry, draws up the regulations. Inspection on board is done by the labour inspectors. These duties are performed by the administrative authorities, by virtue of their power to promulgate regulations, and by the parties concerned, by virtue of collective agreements, which are usually concluded on a company basis.

Article 3. The labour inspectors co-operate closely with the health authorities.

Article 5. The legislation concerning food on board is to be found in section 214 of the Ordinance, which contains clauses concerning the quantity and quality of food and water to be distributed to seamen.

Article 6. Provisions concerning checks are to be found in Decree 2122/71 (21 July 1971) concerning the workings of the Labour Inspectorate. Under the Ministerial Order dated 6 October 1972, the Ministry of Trade is the authority empowered to issue certificates of proficiency to ships' cooks.

Article 7. Under section 214 of the Ordinance, certain members of the crew, appointed for one month, are made responsible for checking the quality, weight and seasoning of victuals prepared for consumption by the crew. The outcome of the checks made by them is recorded in a suitable book. Any comments they wish to make are recorded in a special register.

Article 8. The inspection provided for here is carried out by the labour inspectors, with assistance from any body or official who might prove useful.

Article 9. Inspectors can and must make recommendations designed to improve catering standards afloat. Such sanctions as are imposed usually take the form of fines; they may even extend to a ban on the sailing of the ship. These sanctions are decrees by the labour delegates in the light of inspection reports.

Article 11. In accordance with section 5 of the Ministerial Order dated 6 October 1972, elementary training for ships' cooks will be organised, and examinations arranged, in certain merchant

marine training schools. Sailors wishing to take such courses can do so free of charge, and are eligible for grants, should they need them.

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

SPAIN

Order dated 20 May 1969 to approve an Ordinance respecting Employment in the Merchant Marine (LS 1969 - Sp. 1).

Order dated 1 March 1973 (Boletín Oficial del Estado, 6 March 1973).

Article 4 of the Convention. This Article is given effect by sections 43 and 44 of the Ordinance respecting Employment in the Merchant Marine. Section 2 of the Order dated 1 March 1973 lays down that the certificate will be constituted by a section in the seaman's registration book bearing the heading "health record".

Article 5. Section 43, 2, of the Ordinance defines how long a medical certificate shall remain valid.

Article 6. This point is covered by section 44 of the Ordinance.

Article 7. No advantage has been taken of this provision.

Article 8. Medical examinations are given by the health services of the Merchant Marine Social Institute, which also deals with appeals.

Article 9. No advantage has been taken of this provision.

The Labour Inspectorate is responsible for seeing that the laws and regulations mentioned above are complied with.

Convention No. 74: Certification of
Able Seamen, 1946

PANAMA

Labour Code, section 118 (LS 1971 - Pan. 1).

Article 1 of the Convention. The Merchant Marine Division of the Ministry of Labour and Social Welfare is at present endeavouring to ensure that arrangements are made for it to issue able-seamen's certificates of qualification.

Article 2. Section 118 of the Labour Code lays down that in Panama the minimum age for a certificate of qualification is eighteen. Furthermore, at least thirty-six months' service afloat as an upperdeck rating are required. The Merchant Marine Division is the authority responsible for issuing able-seamen's certificates and for recognising certificates delivered elsewhere.

The Division is at present working on a programme of practical exercises for such certificates.

Article 4. See under Article 2 above.

SPAIN

Decree 2583/66 (10 September 1966) (Boletín Oficial del Estado, 8 October 1966).

Ordinance dated 27 October 1966 (BOE, 5 November 1966).

Article 1 of the Convention. Decree 2483/66, introducing Able Seamen's Certificates, lays down conditions for obtaining them.

Article 2. Effect is given to this by Decree 2483/66 and the Ordinance dated 27 October 1966.

Article 3. Under Decree 2483/66, section 10, a certificate of qualification can be delivered to anybody who, when the Convention took effect, had for at least five years acted as seaman or greaser.

Article 4. Spanish legislation does not provide for recognition of certificates of qualification delivered "in other territories".

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

CAMEROON

Labour Code (Law No. 67-LF-6 dated 12 June 1967) (LS 1967 - Cam. 1).

Order No. 17/MTLS dated 27 May 1969 concerning the employment of children (Official Gazette, 1 June 1969) (LS 1969 - Cam. 2B).

Order No. 17/MTLS dated 27 May 1969 institutes compulsory medical examination for admission to employment and periodically thereafter.

The Labour Inspectorate is responsible for enforcement in this field.

PANAMA

Labour Code, sections 118 and 126 (LS 1971 - Pan. 1).

Article 1 of the Convention. Industrial undertakings are considered to be all those defined as such in the Convention.

Article 2. In accordance with section 118 of the Labour Code, activities endangering life, health or morality are prohibited to persons under 18 years of age. This prohibition applies to work in clubs, canteens, in passenger or goods transport, work with electricity, in the handling of explosive or inflammable materials, in mines, sewers, or where there is a risk of radio-activity.

Article 3. Section 126 of the Labour Code, paragraph 9, lays down that workers are obliged to have a medical examination if required by law or ordered by the authorities.

Article 4. Studies are at present being carried out to determine which activities incur health hazards and require annual medical examinations.

Article 9. Use is not made of the exceptions listed in this Convention.

SPAIN

Book II of the Act respecting Contracts of Employment (consolidated text approved by Decree dated 31 March 1944).

Decree dated 26 July 1957 respecting the employments prohibited to women and young children.

Decree dated 10 June 1959 governing works medical services.

Order dated 21 November 1959 approving the regulations governing works medical services.

Decree dated 13 April 1961 concerning occupational diseases.

Act respecting the organisation of the Inspectorate of Labour, dated 21 July 1962.

Regulations governing the Inspectorate of Labour dated 23 July 1971.

Article 1 of the Convention. Spanish legislation applies to both industrial and non-industrial employment. This would suggest a greater scope than that of the Convention, which only applies to industrial enterprises. Article 173 of the Act respecting contracts of employment lists various types of employment prohibited to persons under 16 years of age and the Decree dated 26 July 1957 lists the types of employment prohibited to women and young persons and increases to 18 years the age limit for work underground. The 1957 Decree expressly prohibits work in mines, quarries and extractive industries; it also prohibits work in enterprises which

manufacture, process, clean, embellish or repair products when the materials are subject to transformation; also included are ship-building, electricity transmission, etc. In the construction industry also, and in passenger and goods transport, there is a list of activities prohibited to women and young persons. In the case of activities in which toxic vapours or mists or noxious dusts are given off or in which there is danger of fire or explosion, the prohibition applies not only to actual work but also to mere presence in the premises where the work is done. The Provincial Labour Inspectorate is empowered to authorise work for boys under 18 and women under 21, if either by means of an apprenticeship or because the parties concerned fulfil the required conditions, there is a guarantee that their health and safety are not endangered. It can therefore be said that this matter is governed by stringent restrictions under Spanish law.

Article 2. Section 178 of the Act respecting Contracts of Employment states that persons under 18 must fulfil physical and health conditions and must have been appropriately vaccinated in order to be admitted to industrial work. The physicians of the works medical services check that this provision is observed "when the activity or work can cause a specific, serious risk to the workers".

Article 3. In addition to the examination for admission to employment, the aforementioned Decree institutes periodical examinations to check on workers' health, and ensure early diagnosis of changes in health, whether or not caused by the work. The Order dated 21 November 1959 also governs periodical medical examinations for all workers. Occupational diseases are the subject of sections 20 and 21 of the Decree dated 13 April 1961.

Article 4. In accordance with section 50 of the Order mentioned above, yearly examinations are given to workers employed in toxic, arduous, or dangerous activities; the frequency of these examinations depends on the type of work. It can be seen from changes in a worker's output whether his health gives cause for concern.

Article 7. Section 178 of the Act respecting contracts of employment makes it compulsory for the enterprise or the employer to keep a record of the medical particulars of persons under 18, and the enterprise is obliged to present this to the Inspectorate of Labour. Section 44 et seq. of the 1959 Order make it compulsory to maintain official forms and health cards containing all medical details.

The National Inspectorate of Labour checks that these provisions are observed.

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

CAMEROON

Labour Code (Law No. 67-LF-6, dated 12 June 1967) (LS 1967 - Cam. 1).

Order No. 17/MTLS dated 27 May 1969 concerning the employment of children.

A medical examination is required up to the age of 21 for all high-risk work.

The Labour Inspectorate enforces the provisions of the law.

SPAIN

Book II of the Act respecting Contracts of Employment (consolidated text approved by Decree dated 31 March 1944).

Decree dated 26 July 1957 respecting the employments prohibited to women and young persons.

Decree dated 10 June 1959 governing works medical services.

Order dated 21 November 1959 approving the regulations governing works medical services.

Decree dated 13 April 1961 concerning occupational diseases.

Act respecting the organisation of the Inspectorate of Labour, dated 21 July 1962.

Regulations governing the Inspectorate of Labour, dated 23 July 1971.

Article 1 of the Convention. Spanish labour legislation defines the employment of young persons. It applies to both industrial and non-industrial employment, which would suggest a greater scope than that of the Convention. Nevertheless, the Act respecting contracts of employment lays down a series of restrictions, in sections 175 to 177, on the employment of young persons. The Decree dated 26 July 1957 lists employment prohibited to women and young persons and its restrictions are more favourable than those of the Convention. An exception is made in the case of work carried out in family undertakings which does not endanger young persons' health; in certain cases this exception also applies to children under 14, when the work is carried out on the family's premises (Article 171 of the Act respecting contracts of employment).

Article 2. Section 178 of the Act respecting contracts of employment states that persons under 18 must fulfil physical and

health conditions and must have been appropriately vaccinated in order to be admitted to industrial work. The physicians of the works medical services check that this provision is observed "when the activity or work can cause a specific, serious risk to the workers".

Article 3. In addition to the examination for admission to employment, the aforementioned Decree institutes periodical examinations to check on workers' health and ensure early diagnosis of changes in health, whether or not caused by the work. The Order dated 21 November 1959 also governs periodical medical examinations for all workers. Occupational diseases are the subject of sections 20 and 21 of the Decree dated 13 April 1961.

Article 4. In accordance with section 50 of the Order mentioned above, yearly examinations are given to workers employed in toxic, arduous, or dangerous activities; the frequency of these examinations depends on the type of work. It can be seen from changes in a worker's output whether his health gives cause for concern.

Article 7. According to Spanish law, young persons who work on their own account are not affected by the Act respecting contracts of employment, which refers solely to work for another party; young persons who work for their parents but are not considered to be wage earners are also excluded. With regard to work in itinerant trading and any other occupation carried on in the street, apart from the provisions concerning public spectacles in the Act respecting contracts of employment, the general provision in section 178 of this Act is applicable, on condition that the contract of employment is of this nature, which seems very unlikely.

The National Inspectorate of Labour checks that the provisions concerning the work and employment of young persons are observed.

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

SPAIN

Decree dated 1 July 1931, laying down maximum hours of work per day (LS 1931 - Sp. 9).

Contract of Employment Act (amended by Decrees dated 26 January and 31 March 1944) (LS 1944 - Sp. 1A).

Decree No. 1156/60 (2 June 1960) forbidding Night Work by Minors under Eighteen (Boletín Oficial del Estado, 23 June 1960).

Decree No. 1119/60 (2 June 1960) forbidding the Employment of Children under Fourteen or Children subject to Compulsory Schooling, as Domestic Servants (BOE, 15 June 1960).

Act No. 39 on the Organisation of the Inspectorate of Labour. Dated 21 July 1962 (LS 1962 - Sp. 4).

Act respecting the organisation of Provincial Labour Delegations. Dated 10 November 1942 (LS 1942 - Sp. 3).

Decree concerning the Industries and Employments prohibited to Women and Young Persons on account of their Dangerous or Unhealthy Nature. Dated 26 July 1957 (LS 1957 - Sp. 1).

Article 1 of the Convention. Spanish law, which forbids night work by children (Contract of Employment Act, 1944; Decree No. 1156/60 dated 2 June 1960, on night work by those under eighteen, etc.) applies to anybody working for somebody else in any form of activity, except for work done within the family.

Articles 2 and 3. By virtue of Decree No. 1156/60 (2 June 1960) there is a general ban on night work by children under eighteen, night being defined as eleven hours between eight o'clock at night and seven o'clock in the morning.

Article 5. Under the Contract of Employment Act, no child under sixteen may be employed in a public spectacle unless the labour delegation has given its approval (if the child is a female under eighteen, this permission has to be obtained from the labour inspection authorities).

No authorisation can be given for employment in places producing written matter, advertisements, illustrations, emblems or anything else which might cause offence to a lad under sixteen or a girl under eighteen years of age.

Children under sixteen can work as actors only during the mornings on Thursdays, Sundays and feast days. Generally speaking, no child may be asked to do a job beyond his strength.

Article 6. Act No. 39 (21 July 1962) and Decree No. 2122 (23 July 1971) lay down how the labour inspection services shall be organised and run. By virtue of the Contract of Employment Act and the Order dated 7 July 1967, on books to be kept by the employer, the latter has to keep a register recording the names of all those under eighteen years of age employed by him. The labour delegations can inflict sanctions for breaches of labour regulations, by virtue of the Decree dated 3 April 1971, describing how such delegations are to be organised and run.

Convention No. 88: Employment Service, 1948

AUSTRALIA

New Guinea

Employment Placement Service Ordinance, 1966.

Article 1 of the Convention. A free public employment service has been in operation since 1956; its main function being to provide services and facilities for job-seekers and employers.

Article 2. The national authority responsible for the direction of the Employment Service in Papua New Guinea is the Department of Labour.

Article 3. The Employment Service operates through Labour Offices located in main employment centres. The location of and need for more offices is regularly reviewed.

Articles 4 and 5. The Papua New Guinea Labour Advisory Council, established in 1971, is composed of equal numbers of representatives and trade unions. The Council's function is to advise the Administrator's Executive Council and the Government on labour matters and to consider additional measures required to develop a better Employment Service.

Article 6. The organisation of the Employment Service provides for most of these functions to be carried out, with the exception of paragraph (d), which has been excluded from applying in Papua New Guinea at present.

Article 7. There has been no great need for special arrangements for particular occupations or industries. The needs of special categories of applicants are constantly under review.

Article 8. Every high school conducts formal careers and guidance periods and has a teacher designated as Careers Adviser. The staff of the Guidance Branch, Department of Education, includes a Principal Guidance Officer, a Senior Guidance Officer and four Regional Guidance Officers. A Principal Employment and Counselling Officer was appointed to the Employment Service in 1970 and Regional and other Employment and Counselling Officers have been and are being appointed.

Article 9. The Employment Service is staffed by officers of the Papua New Guinea Administration who are recruited and selected according to normal public service procedures. New entrants to the Department of Labour participate in induction training courses and on-the-job training is provided on a continuous basis. Although no specialised courses on employment service work have as yet been developed, every opportunity is taken to send employment service staff to appropriate courses conducted by other departments and organisations.

Article 10. Employers and workers are encouraged by all available means to take full voluntary use of the facilities of the Employment Service.

Article 11. At present there are no known private non-profit making employment agencies operating in Papua New Guinea.

Article 12. No areas have been excluded in whole or in part from the application of the Convention.

Papua

See under New Guinea.

ZAIRE

The Urban Placement Office of Kinshasa has been functioning for a year; the opening of other offices is foreseen.

Convention No. 89: Night Work (Women)
(Revised), 1948

CAMEROON

Labour Code, Act LF-6 (12 June 1967) (LS 1967 - Cam. 1).

Order No. 16, relating to the Employment of Women. Dated 27 May 1969 (LS 1969 - Cam. 2A).

Order No. 17, relating to the Employment of Children. Dated 27 May 1969 (LS 1969 - Cam. 2B).

Women's work is governed by sections 88 to 94 of the Labour Code (12 June 1967).

Order No. 16 (27 May 1969) is more complete than the 1964 enactment in covering Convention No. 89; amongst other things, it makes provision for the exceptions provided for in Articles 4 and 8 of the Convention.

Convention No. 90: Night Work of Young Persons
(Industry) (Revised), 1948

CAMEROON

Labour Code, Law No. LF-6 of 12 June 1967 (LS 1967 - Cam. 1).

Order No. 12 of 17 June 1968 to repeal Order No. 983 of 27 February 1954 to waive certain provisions concerning the age at which children may be employed. (Official Gazette of the Federal Republic of Cameroon, 15 December 1968, pp. 109-110.)

Order No. 17/MTLS of 27 May 1969, relating to the employment of children (LS 1969 - Cam. 2B).

The employment of children is regulated by sections 90 to 94 of the Labour Code. These legislative provisions are completed by the regulations contained in Order No. 12 of 17 June 1968 which abrogated Order No. 921 of 27 February 1954, and also by Order No. 17/MTLS of 27 May 1969, relating to the employment of children. These texts which apply Convention No. 6 of 1919 apply largely Convention No. 90. Infringement of these legislative provisions is subject to penalty under section R370 of the Penal Code.

SPAIN

Decree respecting the Maximum Working Day. Dated 1 July 1931
(LS 1931 - Sp. 9).

Act respecting the Contract of Employment (text amended by Decrees dated 26 January and 31 March 1944 (LS 1944 - Sp. 1A and 1B).

Decree dated 2 June 1960 forbidding Night Work by Minors under Eighteen (Boletín Oficial del Estado, 23 June 1960).

Act No. 39 respecting the organisation of Labour Inspection. Dated 21 July 1962 (LS 1962 - Sp. 4).

Decree No. 2122 to approve the Labour Inspection Regulations (LS 1971 - Sp. 5).

Decree (3 April 1971) concerning the Organisation and Working of Labour Delegations (BOE, 24 April 1971).

Article 1 of the Convention. Spanish legislation on night work by children (Contract of Employment Act, 1944; Decree 1156/60 dated 2 June 1960 on minors under eighteen, etc.) applies to any person working for somebody else, no matter what the occupation may be.

Article 2. By virtue of Decree 1156/60 (2 June 1960), children may not work at night during a period of eleven consecutive hours between 8 p.m. and 7 a.m.

Articles 3 and 4. Spanish law provides for no exceptions to the ban on night work by minors for reasons of apprenticeship, vocational training, or compelling circumstance.

Article 5. The Contract of Employment Act authorises the Ministries of the Army, Navy and Air Force, and the Ministry of Labour, to make special arrangements if, exceptionally, the employment of minors is necessary in the industries answerable to the War Department, in circumstances other than those by law defined.

Article 6. Act No. 39 (21 July 1962) and Decree 2122 (23 July 1971) provide for the organisation and running of labour inspection services. By virtue of the Contract of Employment Act and the Order dated 7 July 1961 concerning the books an employer must keep, every employer has to keep a record of the minors under eighteen employed by him.

The labour delegations are authorised to inflict sanctions for breaches of the labour laws, by virtue of the Decree dated 3 April 1971, on the organisation and working of labour delegations.

Convention No. 91: Paid Vacations (Seafarers)
(Revised), 1949

ITALY

The collective agreements in force on the unsubsidised (12 February 1972) and subsidised (1 December 1970) shipping fleets guarantee all members of the crew 22 calendar days' holiday with pay (wage, fixed allowance and subsistence allowance) in each full year of service. This period is extended to 30 days for the chief engineer.

Vacation must be granted at the national port of registry, the port of embarkation or final destination.

A crew member normally has the right to take his holiday all at once but, should the service require otherwise, the shipowner can authorise the splitting of the holiday into two parts or the postponement of all or part of the vacation to the following year.

When necessary because of the requirements of the service, the holiday can be totally or partially replaced by payment in cash of a sum comprising the wage, cost of living allowance, subsistence allowance and any other fixed allowances.

Section 347 of the Navigation Code establishes that, in the event of a change of shipowner, the new owner must accept responsibility for all the rights and obligations resulting from the crew's contracts of employment.

Article 36 of the Italian Constitution establishes the principle that a worker may not forgo the annual vacation due to him.

Convention No. 92: Accommodation of Crews
(Revised), 1949

SPAIN

Order to approve an Ordinance respecting Employment in the Merchant Marine. Dated 20 May 1969 (Boletín Oficial del Estado, 1-5 July 1969, Nos. 156-160) (LS 1969 - Sp. 1).

Article 1 of the Convention. The Convention applies to ships of 200 tons and more, new and before brought into service, to ships under construction or being rebuilt, and to foreign vessels acquired by Spanish shipowners.

Articles 2 and 3. The labour inspectors are responsible for seeing that the provisions of the Convention are complied with. They undertake inspections and decree any sanctions that may seem called for.

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Article 5. The labour inspectors can undertake inspections at their own initiative or on receipt of complaints. They can even carry out inspections while the ship is under way.

Articles 6, 7 and 8. These provisions are given effect by the Ordinance, section 204.

Articles 9 to 13. These provisions are covered by section 209 of the Ordinance.

Articles 14 to 16. The Ordinance, section 206, deals with crew's sleeping quarters.

Convention No. 94: Labour Clauses (Public Contracts), 1949

SPAIN

The Contract of Employment Act dated 26 January 1944 (Boletín Oficial del Estado, 24 February 1944, No. 55) (LS 1944 - Sp. I).

The State Contracts Act dated 8 April 1965.

Decree 3854/1970 dated 31 December 1970, on General Administrative Clauses when tendering for Government Works (BOE, 16 February 1971).

Article 1 of the Convention. The Convention applies, not only to contracts entered into with the central Government, but also to contracts concluded with the autonomous agencies of the same.

The Contract of Employment Act also defines "the employer" as being "a person or corporation, the owner of, or contracting for work to be done in, any industry or service in which the work is to be done; the State, the Provincial Deputations and Municipalities, or the official bodies representing them, shall be considered as employers as regards the public services or works which they directly or indirectly run". Hence, the State, and any other official authority, as the employer, is bound by all labour legislation.

The Convention does not apply to national or public undertakings which in their relations with third parties are bound by private law.

The regulations binding on the employer suffer no exception when a contract is entered into by a government authority.

Article 2. All labour legislation applies in full to workers bound by contracts entered into by the authorities.

Similarly, in Spanish law the "social clause" appears as No. 11 in the General Administrative Clauses for the Performance under

Contract of State Works, as approved by Decree 3854 (31 December 1970). As regards other contracts entered into by the State, the special clauses required by the Administration contain statements similar to those in the General Administrative Clauses, just quoted.

The names of those bidding under these clauses are published in the Official Gazette.

Article 3. There is nothing in Spanish legislation, in collective agreements or arbitration awards, which would allow a contract entered into by the authorities not to apply current safety, health or welfare legislation to the workers concerned.

From 1 June 1971, the General Occupational Health and Safety Ordinance, approved by order of the Minister of Labour on 9 March 1971, has been in force; this enactment makes fairly considerable departures from the General Health and Safety Regulations of 1940. The 1971 Ordinance applies to contracts of all kinds.

Article 4. The instruments which in Spain give effect to the Convention are legal enactments of various kinds, brought to the attention of those concerned by their publication in the Official Gazette, and such enactments are of general application in Spain, no matter who the contracting parties may be.

Article 7. None of the situations alluded to can exist, since the whole of Spain is subject to the same legislation.

Article 8. The law makes no provision for any exception in the application of labour legislation to be permitted with regard to workers bound by contract with the authorities.

As regards the way in which inspection is organised and run, see our reports on Conventions Nos. 81 and 129.

Convention No. 95: Protection of Wages, 1949

BELGIUM

Act of 12 April 1965 respecting the Protection of Workers' Remuneration (Moniteur Belge, 30 April 1965, No. 84, p. 4710) (LS 1965 - Bel. 2).

Act of 10 October 1967, Judicial Code (Moniteur Belge, 31 October 1967, No. 209, p. 11360).

The Act of 12 April 1965 applies to all persons being paid for work under the authority of another person (section 1 of the Act).

Remuneration is defined to include all cash wages, tips or service charges, or benefits assessable in terms of money, payable by reason of the engagement to work. Vacation pay, compensation for accidents and social security benefits are excluded from the scope of the Act (section 2).

The employer is forbidden to limit in any manner the worker's freedom to use his wages as he wishes (section 3). Wages must be paid in money which is legal tender in Belgium or in the country of employment (section 4).

Payments in kind are permitted subject to specified conditions (section 6). Wages must normally be handed in cash to the worker in person, except when it is paid by post, by cheque or by direct deposit to a bank account (section 5). They are paid at least twice a month (section 9) at the place of work on working days (sections 13 and 14). Payment is forbidden in canteens, drinking establishments, etc. (section 14).

Chapter III of the Act contains special protective provisions for the measurement of work in the case of piece-work.

Only such deductions from wages may be made as are specified in section 23; they may not exceed 20 per cent of the wages (calculated after the deduction of taxes). Questions relating to the seizure and transfer of wages are covered by sections 1409 to 1412 of the Judicial Code.

The Act of 1965 provides for penalties in case of violations (sections 42-46). A number of violations were punished.

Convention No. 96: Fee-Charging Employment
Agencies (Revised), 1949

PANAMA

Labour Code (Decreto de Gabinete No. 252 de 30 de diciembre de 1971)
(LS 1971 - Pan. 1).

Article 1 of the Convention. The definitions in this Article are valid although not specifically stated in legislation.

Article 2. Private employment agencies of any sort are to disappear progressively, giving way to the employment service of the Ministry of Labour.

Article 3. According to article 22 of the Labour Code, private fee-charging employment agencies are no longer to be established. However, existing agencies for placement of office workers may continue to function for a period of three years, other types of agencies for a period of up to two years. Article 21 establishes that the Employment Service is to deal with the placement of workers.

Article 4. According to article 22 of the Labour Code, the above agencies are under the strict supervision of the Employment Service, which shall be responsible for their guidance, orientation, supervision and inspection. Only very few of them are still operating because periods of expiration set up by the Labour Code are being enforced.

Article 5. All matters having to do with placement are under the authority of the Employment Service. However, direct contracting of employers and workers is permitted.

Articles 6 and 7. There are in Panama no fee-charging employment agencies not conducted with a view to profit.

Article 8. Appropriate penalties are under study.

III. The authority in charge of the application of this Convention is the General Directorate of Labour of the Ministry of Labour and Social Welfare.

SPAIN

Act dated 10 February 1943 respecting employment exchanges (LS 1943 - Sp. 2).

Decree dated 9 July 1959. Regulation concerning the placement of workers.

Decree No. 3677, dated 17 December 1970, to lay down rules for the prevention and punishment of fraudulent activities in connection with the recruitment and employment of workers (LS 1970 - Sp. 3).

Act No. 33, dated 21 July 1971, respecting emigration (LS 1971 - Sp. 7).

The placement of workers within Spain is the exclusive responsibility of the public placement bodies, and the existence of private agencies or bodies devoted to placement is prohibited. Employers are required to notify their vacancies to placement officers and jobseekers are required to make their applications at these offices. The registration and recruitment of persons seeking work abroad is also carried out by public bodies, and there are penalties for persons who promote clandestine emigration.

Decree No. 3677/1970 imposes penalties on persons who hire workers out for a certain period to undertakings and on entrepreneurs who employ these workers without including them on their own payroll.

Convention No. 98: Right to Organise and Collective Bargaining, 1949

ZAIRE

Part XV of the Labour Code: Individual and Collective Labour Disputes (LS 1967 - Congo (Kin.) 1).

Part XVI of the Labour Code: Industrial Relations (LS 1967 - Congo (Kin.) 1).

Article 17 of the Constitution runs: "the worker shall be entitled to defend his rights by trade union action".

As regards 'the workers' protection against anti-trade union discrimination, this Article 17 lays down: "Nobody may suffer a prejudice in his work by reason of his origins, opinions of beliefs." Sections 224 and 228 of the Labour Code describe how such protection is to be given, section 224 runs this: "Workers and employers ... and all persons engaged in agriculture, shall be entitled to set up an organisation exclusively concerned with the study, defence and promotion of their occupational interests and the social, economic and moral well-being of its members." Section 228 lays down: "Workers shall enjoy suitable protection against any form of discrimination designed to prejudice freedom of association with regard to employment." No employer may:

- (a) make a worker's employment subject to his belonging or not belonging to a particular occupational organisation;
- (b) dismiss a worker or cause him prejudice by any means, because of his belonging to an occupational organisation or because of his part in trade union activities.

As regards the protection of employers' and workers' organisations against mutual interference, section 229 lays down this: "Employers' and workers' organisations shall not interfere with each other in their creation, working and management." Directors or managers of unions guilty of a breach of these provisions may be fined.

Action has been taken to promote collective bargaining. Section 268 says that: "The agreement may include provisions more favourable to the workers than current legislation and regulations but may not constitute an exception to the provisions governing public order"; this gives a boost to collective bargaining.

The Armed Forces and police are subject to special provisions.

Contractual agents of the State are subject to guarantees under the Convention.

Ordinance No. 67/310 (9 August 1967) (the Labour Code) has in this respect been inspired by Convention No. 98.

Convention No. 99: Minimum Wage-Fixing
Machinery (Agriculture), 1951

KENYA

The Regulation of Wages and Conditions of Employment Act, Laws of Kenya, Chapter 229, Revised Edition 1967.

Article 1 of the Convention. A Wages Council already existed in 1965 for agricultural wage fixing. Workers and employers are consulted through their representatives on the General Wages

Advisory Board, which determines the undertakings, occupations and categories of persons covered. All agricultural employees employed as labourers in agricultural undertakings are covered, except those in undertakings employing less than two agricultural workers, in coffee, tea, sisal or sugar plantations, in undertakings operated by government, quasi-government, charitable, religious, research, medical or educational institutions or in undertakings situated in the semi-arid areas of Kenya.

Article 2. Employers are permitted to make a deduction from wages for rations by an order under section 14(3) of the Act.

Article 3. Employers and workers are represented equally on the Wages Council. Minimum rates are binding on employers and not subject to abatement.

Article 4. The Act provides for publication of rates, the keeping of adequate records by employers, inspection, criminal sanctions and the recovery of underpaid wages.

Convention No. 100: Equal Remuneration, 1951

CAMEROON

Act of 12 June 1967 instituting the Labour Code (LS 1967 - Cam. 1).

The principle of equal remuneration for men and women workers has been taken over in article 67 of the Labour Code of 1967, which provides that "in cases of equality in type of work, skill and output, equal remuneration shall be given to all workers irrespective of their origin, sex, age and status".

Collective agreements establish common remuneration scales for workers of both sexes.

NETHERLANDS

I. In February 1972 the Government asked the Socio-Economic Council for its advice on a number of aspects of the manner in which realisation of the principle of equal pay could be guaranteed. The Council hopes to make its recommendation to the Government in October.

Article 1 of the Convention. See under I.

Article 2(a) and (b). A start was made in 1968 with the enactment of the Minimum Wage and Minimum Holiday Allowance Act. The entitlement to minimum wage applies now to every employed person between 23 and 65 years without distinction by sex.

Article 2(c) and (d). As at 15 September 1973, it was only in three collective agreements that the principle of equal pay for

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work of equal value had not yet been fully implemented. It has been agreed that the inequality will be gradually removed from two of them by 1 January 1975.

Article 3. Where classification systems have been included in collective agreements, these are not applied differently to men and women. The jobs are evaluated independently of whether they are performed by a man or a woman. In so far as there is no job assessment method per branch of industry or firm, use is made of the standardised method of job classification as the universal one.

Articles 4 to 7. See under I.

Surinam

Both the Government and business in principle follow a policy which is directed towards equal remuneration for the same work. As regards private enterprise, it should be noted that equal remuneration is not always possible, partly in view of the fact that allowance has to be made for the need.

UNITED KINGDOM

Act to prevent discrimination, as regards terms and conditions of employment, between men and women (1970 ch. 41 dated 29 May 1970) (LS 1970 - UK 1).

Act to prevent discrimination, as regards terms and conditions of employment, between men and women (Northern Ireland) (1970 ch. 32 dated 17 December 1970).

(Both Acts become fully effective on 29 December 1975.)

Article 2 of the Convention. In general, rates of remuneration are determined by collective bargaining. In certain industries minimum wage rates are fixed by Wages Councils and in agriculture by Wages Boards.

The Equal Pay Act passed in May 1970 allows employers until 29 December 1975 for the full introduction of equal pay. When the Act comes into operation women will have the statutory right to equal treatment when they are employed on work of the same or broadly similar nature as that of men. For women whose work is different, the "equal value" provision gives a right to equality to the extent that their work is rated as equivalent to that of men under a job evaluation scheme; there is however no requirement to introduce such a scheme.

The Act also requires the removal of discrimination in collective agreements, wages regulation orders, orders of the Agricultural Wages Boards and employers' pay structures. This requirement is designed to eliminate the widespread existence of separate and usually lower rates for women.

The Act contains a provision that can require an employer to have achieved an intermediate step towards parity by 31 December 1973.

Article 3. For the purpose of the Act, job evaluation is defined as a study undertaken with a view to evaluating, "in terms of the demand made on a worker under various headings (for instance effort, skill, decision)" the jobs to be done by all or any of the employees in an undertaking or group of undertakings. A leaflet published by the Department of Employment in June 1973 stresses the advantage of using job evaluation as a basis for implementing equal pay.

The majority of wage councils have made good progress towards implementation of the Equal Pay Act. Many agreements allow for a phased movement towards equal pay, while others specify increases for women which are greater in percentage terms than those for men.

Most of the agreements from which discrimination has already been removed are in the public sector. In the private sector, equal pay has also been introduced in a number of cases, e.g. retail multiple grocery, retail meat, most clearing banks and insurance companies.

Article 4. The Manpower Advisors of the Department of Employment Conciliation and Advisory Service are available to give advice and assistance to employers and unions on equal pay where requested.

The Government does not accept responsibility for securing compliance with collective agreements. In wages councils industries, wages inspectors are responsible for seeing that wages regulation orders are complied with.

Claims for equal treatment may be referred to an industrial tribunal from 29 December 1975 onwards. Those women who already possess a right to equal pay can if necessary test their right by application to the ordinary courts. From 29 December 1975 onwards collective agreements, employers' pay structures, wages regulation orders and agricultural wages orders may be referred to the Industrial Arbitration Board for amendment with a view to removing any discrimination between men and women.

The Government has emphasised its commitment to the introduction of full equal pay by the target date of 29 December 1975 and will continue in the meantime to encourage employers and unions to negotiate staged movement towards equal pay.

The Trades Union Congress have consistently urged on the Government the desirability of making an order under section 9(2) of the Act providing for women's rates of pay to be revised to at least 90 per cent of men's rates before 29 December 1975. The Confederation of British Industry on the other hand, have opposed the making of an order and the Government has rejected the possibility of such an order.

Bermuda

Article 2 of the Convention. Most collective agreements both in the public and private sectors provide for equal pay for work of equal value. However there are many jobs which are regarded as jobs for women or jobs for men and wage rates for the women's jobs are generally lower.

Article 3. There are no legally established bodies responsible for determining wage rates.

Article 4. Liaison between employers and trade unions is effected by direct contact and through the medium of the Labour Advisory Council.

Gibraltar

Articles 1 to 3 of the Convention. The principle of the Convention is accepted as an ultimate aim of policy by the Government of Gibraltar.

Equal pay for equal work for women employed in the Gibraltar Civil Service and in the United Kingdom Government Departments in Gibraltar in non-industrial posts was implemented on 1 April 1969.

So far as industrial employees are concerned, the Government of Gibraltar and United Kingdom Government Departments have also accepted the principle and the differential has been progressively reduced from 25 per cent to 7 1/2 per cent in the course of general reviews of wages which have taken place between 1967 and 1972. Conditions of employment in the private sector generally follow those of the Government and in a number of cases equal pay has already been implemented.

Article 4. The Labour Advisory Board on which Government and employers and employees are represented consider the application of ILO Conventions in Gibraltar.

Articles 7 and 8. Under the present financial and economic conditions in Gibraltar it is considered that the Convention cannot be fully implemented at the present time but the situation will be kept under review.

The Gibraltar Trades Council, a body representative of the trade unions in Gibraltar passed a resolution at its 1972 Annual General Meeting, the text of which was communicated to the Government, as follows:

"The Gibraltar Trades Council calls upon Government to ensure the implementation in all spheres of labour of the ILO Convention which establishes the principle of equal pay for equal work, particularly as it affects the present discrimination against female workers."

Guernsey

There are no changes since the 1967 Report (see ILC, 53rd Session, 1969, Report III, Part 2, p. 31).

St. Helena

Article 2 of the Convention. Women in public service receive equal pay for equal work and the rates of remuneration are determined by the degree of responsibility together with the suitability, academically and otherwise, of the worker irrespective of sex or nationality. The method of operation is based largely on the recommendations of HM Commissioner of Salaries.

Article 3. A system of increments in operation provides equal increments for men and women performing work of equal value, and equal opportunities are available for either sex to further their advancement in the public service. Job appraisal is analysed according to the potentialities of the worker for the job concerned with a view to providing a classification of job without regard to sex.

Article 4. There is no employers' organisation. The workers' organisations co-operate through the expression of views on issues affecting the provisions relating to equal remuneration.

Seychelles

Wages Regulation Ordinance, Cap. 180 (26 Nov. 1966).

Proclamation Nos. 18 and 33 of 1972.

Proclamation No. 5 of 1973.

Article 2 of the Convention. Under the Minimum Wages Proclamation No. 5 of 1973, the statutory minimum rates for agricultural workers on Mahé and neighbouring islands (rates for workers on outer islands were under review at the end of the report period) continue to be lower than those for men, because their output for work is lower. It is considered that the introduction of equal tasks and equal pay for women would not be practicable and would have an adverse effect upon the employment of women in agriculture. The minimum rates for shop workers and employees in the hotel and catering industry, determined for the first time by Proclamations Nos. 18 and 33 of 1972, are the same regardless of sex. The wages of unestablished employees of Government are fixed by the Government after consultation with the Government Workers Union. Female labourers are paid lower rates than men because they perform light work such as cleaning and sweeping. Salary scales in the civil service do not differentiate between the sexes. Discrimination in remuneration based on sex does not occur in practice and the necessity for specific measures to apply the principle of equal pay for work of equal value does not therefore arise.

Article 3. For the reasons already stated, there is no need of job evaluation to obviate discrimination based on sex.

Article 4. The Tripartite Labour Advisory Board, which makes recommendations to the Government on labour matters, and the advisory boards, which assist in the determination of minimum wages for agricultural workers, shop workers and employees in the hotel and catering industry, have not considered the question of equal pay.

The Wages Regulation Ordinance, Cap. 180, is administered by the Government Labour Department.

British Solomon Islands

It has been an unstated but cardinal principle of the Public Service Advisory Board to assume that equal remuneration will be paid to men and women. The Commission on the Civil Service 1968/69 was similarly motivated and in the most recent examination of wages levels the Wages Advisory Board stated that female employees should be paid at the same rate as males. In agriculture women who undertake employment are normally paid at the same rate as men and if they are engaged in task work or piece-work there is no risk of unequal remuneration.

The position in the Protectorate can be said to be satisfactory, certainly in urban areas and in the Civil Service. Nevertheless, women represent a very much smaller proportion of the labour force than in more developed countries and the pattern of earnings shows that women earn less than men.

Convention No. 101: Holidays with Pay (Agriculture), 1952

CAMEROON

Law dated 12 June 1967 to institute the Labour Code. (LS 1967 - Cam. 1.)

Decree No. 68/DF/254, dated 10 July 1968, concerning holidays with pay.

National legislation and regulations on holidays with pay make no distinction between workers on the grounds of their different types of activity, so that workers in agriculture enjoy the same holidays with pay as workers in other sectors. See under Convention No. 52.

SPAIN

General Ordinance concerning Agricultural Work, approved by Order on 2 October 1969. _

Article 1 of the Convention. The regulations governing paid annual leave in agriculture are as specified in the General Ordinance concerning Agricultural Work (2 October 1969), which is extremely broad in scope (sections 1 to 4). Section 2, describing the scope of the Ordinance, says that it covers forestry and cattle-raising, together with industries accessory to agriculture, which goes some way beyond the Convention, Article 1 of which refers to "agricultural undertakings" and "related occupations".

Article 2. In Spanish law, the institution of paid leave in agriculture is possible through a general enactment, and this has to be very carefully drawn up. Under section 9 of the Act dated 16 October 1942, governing the procedure to be followed in drafting and promulgating Labour Regulations, when the latter are nationwide in character (as in this instance) (section 1 of the Ordinance), the Ministry of Labour has to ask the Trade Union Organisation to appoint a group of advisors who are experts in the particular field, who "will necessarily represent all the occupational groups belonging to the Trade Union in question in that section or sections which might be affected".

Article 3. According to section 73(1) of the Ordinance, persons subject to the same "shall be entitled to holidays with pay amounting to fifteen calendar days a year". The last subparagraph of the section says that the unit for calculation of leave is the calendar day. The deduction is that if a person enters or leaves employment in the course of the year he will enjoy a leave commensurate with the weeks or months he has worked, "any fraction of a week or month being counted as a whole week or month".

Article 4. The following fall outside the Ordinance, as not being points covered by a contract of employment: "(a) work done as part of a family exclusively by persons belonging to or accepted by the family, subject to the orders of a member of the family, always provided that the persons so engaged are not considered as wage earners"; (b) work which, without being of a family nature, is occasionally performed by friends or neighbours, working for nothing (section 6). Furthermore, "persons doing the tasks referred to in section 7 of the current Employment Contracts Act shall be excluded from the purview of this Ordinance" (section 3(3)). These precepts, and these exceptions, are in accordance with the Convention (Article 4).

Article 5. Section 73(3) of the Ordinance offers the young worker treatment "more favourable" than that set forth in this Article ("male workers under twenty-one and females under seventeen shall enjoy a holiday of twenty working days for attending camps, hostels, marches and short courses organised by the National Youth Movement"), even though such leave has to be taken for this specific purpose. There is no increase in paid leave with increasing seniority. But there are certain exceptions to this statement. Thus (section 73(4)): "Personnel entitled to holidays, and starting or finishing employment in the course of the year shall be authorised to take a proportion of that leave commensurate with the number of weeks or months worked, a fraction of a week or month being counted as a whole week or month." Section 74, almost identical to section 35 of the Employment Contracts Act, and with the same ends and scope, lays down: "No worker shall do any work for himself or others during the compulsory leave; nor shall any exceptional leave taken during the year be deducted from the

compulsory leave. Nor, again, may compulsory leave be compensated for by payment of twice the wage unless authorised by the Labour Courts in the circumstances already provided for (the worker having ceased to work for the undertaking), in which event the worker shall be told on what date he shall take the leave owing to him."

Article 6. The Ordinance makes no provision for taking annual holidays in separate parts, although there is no legal reason why this should not be done, since the undertaking and the worker are free to decide when the leave shall be taken. There is no rule to the effect that the annual holiday must be taken without interruption, except as regards the minimum of seven days mentioned in section 35 of the Employment Contracts Act. This is a matter to be decided on in the light of circumstances.

Article 7. The Ordinance complies with this precept, laying down (section 73(1)) that persons subject to the Ordinance shall be entitled to fifteen calendar days of annual holiday with pay; the equivalent in cash of benefits in kind may be paid in accordance with section 35(2) of the Employment Contracts Act.

Article 8. Section 36 of the Employment Contracts Act goes further than the Convention in the protection it offers. It runs as follows: "Any agreement which, to the prejudice of either of the parties, limits that party's exercise of civil or political rights, shall be null and void. The same shall hold good of the renunciation by the worker, before or after the contract was signed, of the compensation to which he might be entitled for occupational accident, prejudice caused by failure to comply with the contract, or of any other benefits as by law established." Under section 74 of the Ordinance, no exceptional leave may be deducted from the compulsory annual leave taken during the same year, nor may the worker be given compensation equal to twice his wages for the days he should have taken, except as provided for in the last subparagraph of this same section. Section 35(4) and (6) of the Employment Contracts Act is to the same effect.

Article 9. Spanish law certainly puts this Article into effect; see the rules governing dismissal in the Employment Contracts Act, the general statement made in section 73(4) of the Ordinance, and the identical contents of section 35(3) of the Employment Contracts Act.

Article 10. It is for the Labour Inspection Department (Act dated 21 July 1962) to ensure by inspection that the law is complied with, without prejudice to any action which may be brought by the persons concerned in a Labour Court (Consolidated Text of the Labour Procedure, approved by Decree on 21 April 1966).

Officials from the National Labour Inspection Department are responsible for ensuring compliance with current legislation derived from the Convention.

Convention No. 105: Abolition of
Forced Labour, 1957

SUDAN

The Permanent Constitution of the Sudan.

Defence of the Sudan (General) Regulations, 1967.

People's Local Government Act, 1971.

The Constitution, the above-mentioned laws and regulations and Sudan labour legislation, prohibit the imposition of forced labour.

THAILAND

Constitution of 1972.

Criminal Code B.E. 2499 (1956).

Section 22 of the Constitution of 1972 states that whenever no provision of the Constitution is applicable to any case it shall be decided in accordance with the administrative practice of Thailand under the democratic regime.

Article 1 of the Convention. No forced or compulsory labour may be exacted in any of the circumstances described in Article 1(a) to (e) of the Convention.

Article 2. The illegal exaction of forced or compulsory labour by a public official or by private individuals or associations is punishable under sections 309 to 321 of the Criminal Code B.E. 2499 (1956) relating to individual freedoms in which adequate provision is made for penalties.

Convention No. 106: Weekly Rest (Commerce and
Offices), 1957

ECUADOR

Constitution, 1945.

Labour Code dated 7 June 1971 (LS 1971 - Ec. 1).

Civil Service and Administrative Careers Act, 1964.

Article 1 of the Convention. National legislation is applicable to all workers in the country.

Articles 2 and 3. National legislative provisions relating to obligatory periods of rest apply to all workers and employers, no matter what their establishment or office may be.

Article 4(1) and (2). Not applied under national legislation.

Article 5. Section 148(i) of the Constitution and section 46 of the Labour Code apply.

Article 6. The persons to whom this Convention refers are employees and office workers who by collective agreement can work less than the forty-four hour week laid down in the Code (section 49).

Public servants enjoy two full days of rest and private undertakings show a tendency to adopt the same arrangement.

Article 8. The Labour Code, section 49, lays down that if because of circumstances there can be no interruption of work on Saturday afternoons or Sundays, an equivalent period shall be set aside during the week for purposes of rest, by agreement between employer and worker, ratified by the labour inspector.

Article 9. Section 52 of the Labour Code applies; this lays down that payment must be made for the obligatory weekly rest. Section 148(d) of the Constitution stipulates that workers' wages are immune from any reduction not authorised by law.

SPAIN

Act respecting Sunday rest, dated 13 July 1940 (LS 1940 - Sp. 7).

Regulations of the Act respecting Sunday rest, approved by Decree dated 25 January 1941.

Labour Ordinance for offices approved by Order dated 31 October 1972 (BOE, 14 November).

Article 1 of the Convention. The subject matter of the Convention is regulated by the 1940 Act respecting Sunday rest and by the 1941 regulations issued thereunder.

Article 2. The Act respecting Sunday rest is of general application but section 4 lists activities excluded from the legal provisions, without prejudice to entitlement to a weekly rest on another day.

Article 3. It has not been considered appropriate to make this declaration.

Article 4. There are no problems arising from this Article.

Article 5. Sections 2(a) and 7 of the Act respecting contracts of employment allow these exceptions to the Convention under this clause.

Article 6. Section 1(1) of the Act respecting Sunday rest prohibits on Sundays ... all physical as well as mental work. ... Section 2 establishes that the rest period must consist of twenty-four consecutive hours. Respect for the traditions and customs of religious minorities is a constitutional right.

Article 7. Sections 4 and 5 of the Act respecting Sunday rest and the corresponding clauses of the regulations deal with the special cases referred to in this provision, but section 5(2)(2) of the Act stipulates that no exemptions are allowed on those grounds in any establishment of a purely commercial nature.

Article 8. The compensatory weekly rest of a total duration equivalent to the period laid down in Article 6 is expressly recognised in section 6 of the Act and sections 45 to 47 of the regulations.

Article 9. Section 9(1) of the Act respecting Sunday rest entitles every worker to full pay for Sunday or the compulsory weekly rest day. Chapters V and VI of the regulations deal more fully with this subject.

Article 10. The observance of these standards is ensured by the powers conferred upon the Inspectorate of Labour (Act dated July 1962, regulations dated 1971), while power to impose penalties is vested in the labour delegates (Decree 799/1971).

Article 13. Section 7(2) of the Act respecting Sunday rest allows the Government, on the recommendation of the Minister of Labour, to suspend the compensatory weekly rest where necessary on account of exceptional circumstances of public interest.

FRANCE

Book II of the Labour Code.

Public Services Regulations of 14 August 1907, modified.

Act of 21 March 1941 extending weekly rest to wage earners in the public and ministerial services, liberal professions, private firms, unions and associations.

Article 1 of the Convention. The provisions of the Convention are given effect by national laws and regulations.

Article 2. Legal requirements concerning weekly rest affect all the categories mentioned in this Article.

Article 3. Same remark as for Article 2.

Article 4. As the rules concerning weekly rest are general, distinctions between various categories of establishment are not necessary.

Article 5. The exceptions foreseen in this provision are not used.

Article 6. 1. Articles 31 and 32 of Book II of the Labour Code foresee a period of 24 hours' consecutive rest for all workers each calendar week.

2. This rest is granted collectively to the entire personnel except in establishments where, for reasons deriving from the nature of the occupation, the regulations authorise staggered rest periods.

3. In principle, the weekly rest must be granted on Sunday (article 33 of the Code).

4. In this connection, the traditions and customs of religious minorities do not seem to cause any difficulties.

Article 7. The special measures for the granting of weekly rest are governed by the following texts: article 38 of the Code, the Decree of 14 August 1907, modified (staggered weekly rest), the relevant orders of Prefects issued under articles 34 et seq of the Code and the local council orders issued under article 44 of the Code.

Article 8. The exemptions authorised by the Convention are foreseen in the following articles of the Code: 40 (repair or prevention of accidents) and 47 (abnormal workload and handling of perishable goods).

Article 9. This provision is applied.

Article 10. 1. The inspection services are responsible for enforcement of the Convention.

2. Penalties are foreseen in articles 158 et seq of the Code.

Article 11(a) and (b). The activities in which weekly rest may be granted by law at special times are established by the article 38 of the Code and the Decree of 14 August 1907, as amended.

Guadeloupe, Guyana, Martinique, Réunion

See under France.

New Caledonia

Overseas Labour Code (Act No. 52.1322 of 15 December 1952)
(LS 1952 - Fr. 5).

Order No. 1372 of 7 November 1953 prescribing hours of work in non-agricultural occupations.

Order No. 1373 of 7 November 1953 regulating the operation of the weekly rest.

Order No. 60-250/CG of 12 August 1960 establishing the work timetable for the administrative services.

Article 1 of the Convention. Effect is given to the Convention by the legislation and regulations indicated above.

Article 2. Article 120 of the Labour Code makes weekly rest compulsory for all undertakings and establishments of all types.

Article 3. Article 4 of Order No. 1373 of 7 November 1953 provides that the establishments indicated in paragraph 1 of this Article are authorised by law to grant weekly rest on a staggered basis.

Article 4. The question has not arisen.

Article 5. No exemptions are made from the application of this Article.

Article 6. Articles 120 of the Labour Code and 3 of Order No. 1373 of 1953 give effect to this Article.

Article 7. Articles 5, 6, 7 and 10 of Order No. 1373 of 1953 give effect to this Article.

Article 8. Articles 11, 12 and 13 of Order No. 1373 of 1953 give effect to this Article.

Article 9. No reduction in the income of persons granted weekly rest has been reported.

Article 10. Articles 19 to 21 of Order No. 1373 of 1953 ensure satisfactory implementation of the weekly rest provisions.

Article 11. See Order No. 1373 of 7 November 1953.

St. Pierre and Miquelon

Overseas Labour Code Act No. 52.1322 of 15 December 1952 (LS 1952 - Fr. 5).

Order No. 240 of 13 May 1954.

The above-mentioned legislation and regulations guarantee weekly rest. The Inspector of Labour and Social Legislation is responsible for the application of these provisions.

Territory of the Afars and Issas

Overseas Labour Code (Act No. 52.1322 of 15 December 1952) (LS 1952 - Fr. 5).

Order No. 1545 of 23 December 1953.

The legislation and regulations referred to guarantee weekly rest for all wage earners whatever their occupation, under the conditions and within the limits established by the Convention.

NETHERLANDS

Labour Act, 1919 (LS 1930 - Neth. 2), as amended, 1971 edition, and orders made thereunder.

Article 1 of the Convention. The Labour Act contains provisions with regard to weekly rest in commerce and in offices.

Article 2. The Labour Act contains provisions covering the persons listed in this Article.

Article 3(a). Workers in establishments, institutions and administrative services providing personal services are covered by the Working Hours Decrees for Remaining Groups, 1958; employees of nursing institutions by the Nursing Decree, 1957; employees of travel agencies by the Working Hours Decree for Offices, 1937; employees of hairdressing firms by the Working Hours Decree for Shops, 1932.

(b) Workers in post and telecommunications services are covered by the General Civil Service Regulations (Algemeen Rijksambtenaren Reglement) and the Labour Agreement Decree (Arbeids Overeenkomsten Besluit).

(c) Workers for newspaper undertakings are covered by collective agreements guaranteeing them a weekly rest period corresponding to the legally prescribed rest period.

(d) Employees of cafés and hotels are covered by the provisions of the Labour Code, as are employees of theatres and of other places of public entertainment and of public baths.

Article 4. The orders stated above contain regulations for a weekly rest period of persons employed in practically all establishments to which the Convention applies. These establishments are in this way sufficiently demarcated from the establishments that are outside of the scope of the Convention.

Article 5. The Labour Act does exempt from the weekly rest provisions establishments employing members of the employer's family only and persons holding high managerial positions. Both categories of workers have periods of weekly rest, but these are not established by statutory regulations.

Article 6. The Labour Act establishes a period of weekly rest for employees in commerce and offices of at least 36 consecutive hours per week. In principle, Sunday is included in this period of weekly rest. Sunday is the traditional day of rest. The Labour Code contains provisions for respecting the rights of religious minorities with respect to the day of weekly rest.

Article 7. The Labour Code permits the establishment of special weekly rest schemes for certain categories of workers in wholesale and retail trade, in offices, in public baths, theatres and places of public entertainment, hotels and cafés. Provisions permitting the establishment of special weekly rest schemes for certain office personnel in government service are contained in the regulations governing the civil service.

Article 8. The Labour Code permits deviation from the established norms of weekly rest in the circumstances outlined in this Article. Legislation pertaining to specific categories of personnel in the Labour Code provide for compensatory weekly rest, and establish a minimum amount of weekly rest which must be granted in the case of circumstances discussed in this Article. In cases in which there is not statutory obligation to compensate for Sunday work or work during the prescribed weekly rest period by granting rest on other days, and the occurrence of the cases referred to in paragraph 1 of this Article makes the performance of work unavoidable, such compensation is usually granted voluntarily to the personnel concerned.

Article 9. The application of the terms of the Convention results in no reduction of incomes of the persons covered, which are usually fixed by collective agreement.

Article 10. Under section 77 of the Labour Act 1919, the Labour Inspectorate is charged with assuring the application of the national legislation concerning working hours and rest periods.

Article 11. See Articles 7 and 8 above.

Article 12. National legislation provides for 36 hours of rest which exceed the 24 hours required by the Convention.

Article 13. National legislation provides for the suspension of the statutory requirements relating to weekly rest in the cases referred to in this Article.

Surinam

National Ordinance of 19 December 1963, No. 163.

National Decree of 22 April 1971.

The fourth division, Days and Periods of Rest, of the National Ordinance No. 163 provides for weekly rest in section 8.

National Decree of 22 April 1971, implements section 8 of the Labour Ordinance No. 163.

These regulations are in accordance with the provisions of the Convention.

Convention No. 107: Indigenous and Tribal
Populations, 1957

ECUADOR

The Constitution of Ecuador.

The Government urged the ratification of this Convention with the intention of ensuring that the action taken to secure its enforcement should be of especial benefit to the native peoples of Eastern Ecuador, which natives, because of exploration and oil mining, just beginning, might suffer from a brutal encounter with civilisation. The Government wholeheartedly supports the aims of the Convention.

The Ministry of Social Security and Labour, as soon as the present Government took over, got into touch with the Ministry of National Defence, the Ministry of Natural Resources and the Land Reform and Settlement Institute with a view to co-ordination of the action to be taken to give effect to the Convention. Such co-ordination has begun, although not without the difficulties which naturally arise when, as a result of the start made with oil drilling, a vast area of the country has suddenly to be embodied in national development plans. This area still lacks the roads and other facilities which would facilitate prompt government action with regard to those many things - employment contracts, conditions of employment, vocational training, occupational health and safety, training, and so forth - which are dealt with in the Convention. Furthermore, and for the same reason, we lack detailed statistics wherewith to give substance to a full memorandum on the Convention.

Despite these limits and restrictions, the Government is happily in a position to affirm that the very urgent steps now being taken to open up, at an ever-increasing tempo, Eastern Ecuador, will by no means be neglectful of the lofty principles set forth in the Convention, and trusts that when the time comes to report again, it will be able to supply much fuller information. Be this as it may, the Government wishes to say that until such time as there is a definite plan for the development of the area and legislation for the protection of the natives living therein, the Ministry of Social Security and Labour will do everything in its power to give effect to the Convention.

The authorities responsible for giving effect to the Convention depend on a variety of official bodies, such as the Ministries of Social Security and Labour, Public Education, Public Health, Agriculture and Cattle-Raising, and National Defence.

PANAMA

Constitution, articles 19, 62, 85, 87, 88, 89, 108 and 116.

Article 1 of the Convention. In Panama, we should speak of the Indian population, rather than of tribal or semi-tribal peoples. Of these there are 73,026 persons, distributed as follows: Bocas del Toro - 13,831; San Blas - 23,945; Chiriquí - 25,194; Darién - 4,988; Panamá (Chepo) - 1,236; Veraguas - 3,832.

Article 2. Despite all difficulties encountered, we are trying to absorb these people, by persuading them that they must abandon their isolation. In particular, action is being taken with this end in view by the Ministry of the Interior and Justice and the Ministry of Agricultural Development. We are at present putting into effect a plan for the harmonious development of the Indian communities.

Article 3. By virtue of article 19 of the Constitution, these people enjoy the same rights as other citizens.

The Government implements Articles 4 to 9 of the Convention, and article 85 of the Constitution ensures respect for and protection of the country's Indian cultures.

Article 9. Nobody can be obliged to work, and this includes the Indian peoples.

Article 11. Article 116 of the Constitution guarantees the usufruct and collective ownership by the Indians of the land they own. Such land may not be taken over by private interests. At present, most of these people live in what might be described as reserves.

Articles 12 and 13. The lands on which Indians live cannot be made over to others.

Article 14. Rural reform programmes, including land reform, apply to these peoples.

Article 15. Everybody without distinction enjoys the same opportunities as regards employment, wages and recruitment, as set forth in the Constitution, article 62.

Article 18. Arts and crafts are fairly well developed and these products are sold to tourists.

Article 19. The social security system applies to all wage earners in the country without distinction.

Article 20. The Constitution, article 108, lays down that the Indians must be given the benefit of health programmes.

Articles 21-26. Article 88 of the Constitution lays down that educational establishments shall be open to all pupils without distinction. According to article 89, primary education is free and compulsory for all, and the Indians enjoy the same opportunities as the Panamanians in general. Teaching is in Spanish only, but the persons responsible for teaching the Indians are familiar with their language and customs. Article 87 of the Constitution says that the education of all Panamanians must be designed to promote a national consciousness based, amongst other things, on their share in economic development, social justice and solidarity.

Article 27. The Ministry of the Interior and Justice, working with the Ministry of Agricultural Development, is drawing up plans for assistance to and development of the areas inhabited by the Indians.

Article 28. Panama takes very good notice of the scope for flexibility offered by this Article.

PARAGUAY

National Constitution dated 25 August 1967.

Act No. 854 establishing the Agrarian Statute, dated 29 March 1963.

Act No. 729, dated 31 August 1961, to promulgate the Labour Code (Gaceta Oficial de la República del Paraguay, 31 August 1961, No. 64) (LS 1961 - Par. 1).

Decree No. 1341, dated 8 November 1958, establishing the Department of Indian Affairs.

The National Constitution, dated 25 August 1967, states in section 24 that "the following are automatically of Paraguayan nationality: (1) persons born on the territory of the Republic ...". The Indian population, therefore, enjoys the same rights as all other national citizens although they are exempt from some obligations.

Section 8 of the National Constitution establishes that "This Constitution is the Supreme Law of the Nation. Treaties, Conventions and other international agreements which are ratified and exchanged, together with the laws, compose positive law in the aforesaid order of priority."

The National Government, in accordance with its programme of social action and over-all development of the country, is concerned with the integration of the Indian population, together with other bodies which share this aim of integrating the indigenous population into civilised life, by providing educational and medical facilities, ensuring their freedom of employment, organising settlements, establishing their right to practise their religion and helping them to improve their moral, economic and social situation and to avoid exploitation, as laid down in the National Constitution.

In so far as an Indian, when working, is exercising a social function, he also enjoys the protection of the State and must not be considered a commodity. He therefore has the right to follow his own bent and to engage freely in the occupation, industry, work, trade or calling of his choice, provided that it is legal. He also has the right to change his employment freely (see sections 185-191 of the Labour Code). Section 192 of the Labour Code declares: "The State, through the competent bodies of the ministries concerned, shall protect indigenous workers who have not been integrated into the national life, safeguarding their institutions, property, persons and labour in order to: (a) promote

their social, economic and cultural evolution and raise their living standards, with a view to their progressive integration into the national community; (b) prevent their exploitation and extermination; and, (c) ensure that such protection is not misused to establish or prolong their state of segregation."

At present, the Ministry of Justice and Labour, through the Labour Department, by means of planned co-operation with the aim of exercising greater control in the enforcement of labour legislation among the Indians, is carrying out its activities jointly with the Department of Indian Affairs of the National Defence Ministry and the Paraguayan Association for Indian Affairs in order to obtain information on and evidence of the general conditions in which Indians are employed in all activities and in particular in cattle farming, with the aim of safeguarding their rights and encouraging them to fulfil their obligations in order to achieve a better balance between employers and Indians. The Labour Department has assigned an official to obtain information, supervise the enforcement of labour laws and verify the general health and safety standards of the Indian population. The following schemes have been undertaken by the National Government to promote the integration of the Indian population:

- (a) Campaign to raise the status of the Indian population by means of circulars from various ministries: the Ministry of the Interior, the Education Ministry, etc.
- (b) Establishment of the Department of Indian Affairs with the aim of centralising the country's activities on behalf of the Indian population and of collecting the information needed to draw up suitable legislation for the protection and cultural development of the Indians.
- (c) The First National Congress on the Indian Question held from 13 to 24 August 1959.
- (d) Promulgation of the Labour Code which deals, in Chapter VII of Part III, with the employment of Indians: sections 185 to 192 inclusive. In section 192, Paraguayan Indian Policy is defined in accordance with Convention No. 107.
- (e) Act No. 854 (Agrarian Statute) dated 29 March 1963, section 16 of which states: "The surviving groups of the Indian communities in this country shall be assisted by the Rural Welfare Institute in the formation of settlements. With this aim it shall allocate the necessary land and collaborate as much as possible with State and other bodies concerned, to promote the progressive incorporation of the said groups into the economic and social development of the country."
- (f) Allocation of land to Indians through various settlement schemes, as follows: 30,000 hectares in the eastern region and 38,500 in the western region; large-scale vaccination campaigns were held, a number of first aid stations and approximately fifty schools set up and more than forty Indian settlements organised, while several thousand citizens were registered; various types of research were carried out by Paraguayans and foreigners; great expanses of land were reclaimed; various missions were relieved of paying duties etc. on imports of machinery, stocks, tools, medicines and other goods to be used to help Indians.

Convention No. 108: Seafarers' Identity Documents, 1958

SPAIN

Ordinance dated 3 October 1972 of the Ministry of Trade.

Article 1 of the Convention. Hitherto the question of whether certain classes of people are to be considered as "seafarers" has given rise to no problems.

Article 2. The only identity card issued to seamen is the seafarer's identity document. When issued to foreigners, it is valid for one year only, but can be renewed for another year.

Article 3. The seaman keeps his identity document; on going abroad he hands it over for safe-keeping to a responsible person.

Articles 5 and 6. Page 10 of the identity document sets forth Article 6 of the Convention.

The coastal shipping authorities of the Under-Secretariat of the Merchant Marine are responsible for seeing that laws and regulations relating to Convention No. 108 are complied with.

SWEDEN

Government communication to the National Swedish Administration of Shipping and Navigation, 15 October 1971.

Notification of 3 February 1972 of the National Swedish Administration of Shipping and Navigation.

Circular dated 22 October 1971 of the same authority regarding ILO Convention No. 108.

Circular dated 10 April 1972 of the same authority regarding the new form for seafarers shipping books.

Article 1 of the Convention. In accordance with paragraph 53 of the Ordinance concerning the Registration and the Signing on and Discharge of Seamen the National Swedish Administration of Shipping and Navigation shall decide on the form for seafarers' shipping books. The Swedish seafarers' shipping books shall constitute the identity documents referred to in the Convention.

Required enrolment in the Seafarers' Register and the issue of seafarers' shipping books thereto associated is under the terms of the Ordinance concerning the Registration and the Signing on and Discharge of Seamen limited to apply to Swedish seafarers who are employed aboard a Swedish merchantman of a net tonnage of 20 register tons or more (paragraph 1) and to Swedish seafarers who in a Swedish port take up employment aboard a foreign merchantman or are employed aboard a foreign merchantman which calls at a Swedish port.

Article 2. In connection with enrolment all seafarers who are enrolled in the Seafarers' Register (only Swedish citizens) are issued with seafarers' shipping books, which are identity documents as specified in the Convention, regardless of whether the seafarer requests this or not.

Passports, which have the same status as identity documents as specified in the Convention, are not issued to any category of seafarer.

Identity documents are not issued to foreign seafarers.

Article 3. There is no stipulation to the effect that a seafarer shall always himself be in possession of his shipping book, but it is customary.

Article 4. Paragraphs 1 to 3 are covered by the stipulated form for seafarers' shipping books.

Paragraph 4. Not applicable in Sweden since seafarers' shipping books are only issued to Swedish citizens.

Paragraph 5. Period of validity is indicated on the inside cover of the seafarers' shipping books. Seafarers' shipping books are valid for as long as the holder practises the seafarer's trade aboard Swedish merchantmen and thereafter until the expiry of the calendar year immediately following the calendar year during which the seafarer, as indicated in his shipping book, last practised the seafarer's trade aboard a Swedish merchantman.

Paragraph 6. The formulation of and contents of the identity documents (seafarers' shipping books) have been circulated for consideration by the National Swedish Administration of Shipping and Navigation.

Paragraph 7. Seafarers' shipping books constitute, apart from identity documents, proof of a seafarer's employment aboard vessels.

Article 5. The identity documents are only issued to Swedish citizens. These are naturally entitled to return to Sweden.

Article 6. Paragraphs 1 and 2 of this Article are covered by the regulations in paragraphs 10 and 28 of the Aliens Proclamation (1969: 136).

Paragraph 3. The police authorities control the entry of seafarers, in which context the seafarer in question must offer satisfactory evidence of his intention in entering the country, sometimes in writing if this is considered necessary. The police authorities may issue a visa for a maximum of 14 days (seafarer's visa) to seafarers as referred to in the Convention (paragraph 28 of the Aliens Proclamation).

Paragraph 4. In accordance with paragraph 28 of the Aliens Proclamation, police authorities who are uncertain whether a seafarer's visa should be issued, may refer the matter to the National Swedish Immigration and Naturalisation Board. In this way individual assessments can be made.

UKRAINE

Decree on passports of seafarers, 9.12.1946.

Regulations concerning entry into and exist from the USSR, 22.9.1970.

Article 1 of the Convention. Article 39 of the Merchant Shipping Code of the USSR lays down that the crew shall consist of a captain, other officers and members of the ship's company which consists of deck crew, machine crew and other persons serving on board who are not part of the ship's officers.

Article 2. All seafarers belonging to the crew of a ship sailing in foreign waters are issued with seafarers' passports, the form of which is known and recognised throughout the world.

In accordance with article 41 of the Merchant Shipping Code only citizens of the USSR may be members of a ship's crew. Exception to this rule may be granted.

Article 3. The passport is kept by the seafarer.

Article 4. The name "seafarers' passport" is traditional and legalised by standard-setting instruments in force. It corresponds in form and legal status to the "seafarers' certificate of identity" which appears in the text of Convention No. 108.

Article 5. Persons to whom USSR seafarers' passports are issued may return to USSR territory unhindered.

Article 6. A seafarer holding a valid certificate of identity enjoys the right of admission to USSR territory while his ship is in port waters of the USSR, if such admission is necessary for him and also for the purposes indicated in Article 6, paragraph 2.

The procedure for implementing the instruments, consists of the presentation of a request for permission for a seafarer to enter a country.

UNITED KINGDOM

St. Vincent

Seamen's national identity documents regulations.

Article 1 of the Convention. Seafarers' identity documents are issued to seafarers serving on board all vessels registered in St. Vincent.

Article 2. 1. A seafarer's identity document is issued on application to any person from St. Vincent.

2. A seafarer's identity document can be issued to a seafarer of foreign nationality serving on board a vessel registered in St. Vincent.

Article 3. The document is issued to the seafarer, who must keep it in his possession at all times.

Article 4. The provisions laid down in paragraphs 1 to 5 are applied. There has been no consultation as laid down in paragraph 6.

Article 5. Any seafarer holding an identity document issued or renewed less than five years before his arrival in St. Vincent is freely readmitted.

Article 6. The provisions of this Article are observed.

Convention No. 110: Plantations, 1958

PANAMA

Labour Code (LS 1971 - Pan. 1).

Article 1 of the Convention. In Panama, the term "plantation" has no precise definition and for this reason the one contained in the Convention is considered valid.

Article 2. There is no discrimination in the country. See comments on Conventions Nos. 19, 111 and 117.

Article 5. "Recruitment" does not exist; any person who wishes to work does so freely and spontaneously and hires himself out directly and voluntarily to the employer. The country's large plantations belong to international corporations which are obliged to comply with all the provisions of the Labour Code.

Article 7. There is a national employment service to which any person who wishes to work goes voluntarily.

Article 10. Section 67 of the Labour Code.

Article 11. Sections 62 and 82 of the Labour Code.

Article 12. Sections 129, 130 and 131 of the Labour Code.

Article 14. Section 2 of the Labour Code.

Article 16. All enterprises are obliged to pay the fixed minimum wage for the region or area in which the work is to be carried out.

Article 19. Plantation workers are subject to the social security scheme of the Social Insurance Fund. This includes protection against occupational hazards.

Article 20. All plantation workers are protected by the regulations of the Labour Code governing contracts.

Articles 21, 22 and 23. Workers are not liable to penal sanctions.

Article 24. Every region has a minimum wage and enterprises are obliged to comply with it. The two largest banana plantations are covered by collective agreements.

Article 26. Section 151 of the Labour Code.

Article 27. Section 144 of the Labour Code.

Article 28. Section 154 of the Labour Code.

Article 29. Section 150 of the Labour Code.

Article 30. Section 138(2) of the Labour Code.

Article 31. Section 148 of the Labour Code.

Articles 36 to 42. Sections 52 to 61 of the Labour Code.

Articles 43 to 45. Sections 104 to 116 of the Labour Code.

Articles 51, 52 and 53. All plantation workers must be covered by social insurance against occupational hazards.

Articles 54 to 70. All the provisions of the Labour Code on this matter (sections 333 to 519) apply to plantation workers.

Articles 71 to 84. See Convention No. 81.

Articles 85, 86 and 87. Section 128 of the Labour Code.

Article 88. Section 126 of the Labour Code.

Articles 89, 90 and 91. Plantations are covered by the social security scheme of the Social Insurance Fund.

Convention No. 111: Discrimination (Employment and Occupation), 1958

FINLAND

Constitution of 1919, as amended by Act 592/72.

Act No. 465 of 7 July 1970, supplementing the Criminal Code by provisions concerning race and other discrimination.

Decree amending the Decree on Women's Eligibility to Posts and Offices in the Civil Service (188/72).

Act No. 320 of 30 April 1970 respecting contracts of employment (LS 1970 - Fin. 2).

Act No. 669 of 29 December 1967, respecting the protection of young workers (LS 1967 - Fin. 3).

Church Act (635/64).

Decree on the Orthodox Church (203/53).

The Finnish legislation does not contain any provision contrary to the Convention and in general the principles of the Convention have been incorporated in the legislation already a long time ago.

Under the Constitution, Finnish citizens shall be equal before the law and shall be equally protected by law. The fact of belonging to any special religious community or of not belonging to any such community shall in no way detract from the rights and duties of Finnish citizens.

Act 592/72 amending the Constitution, provides that it is the duty of the Government to ensure an opportunity of employment to each Finnish citizen.

In accordance with section 17 of the Contract of Employment Act (320/70), the employer shall treat his workers impartially without making any unwarranted discrimination on the basis of origin, religion, sex, age, political opinion or trade union activity or any other comparable circumstances. If an employer contravenes this section he shall be liable to a fine (section 54). However, the Finnish legislation does not contain any provisions which would prohibit racial discrimination in respect of recruitment in the private sector, nor does it contain provisions which would make such behaviour punishable.

Under Act No. 465 of 7 July 1970, supplementing the Criminal Code by provisions concerning race and other discrimination, anyone who spreads among the public statements or announcements in which groups of a certain race, colour, national or ethnic origin or religion are threatened or affronted, shall be convicted of incitement to discrimination against a group of persons and shall be liable to imprisonment or to a fine.

As regards access to employment in the Civil Service protection against racial discrimination is provided by legislation. According to the Constitution the general principles upon which appointment to public offices may be made shall be ability, competence and proven civic virtue; examination for appointment to public offices shall be regulated by decree and special regulations.

As regards terms and conditions of employment there still is unequal treatment based on sex.

The restriction in respect of the admission of women to certain posts and offices in the Civil Service have been eliminated gradually. The Decree concerning a Woman's Eligibility for a Post or Office in the Civil Service (188/72) provides that a woman may be appointed to a provincial governor's post. Such an appointment has already taken place. A woman may also be appointed provincial councillor. But in the army and the police there are still offices which can be held only by men. In educational establishments and

penal and welfare institutions there are offices in which the office-holder shall be of the same sex as their trainees.

Under the Church Act (635/64) and the Decree on the Orthodox Church (203/53) women are eligible to the offices of the Evangelical, Lutheran and Orthodox Churches. Although these legislative texts do not contain any express provision stating that only a man can be appointed pastor or priest, they have been interpreted in practice so that a woman cannot be taken into consideration when such office is being filled.

Discrimination based on religion is also found in respect of religious instruction but a Bill proposing that a person not being a member of the Church could also give religious instruction if he has obtained a dispensation is under consideration by the Parliament.

Efforts have been made to promote equality of treatment and to avoid unjustified preferences between employees in access to employment and access to vocational training and education mainly through bodies where the representatives of the public authorities and the labour organisations are represented or in some other appropriate way. Among such bodies are the Labour Force Council, the Advisory Committee for Occupational Questions and the Finnish ILO Advisory Committee. In addition, two permanent advisory committees have been set up to consider the problems peculiar to Lapp and Gipsy minorities.

The Committee on the Status of Women suggested in its report for 1970 among other things, the creation of a special institute to promote equality between women and men. Such an institute has not yet been founded but the Equality Committee was set up instead to promote, among other tasks, equality between men and women.

There have been only single scattered cases of discrimination in Finland involving not so much violation of the relevant ILO Conventions but deriving from the out-of-date features in the legislation.

On the other hand, it is considered that no special protection is needed in view of the physical characteristics of men and women for instance in respect of heavy work and that accordingly, no distinction should be made on the basis of sex in this matter, but efforts should be made to reduce heavy work and to develop occupational safety measures in a way that both men and women could be employed in the same type of work.

Because the status of women in society, especially as regards their employment, greatly depends on the way in which children's day-care facilities are arranged, efforts have been made to draw attention to the necessity of creating a communal childcare network subsidised by the State which would provide all kinds of childcare services. Relevant legislation is in the process of being prepared.

New measures for the improvement of the situation are taken continuously, particularly as regards the elimination of discrimination based on social origin in respect of access to education which is achieved by educational grants and by increasing educational facilities at regional level.

No special legislation governing activities prejudicial to the security of the State exists in Finland but appropriate provisions of the Criminal Code shall be applied in cases connected with such activities.

SUDAN

Public Service Act of 10 May 1973.

The Permanent Constitution of Sudan, May 1973.

Employers and Employed Persons Ordinance (Amendment) Act of 1963.

Employment Exchanges Ordinance of 31 March 1955.

The provisions of the Convention are embodied in and enforced by the Constitution of the Democratic Republic of the Sudan and the relevant laws and regulations.

The Public Service Act regulates the recruitment, conditions of employment and the vocational training of civil servants irrespective of their race, sex, colour, religion or any other distinction.

Recruitment and promotion are based on the concept of merit by means of competition.

Under the Public Service Act the principle of equal pay for equal work covers all female employees who are also entitled to pensions and gratuities equal to those of male employees.

Equality of opportunity and treatment in respect of employment and occupation is applied in the private sector in accordance with the Employers and Employed Persons Ordinance and the Employment Exchanges Ordinance.

The Manpower Bill which has been submitted for approval to the Council of Ministers provides that a tripartite Higher Committee for Manpower shall be established to draw up employment and training programmes according to the economic needs.

Convention No. 112: Minimum Age (Fishermen), 1959

AUSTRALIA

New Guinea

Minimum Age (Sea) Ordinance, 1972.

Native Employment Ordinance, 1958-1971.

Article 1 of the Convention. The term "vessel", as defined in section 6 of the 1972 Ordinance, excludes "canoes". The application of this Ordinance is further restricted in that it does not cover service in vessels where only members of the same family are employed.

Article 2. The Native Employment Ordinance prescribes the legal minimum age for employment as 16 years. However, the Secretary of Labour may issue exemptions for persons below the age of 16 years but not less than 14 years.

Section 8 of the 1972 Ordinance provides that persons under the age of 18 years shall not be employed at sea unless a controller certifies that such persons have attained the age of 15 years. Employment of persons under the age of 15 years may be permitted under certain circumstances by virtue of section 9 of the 1972 Ordinance.

Article 3. There are no coal burning vessels operating or anticipated to be operated in Papua New Guinea.

Article 4. Applied by subsection 2 of section 8 of the Minimum Age (Sea) Ordinance.

Papua

See under New Guinea.

Norfolk Islands

Education Ordinance, 1931-1971.

Article 2 of the Convention. Under the Education Ordinance, the parent or guardian of any child between the ages of 6 and 15 years is required to cause that child to attend school for the full period of each half-day during which the school is open. The effect of these provisions is to preclude the employment during school hours in any occupation, including fishing, of children who are obliged to attend school. There were no exemptions granted or known cases of such employment in the period under review.

Article 3. There are no coal burning fishing vessels operating out of Norfolk Island.

Article 4. There are no school or training ships operating out of Norfolk Island.

Convention No. 113: Medical Examination
(Fishermen), 1959

ECUADOR

National legislation contains no provisions for the application of the Convention. For this reason, the Government is recommending that the principles of the Convention be included in both the Labour Code and the Health Code.

UKRAINE

Labour Code of the Ukrainian SSR of 10 December 1971.

Merchant Navy Code of the USSR, Decree of 17 September 1968.

Sanitary rules for seagoing ships of the USSR, of 28 July 1964.

Article 1 of the Convention. The sanitary rules make it compulsory for undertakings and collective farms who have fishing vessels of any kind to carry out preliminary medical examinations of persons who enter employment on board these ships.

Article 2. Periodical medical examinations are carried out by regional medical institutions with the help of specialised physicians who issue a certificate of fitness for the work for which the persons concerned are being recruited.

Article 3. Persons in charge of fishing vessels or collective fisheries, together with the health authorities, lay down the nature of the medical examination and the list of information which must be recorded in the medical certificate. In so doing account is taken of the age of the person concerned and the nature of the work which he will be called upon to perform.

Article 4. For persons below the age of 21, medical examinations may be held once again in the course of the year, but not later than twelve months after the first examination. Persons whose health has been shown not to be perfect are taken under observation by a dispensary and are given treatment. When necessary they are sent to a sanatorium or given a special diet at the expense of the State Social Insurance Scheme, or, in the case of collective fisheries, at the expense of the Central Union Social Insurance Fund of Collective Farms.

USSR

Fundamental Principles governing the health legislation of the USSR and the Union Republics, approved by Order of the Supreme Soviet of the USSR on 19 December 1969.

Decree No. 25 by the Ministry of Health of the USSR dated 14 January 1972.

Articles 1 and 2 of the Convention. The foregoing enactments make it compulsory in the USSR for a medical examination to be given to any person taken on as a crew member in the fishing fleet in order to ascertain his suitability for employment on board ship, in accordance with his state of health and physical development, depending on the type of vessel, area of service and type of job.

Article 3. Detailed rules for fishermen's pre-employment and periodical medical examinations are laid down in special instructions approved by Decree No. 25 of the Ministry of Health of the USSR dated 14 January 1972.

The results of pre-employment and periodical medical examinations are entered in each individual's out-patient treatment card (Form No. 25a) and seaman's medical booklet (Form No. 25m).

Article 4. In accordance with the Instructions (section 5), approved by Decree No. 25 issued by the Ministry of Health of the USSR on 14 January 1972, crew members of the fishing fleet must be re-examined once a year irrespective of their age. The certificate of fitness for employment as a fisherman is valid for one year.

If a routine examination falls due while a vessel is in a port other than the port of registration, the ship's doctor only arranges for crew members to be examined by the local clinic if such action is medically indicated.

Article 5. To settle disputes concerning the results of medical examinations a special committee is set up by order for each water transport health section (territorial or regional health section). This committee's decisions regarding the fitness of an individual, on the evidence of his state of health, for employment on board ship are final.

Convention No. 115: Radiation Protection, 1960

ECUADOR

Health Code (Registro Oficial No. 158 dated 8 February 1971).

Labour Code, 1971 (LS 1971 - Ec. 1).

Article 1 of the Convention. The Ministry of Public Health makes practical recommendations. Workers' and employers' representatives have not been consulted.

Article 2. Section 38 of the Health Code makes it compulsory for all enterprises, institutions and persons using radioactive equipment and material to keep a register. Section 128 of the Labour Code prohibits the employment of women and young persons under 18 in dangerous or unhealthy activities. Section 336(7) and

section 339 list occupational injuries and diseases, including those caused by radiation.

Article 3. In accordance with section 37 of the Health Code, the Health Authority lays down standards and carries out the checks and measurements necessary to keep exposure below the permissible levels. This Code applies to all workers.

Articles 4, 5 and 6. Section 39 of the Health Code makes it compulsory to check the radiation doses received by workers.

Article 7. As was said with reference to Article 2 of the Convention, section 128 of the Labour Code prohibits the employment of women and persons under 18 years in dangerous activities.

Article 8. In accordance with sections 40 and 43 of the Health Code, the Health Authority must approve all plans for the construction of premises or buildings to be used for work with radioactive material and is responsible for suspension and inspection.

Article 9. In accordance with section 41 of the Health Code, a legal licence is required to operate radioactive equipment or to work with sources of ionising radiations.

Articles 10 and 11. Sections 40 and 43 of the Health Code, mentioned above, make it compulsory for the Health Authority to inspect, to measure the exposure of workers to radiation and to approve plans for buildings to be used for radioactive work.

Article 12. According to section 44 of the Health Code, the Health Authority is responsible for all regulations concerning ionising radiations.

Article 13. Cf. sections 40 and 43 of the Health Code with reference to points (a) and (b) while, with regard to points (c) and (d), section 42 of the Code states that damaged radioactive equipment must be repaired or removed.

Articles 14 and 15. The Health Authority is responsible for setting standards, taking measurements and supervising operations in which there is exposure to radiation, as laid down in sections 37 and 44 of the Health Code, mentioned above.

FRANCE

Decree No. 66-450 dated 20 June 1966 respecting the general principles for protection against ionising radiations.

Decree dated 15 March 1967 to make regulations respecting the protection of workers against the dangers of ionising radiations.

Decree No. 58-628 dated 19 July 1958 to make regulations respecting the processes that are dangerous to children and women.

Order dated 18 April 1968 approving the monitoring methods laid down by the central service for protection against ionising radiations.

Order dated 19 April 1968 defining the regulations governing the use of individual dosimeters to be used for checking the dose equivalents received by workers directly assigned to work in which they are exposed to radiation and to the risk of external irradiation.

Order dated 20 April 1968 establishing the frequency of checks on encapsulated sources, plants, electrical apparatus generating ionising radiations and their safety devices.

Order dated 22 April 1968, establishing conditions for the approval of bodies empowered to carry out checks on the protection of workers against the dangers of ionising radiations.

Order dated 23 April 1968 approving the terms of the recommendations to doctors responsible for the medical supervision of workers exposed to the dangers of ionising radiations.

The preparation of a draft decree for the protection of workers against the dangers of ionising radiations in nuclear plants is at a very advanced stage.

New Caledonia

Order No. 60-364/CG dated 30 November 1960 concerning the protection of persons exposed to X-rays and radium radiation in hospitals, clinics, dispensaries, doctors' and dentists' consulting rooms and X-ray cabinets, gives effect to the Convention.

Territory of the Afars and Issas

Activities of the kind which would call for the protection provided for in the Convention are not carried on in this territory.

PARAGUAY

No activity exists in Paraguay in which workers are exposed to the dangers of ionising radiations. Nor does any legislation on this matter exist at present.

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

PANAMA

National Constitution.

Ministerial Decree No. 252 of 30 December 1971 to approve the Labour Code (Gaceta Oficial, 18 February 1972) (LS 1971 - Pan. 1).

Articles 1 and 2 of the Convention. All development and welfare policies are designed to promote social progress and a rise in living conditions, as is set out in article 59 of the National Constitution. Section 1 of the Labour Code provides that the Code will regulate the relations between capital and labour, and will afford special protection to workers.

Article 3, paragraph 1. Economic development plans are concerned with effecting the evolution of the population for whom they are established.

Paragraph 2. Efforts are being made to avoid the disruption of family life and to develop communities, particularly within the framework of agrarian reform. The migration of rural workers is due to the lack of incentives in their own regions, and for this reason efforts are being made to increase agriculture-related industries in these sectors as much as possible. In urban areas, the Government is trying to improve impoverished city areas and create industrial centres to provide higher standards of living, as well as to disperse inhabitants from overcrowded areas and improve basic services.

Article 4. Programmes are in effect to achieve the ends of this Article, especially by means of an agrarian reform programme which has been completed. This programme ensured that land went to those who worked there and gave technical aid and materials to develop the land for rural workers.

Article 5. Minimum wages are assured prescribed in accordance with sections 178 and 179 of the Labour Code, and are based on conditions of life in different regions.

Article 6. No worker in Panama can be obliged to live away from his home. Section 131 of the Labour Code provides that if a worker has to move his residence by virtue of his contract, the employer must pay removal expenses for the worker and his dependants. In addition the employer may not transfer a worker without his agreement, as section 197 of the Labour Code requires that any alteration in the terms of the contract must be by mutual consent.

Articles 7 and 8. The cases contemplated in these Articles have little practical application in Panama since it is a small country and since development along the canal and in the other regions assures a standard of living about the same everywhere.

Article 9. This is provided for by the establishment of different minimum wage levels in different areas.

Article 10, paragraphs 1, 2 and 3. Minimum wages are fixed by law but collective agreements may establish higher wages. Any contract to pay a worker less than the minimum wage is null and void under section 8 of the Labour Code.

Paragraph 4. Any worker paid less than the minimum wage can recover it by judicial means or administratively through the Ministry of Labour. The employer may also be fined for underpayment.

Article 11. All employers are required by section 128(11) of the Labour Code to keep a register of hours of work, salary, etc. Section 151 of the Code provides for payment in legal tender; section 153 for payment at the place of work; section 154 for payment directly to the worker; and section 148 provides for payments at regular intervals, which tends to lessen indebtedness. Payment in kind is limited to 20 per cent of wages by section 144 of the Labour Code. The minimum wages is the lowest cash amount which may be paid by an employer to a worker (section 173). The permitted deductions from wages are specified in section 161 of the Labour Code.

Article 12. Section 161(3) of the Labour Code provides that advances made to the worker by the employer may be repaid by deductions amounting to not more than 15 per cent of the wage at each pay period.

Article 13. Voluntary saving is encouraged by the banks. Usury is prohibited in the country, and penal sanctions are provided for violations. The Government is also increasingly interested in attracting small producers and artisans to loans for development of their businesses.

Article 14. Section 19 of the National Constitution prohibits discrimination on the grounds of race, descent, social class, sex, religion or political beliefs. Section 62 of the Constitution guarantees equal remuneration for equal work without distinction as to sex, nationality, age, race, social class, political beliefs or religion. Section 2 of the Labour Code provides that the Code shall apply to all employers; public employees are normally governed by the Civil Service Rules.

Article 15. Sections 88 and 89 of the National Constitution provide that free education is open to all Panamanians through the pre-university stage, without any distinction between persons. It is obligatory through the primary level.

As for minimum age of employment, see Convention No. 10.

Article 16. New techniques of production are taught to workers as fully as possible.

REPUBLIC OF VIET-NAM

Constitution of 1 April 1967.

Labour Code, Ordinance No. 15 of 8 July 1952 (LS 1956 - V-N. 1C).

Ordinance No. 26 of 26 June 1953 concerning recruiting conditions and hiring of workers for agricultural undertakings.

Ordinance No. 20 of 4 June 1953 modified by Ordinance No. 2 of 8 January 1955 fixing farm rentals.

Ordinance No. 7 of 5 February 1955 completed by Ordinance No. 28 of 30 April 1956 regarding abandoned rice fields and lands.

Ordinance No. 57 of 22 October 1956 establishing agrarian reform.

Law No. 003/70 of 26 March 1970 establishing the "Policy of Owner Cultivation of Rice Fields".

Decree No. 072/CCDD/PTNNN of 5 June 1970 establishing the means of application of Law No. LL3/70.

Article 1 of the Convention. The principles enunciated in the 1967 Constitution requires that all government policies be directed toward the well-being of the population and the harmony of all social levels.

Articles 2 to 4. Since Viet-Nam is essentially an agricultural country, the Government's principal concern has always been to create favourable economic and social conditions which will permit the rural population to progress in step with the rest of the country. Various land reforms have been carried out with a view to achieving this, primarily through helping small farmers to own land, as well as other measures.

Article 5. Since the Government's main concern has been to raise the standard of living of the rural population, no official inquiries have been made into the conditions of independent producers or of salaries, although a minimum guaranteed wage has been fixed after consultation with representative organisations of workers and employers.

Articles 6 to 9. Migrant workers are very rare in Viet-Nam, but some thousands of rural people work in the towns as a second job. The Government has taken all necessary measures to reinstall more than one million refugees from the north. There also exists a programme of transplantation of persons from over-populated areas into under-populated fertile areas.

Article 10. Minimum wage rates have been fixed for industrial and agricultural workers alike, and notices of these rates must be displayed in places of work. If workers are paid at a lower rate, the difference is recoverable.

Article 11. Section 122 of the Labour Code provides for the keeping of records of all particulars relating to pay. Section 118 requires wages to be paid in legal tender at the place of work, and by implication forbids payment in the form of alcoholic beverages. According to section 119 of the Code, payment must be at least once a month, and usually more often. The legislation does not cover the provision of Article 11(7) of the Convention, but labour inspectors may require justification for the value ascribed to food, housing, etc. Sections 67 and 112, relating to minimum wages, and the provision of accountings for payment made to each worker under section 122 of the Code, aid workers understand their rights in this regard. Deductions from wages are forbidden by sections 132 and 134 except for certain items.

Article 12. There is no limitation in national legislation on the amount of advances on wages, but limits of repayment are set in sections 132 and 134 of the Code.

Article 13. Various institutions have been created to give low cost loans to the working classes and to independent producers.

Article 14. No discrimination between workers exists on grounds of race, colour, sex, belief, membership in a tribal group or trade union affiliation. The Labour Code applies both to Vietnamese and foreigners.

In the private sectors, wages are determined either by contracts of work or by collective agreements or by works agreements. In no case may these wages be less than the prescribed minimum wage rates for the three categories of workers: men, women and young persons under 18 years of age.

Article 15. The development of education has always been one of the main preoccupations of the Government, but it has not been fully realised because of the wars. However, the Government now intends to give urgent attention to the establishment of primary schools of six classes in each of the 8,600 hamlets of the country. At the same time a large programme of educational reform will attach particular importance to aiding students to become competent agriculturalists, trained workers or qualified technicians, through community education at the primary level, comprehensive high schools at the secondary level, and polytechnic institutions at the university level. Plans have been developed for the establishment or expansion of institutions at all three levels.

School-leaving age has not yet been provided for in legislation, but studies have been instituted on the question which envisages compulsory education until the end of primary school.

Section 159 of the Code provides that children under 14 years may not be employed except in undertakings where only members of the same family work. Section 160 provides that manual or vocational training for children under 12 years in orphanages or charitable institutions may not be more than 3 hours per day, and records must be kept in these institutions of the conditions of work if manual work is effected there. Night work is forbidden for young persons under 18 years. Section 114 of the Code provides that children doing work equal to an adult's have a right to the same wage as adults, as do workers over 18 years under section 115.

Article 16. Several methods are used for teaching new techniques of production, and workers may apply to the competent authorities for training. Organisations of employers and workers of the region from which candidates come are consulted by the competent authorities and are usually invited to co-operate with them.

The legislative provisions are enforced by the labour inspectorate and through the Ministries of National Economy, Agrarian Reform and Development, Fisheries and Stock-Breeding and National Education.

Convention No. 118: Equality of Treatment
(Social Security), 1962

FEDERAL REPUBLIC OF GERMANY

Social Security Code of 19 July 1911 as amended up to 16 October 1972 (BGBI I 1965).

Employment Promotion Act of 25 June 1969 (BGBI I 582) (LS 1969 - Ger. (F.R.) 1).

Maternity Protection Act (LS 1965 - Ger. (F.R.) 2), as amended up to 18 April 1968 (BGBI I 315).

Agricultural Workers' Insurance Act of 10 August 1972 (BGBI I 1433).

Foreign Pensions Act of 25 February 1960 (BGBI I 94).

Article 3 of the Convention. Equality of treatment is granted to the nationals of all other Members for which the Convention is in force, and to their survivors, as regards coverage and the right to benefits.

Article 4. Equality of treatment is granted without any condition of residence, as regards the granting of benefits. When ratifying the Convention, the Federal Republic of Germany stated that it considered as benefits granted under transitional schemes, in the sense of subparagraph 6(b) of Article 2 of the Convention, those benefits paid for occupational accidents occurring during, or related to, work outside the territory of the Federal Republic; these benefits are not granted to the persons listed in article 15, paragraph 4 of the Act of 25 February 1960. Provisions to prevent the cumulation of benefits are usually included in the agreements mentioned under Article 5.

Article 5. Article 313, paragraph 5, of the Social Security Code, according to which the death benefit is not granted in the event of death abroad, is not applied to Germans, refugees, stateless persons and the nationals of other Members who have accepted the obligations of the Convention for the sickness insurance branch. Article 625 of the same Code, under which pensions for employment injuries or occupational diseases are suspended if the beneficiary is residing outside the Federal Republic, is no longer applied to refugees, stateless persons and the nationals of other Members who have accepted the obligations of the Convention for the branch in question (article 2 of the Act of 21 August 1970). Bilateral agreements have been concluded with some States.

Article 10. The legislation makes no distinction between nationals and Refugees or stateless persons residing in the Federal Republic nor, to the extent indicated in Article 5, those residing abroad. The persons to whom the German social security legislation does not apply by virtue of the Vienna Conventions on diplomatic and consular relations are treated like German nationals (as regards the status of protected person and entitlement to the resulting benefits) only when this is provided for in the bilateral or multilateral agreements mentioned under Article 5.

Article 11. The bilateral or multilateral social security agreements and their rules of application include provisions concerning free administrative assistance.

Article 12. No instrument has been specially drawn up granting benefits after the coming into force of the Convention, as the result of contingencies occurring before this entry into force.

Application of the Convention is the responsibility of the social security institutions, which are autonomous public law bodies under the control of the administrative authorities of the States and the Federation.

REPUBLIC OF VIET-NAM

Ordinance No. 15 (8 July 1952) promulgating a Labour Code, as amended and supplemented by the Ordinance dated 30 April 1956 (LS 1956 - V-N. 1).

Labour Code for Agricultural Undertakings, Ordinance No. 26 (26 June 1953) (Journal Officiel, 24 July 1953).

Ordinance No. 2 (20 January 1953) governing family allowances for workers and employees of industrial, mining and commercial undertakings, and for the professions (Bulletin Officiel du Haut-Commissariat de France en Indochine, 30 April 1953).

Order dated 31 January 1944, supplemented by Order dated 2 May and Circular dated 17 May 1944, governing compensation for occupational accidents occurring to Indochinese workers and employees (Journal Officiel, No. 10, 2 February 1944, No. 37, 6 May 1944, and No. 42, 24 May 1944).

Legislative Decree No. 023/65 (9 October 1965) governing the prevention and treatment of, and compensation for occupational disease, supplemented by Orders Nos. 1065-ND/LD (20 June 1966) and 205-BLD/TTT/ND (28 July 1966).

Collective Agreement for Rubber Plantations in Viet-Nam, approved by Order on 19 May 1960 and revised on 25 August 1967.

Article 2 of the Convention. The Republic of Viet-Nam has declared its acceptance of the obligations set forth in the Convention for maternity benefits, employment injury and disease benefits and family benefits.

Article 3. Maternity benefits are granted by virtue of the Labour Code, sections 193 and 194, irrespective of nationality. Section 1 of the Ordinance dated 20 January 1953 lays down that family benefits are granted to workers no matter what their civil status may be.

Employment injury and disease benefits are granted to foreign nationals if, in the countries from which those foreigners came, Vietnamese citizens are granted similar treatment (Labour Code, section 246 and section 1 of the Legislative Decree dated 9 October 1965).

Article 4. There are no conditions of residence required for equality of treatment as regards the benefits. However, residence is required for family benefits, which, by virtue of section 11 of the Ordinance dated 20 January 1953, can be granted only if a certificate delivered by the authorities less than a month before can be presented, attesting that a couple have been living together.

There are no special provisions governing transitional schemes.

The Republic of Viet-Nam is ready to enter into agreements with other member States to avoid duplication of benefits.

Article 5. A Bill to set up a compulsory insurance scheme against occupational accident and disease provides that a person who goes to live abroad can keep his right to benefits, by virtue of any bilateral or multilateral agreements that may be reached later.

Article 6. Family allowances are not paid for children not living in Viet-Nam. Viet-Nam has entered into no agreements whereby this rule might be relaxed.

Articles 7, 8 and 9. The Republic of Viet-Nam is a party to no system for the maintenance of acquired rights and rights being acquired, and has entered into no agreements in this connection.

Article 10. The law makes no special provision for refugees and stateless persons. Such people, however, are entitled to equal treatment as regards maternity and family benefits. Since the grant of occupational accident and disease benefits is subject to reciprocity, changes will be made in the law to bring it into line with the Convention.

Article 11. The Government is ready to offer its administrative assistance free of charge to those member States for which the Convention has taken effect.

Article 12. No instrument has been entered into to cover contingencies occurring before the Convention took effect. The Labour Inspection Department is responsible for ensuring that the Convention is complied with.

Convention No. 119: Guarding of Machinery, 1963

BYELORUSSIA

Act No. 2-VIII dated 15 July 1970 of the Supreme Soviet of the USSR to approve fundamental principles governing the labour legislation of the USSR and the Union Republics (LS 1970 - USSR 1).

Labour Code of the Byelorussian SSR adopted by the Supreme Soviet of the Byelorussian SSR, 23 June 1972.

Schedule of measures for the protection of labour approved by decision of the Central Trade Union Council dated 30 May 1969.

The protection of labour is the subject of many laws and regulations. The law makes no distinction between mechanically and manually powered machinery and requires that all dangerous parts of all machines, tools, appliances, devices and installations should be properly guarded. The existing rules apply to industry as a whole and to all branches of economic activity.

In accordance with section 104 of the Fundamental Principles governing the Labour Legislation of the USSR and section 245 of the Labour Code of the BSSR, enforcement of safety measures is the responsibility of state bodies, inspectorates, trade unions and the technical and legal labour inspectorates. Trade unions are empowered to supervise in various ways the observance of safety and health by the managements of undertakings and establishments.

ECUADOR

Labour Code (LS 1971 - Ec. 1).

Article 1 of the Convention. Section 392 of the Labour Code protects the worker against the danger of moving machinery by making the wearing of suitable clothing compulsory. Section 393 makes it compulsory for the operative to inform his employer of any defects in the machinery so that it can be repaired. If the employer does not fulfil this duty, the worker must notify the competent authority. A record is made of every order suspending the use of a machine.

Article 2. The cleaning of moving machinery is forbidden and the adoption of any other necessary safety devices is compulsory.

Articles 3, 4 and 5. There are no cases of hire or transfer of machines, so that these Articles do not apply.

Articles 6 and 7. Section 394 of the Code lays down that operatives must be warned, by means of agreed signals, before a machine is set in motion. Section 396 makes it compulsory for the Directorate of Labour to issue the necessary regulations listing the protective devices which must be installed. It must also take note of all complaints on this matter made by employers or workers. It is empowered to impose penalties in the event of an infringement.

Articles 8 and 9. Section 401 of the Labour Code lays down that safety devices are exempt from all taxes when imported, subject to authorisation by the Finance Minister. The same measure applies to all educational materials. Workers' and employers' organisations have not been consulted on this point.

Article 10. Section 341 of the Labour Code makes it compulsory for the employer to provide medical, surgical or pharmaceutical assistance without the right to reimbursement, until the worker can, with medical approval, resume work. Employers must establish danger-free working conditions.

Articles 11, 12 and 13. Both employers and workers must observe the prescribed measures. Self-employed workers are covered by special regulations for such enterprises, whether commercial or industrial.

Article 14. Section 10 of the Labour Code defines the employer as the individual or body (of any type) on whose account or to whose order the work is carried out or the service performed. The employer can therefore be considered an agent as well.

Article 15. Section 386 of the Labour Code makes the Department of Industrial Health and the Labour Inspectors responsible for enforcement of the regulations.

Article 16. The employers' and workers' organisations have not been consulted.

Article 17. Ecuador has made no declaration restricting the application of the Convention.

PANAMA

Labour Code, approved by Ministerial Decree No. 252, dated 30 December 1971 (Gaceta Oficial, 18 February 1972) (LS 1971 - Pan. 1).

Article 1 of the Convention. In Panama, the term "machine" is taken to mean one which is not manually powered.

Article 2. In Panama, all machines when received are provided with protective devices and all their parts are guarded.

Articles 3, 4, 5 and 8. These Articles of the Convention are observed.

Article 6. It is prohibited to use machinery which is not fitted with protective devices.

Article 7. Observance of this provision is the responsibility of the employer.

Article 10. The Safety Department of the Social Insurance Fund and the Occupational Safety Department of the Ministry of Labour organise talks and film shows to inform workers about accident prevention.

Article 11. Machinery is always equipped with safety devices and new machines incorporate special cut-off devices.

Article 12. Under section 8 of the Labour Code, no worker may suffer any worsening of the conditions to which he is already entitled.

Article 15. There are safety committees, each composed of two workers appointed by the employer and two by the trade union. These committees are responsible for pointing out any defects in or

damage to the machinery and, if the problem is serious, the Safety Department of the Social Insurance Fund or the Ministry of Labour must remedy the situation. The latter bodies are responsible for supervision and inspection.

SPAIN

General Occupational Safety and Health Ordinance, approved by Order dated 9 March 1971 (LS 1971 - Sp. 2).

Labour Inspection Act dated 21 July 1962, and its Regulations, approved by Decree dated 23 July 1971 (LS 1971 - Sp. 5).

Article 1 of the Convention. Chapter VIII of Part II of the General Occupational Safety and Health Ordinance contains the general rules for the guarding of machinery. There are other, more specific rules in other regulations and labour ordinances.

Article 6. The aforementioned General Ordinance includes this provision of the Convention.

Article 9. There are no exemptions.

Article 10. Works regulations contain adequate rules on safety standards and the guarding of machinery.

Article 13. The aforementioned General Ordinance applies to all persons covered by social security and consequently to all self-employed workers.

Article 15. The Labour Inspectorate is responsible for enforcing the said Ordinance and can impose penalties.

Article 16. The Trade Union Organisation was consulted in the drafting of the said Ordinance.

YUGOSLAVIA

Decree dated 4 April 1965 to promulgate a Basic Act respecting the protection of labour (Službeni List No. 15, 5 April 1965) (LS 1965 - Yug. 3).

Regulations dated 14 April 1967 respecting the general safety measures and rules applicable to work with tools and equipment (Službeni List No. 18, 26 April 1967).

Regulations dated 13 May 1967 respecting the periodic tests to be made in connection with tools and equipment, harmful chemical and organic agents and atmospheric conditions (Službeni List No. 26, 14 June 1967).

Articles 1-9 of the Convention. Manufacturers of machines, mechanical equipment and protective devices must observe the prescribed measures and rules and obtain an attestation from the relevant specialised safety institution (sections 19-21 of the Basic Act respecting the protection of labour).

Organisations which import machinery must ensure that this meets the prescribed measures and rules for the protection of labour (section 8 of the Basic Act).

The Basic Act respecting the protection of labour prohibits the use of unguarded machinery and makes it compulsory for undertakings to ensure, through the specialised institutions, that the machines and their safety devices are periodically checked.

Articles 10 and 11. Every worker has the right and the duty to know the measures prescribed for the protection of labour, and the organisation and operation of this protection. The law lays down the worker's obligations, not only with regard to observing the prescribed protective measures but also with regard to any improvements that may be made. A worker has the right to refuse to work until the hazards resulting from non-observation of the prescribed measures are eliminated.

Articles 12-14. The ratification of the Convention does not affect workers' rights under social security regulations. Private employers and undertakings are both responsible for observance of the Convention. In agriculture, the application of the provisions of Part III of the Convention is ensured by the Regulations on the protection of labour in agriculture (Službeni List No. 34/68), which also apply to individual farmers.

Articles 15-16. The Basic Act respecting the protection of labour has instituted a system of enforcing the prescribed measures; it lays down penalties for undertakings and private employers who sell, operate or hire machines and mechanical equipment which do not have an attestation from a specialised institution. The persons responsible are liable to penalties if, before using the machinery, they do not inform workers of the conditions and hazards involved in their work.

Convention No. 120: Hygiene (Commerce and
Offices), 1964

REPUBLIC OF VIET-NAM

Ordinance dated 15 July 1952 to promulgate the Labour Code (LS 1956 - V-N. 10).

Order No. 27-BLD/TTT/ND dated 3 February 1967 establishing safety and health regulations for workers in industrial and commercial undertakings.

Order No. 45-BLD/TTT/ND dated 13 March 1965 to replace Decree No. 6-LDTN/ND dated 26 July 1957, establishing the regulations for applying the provisions of the Labour Code respecting medical or health services in undertakings.

Article 1 of the Convention. According to the Labour Code, the health and hygiene conditions must be observed in all industrial, mining, commercial, agricultural and handicraft undertakings etc. A medical service for workers is also provided for.

Article 2. Establishments in which the members of the family are employed exclusively are exempt from the relevant provisions.

Articles 4 and 5. The provisions of Part II of the Convention are covered by national legislation. In addition, the Government is making efforts to put the provisions of Recommendation No. 120 into effect.

Article 6. Labour and social security inspectors are responsible for enforcement. The employer must keep a safety register to be checked by the labour inspectors, in which workers' delegates can put forward their opinions on questions of occupational safety and health. In the event of infringement, penalties can be imposed.

Articles 7-13. The provisions of these Articles are covered by Order No. 27, 1967 (sections 2, 3, 4, 6, 8, 9, 10, 12, 14, 16).

Article 14. National legislation has no corresponding provision. In practice, however, this rule is observed.

Articles 15-17. The provisions of these Articles are covered by Order No. 27, 1967 (sections 3, 5, 6, 15, 38 and 39).

Article 18. National legislation contains no provisions respecting protection against the harmful effects of noise and vibrations. In practice, appropriate measures are taken when workers' delegates indicate that these are necessary; they can also use the safety register mentioned above for this purpose.

Article 19. National legislation lays down the first-aid measures or permanent medical services corresponding to the number of workers employed.

Convention No. 121: Employment
Injury Benefits, 1964

BELGIUM

Act dated 10 April 1971, on occupational accidents (MB 24.4.1971) (LS 1971 - Bel. 3). This Act replaces the legislation concerning compensation for industrial accidents, as coordinated by the Royal Order dated 28 September 1931 (MB 30.10.1931) and the legislative order dated 15 December 1946, on compensation for accidents occurring on the way to or from work (MB 16.2.1946).

Royal Order dated 25 October 1971, laying down the effective date of the Occupational Accidents Act of 10 April 1971 (MB 24.11.1971).

Royal Order dated 25 October 1971 extending the scope of the Occupational Accidents Act of 10 April 1971 (MB 4.11.1971).

Royal Order dated 21 December 1971 implementing certain provisions of the Occupational Accidents Act dated 10 April 1971 (MB 28.12.1971) Errata MB 7.1.1972 and MB 29.3.1972.

Royal Order dated 21 December 1971 on allowances and social assistance granted by the Occupational Accidents Fund (MB 31.12.1971) Erratum MB 7.1.1972.

Royal Order dated 28 December 1971 laying down special rules applying the Occupational Accidents Act dated 10 April 1971 to seamen (MB 31.12.1971).

Royal Order dated 30 December 1971 setting forth a scale of charges for medical care given in the event of occupational accidents (MB 7.1.1972).

Royal Order dated 3 June 1970 co-ordinating the legislation applicable to occupational diseases (MB 27.8.1970) Erratum MB 18.9.1970).

Royal Order dated 5 October 1971 (MB 8.10.1971) amending the Regent's Order dated 23 May 1949 offering additional allowances to certain people who were beneficiaries under the Act dated 24 July 1927, on compensation for occupational disease.

Royal Order dated 25 October 1971 (MB 4.11.1971) amending the Regent's Order dated 23 May 1949.

Royal Order dated 28 March 1969 giving a list of occupational diseases for which compensation is payable (MB 4.4.1969), amended by the Royal Order dated 28 May 1969 (MB 3.6.1969).

Article 2 of the Convention. No temporary exception has ever been made.

Article 3. No recourse has been had to this Article.

Article 4. No use has been made of subparagraph 2.

Article 6. No minimum degree has been specified.

Article 7(1). An "occupational accident" is any accident occurring to a worker while performing a contract of employment or by virtue of that contract, when such accident causes injury. An accident occurring on the way to or from work is considered as an occupational accident too.

Article 8(a). As regards the application of this clause, the Government refers to section 30 of the Co-ordinated Legislation relating to Occupational Disease, which gives the King the power to draw up a list of such diseases and lays down that diseases which are the subject of an international Convention binding on Belgium shall provide entitlement to compensation.

Article 9(1). The Government quotes section 28 of the Act dated 10 April 1971, by which the victim is entitled to medical

care, drugs, surgical operations, and so on, rendered necessary by his injuries, for three years, when his case is reviewed.

Article 9(2). No subordination is imposed.

Article 10. Belgian legislation covers all such medical care and the Government quotes sections 28 to 33 of the 1971 Act.

Articles 11 and 12. The Government says that no use has been made of these Articles.

Article 13. The Government refers to section 24 of the 1971 Occupational Accidents Act which provides for payment of an annuity until such time as the disability is observed to be permanent. There is no such time limit set as regards occupational diseases.

Article 14(1). Under section 45 of the 1971 Occupational Accidents Act, the victim, the spouse and their ascendants can have not more than one-third of the annuity paid as a lump sum.

Article 15(1). A minimum degree of incapacity is not specified. Even as little as a drop of 1 per cent in earning ability gives entitlement to benefits in cash. The Government refers, too, to section 45 of the 1971 Occupational Accidents Act.

Article 16. The Government refers to section 24(2) of the Occupational Accidents Act, and to section 35(3) of the Co-ordinated Legislation concerning Occupational Diseases, which provide that the annual grant may be increased beyond 100 per cent but may not exceed 150 per cent, if the condition of the victim is such that he needs constant assistance from somebody else.

Article 17. The Government quotes sections 25 and 72 of the Occupational Accidents Act and section 52 of the Co-ordinated Legislation concerning Occupational Diseases, which relate to cases in which incapacity gets worse and periodical payments have to be reviewed.

Article 18. The Government quotes sections 12 to 21 of the Occupational Accidents Act and section 33 of the Co-ordinated Legislation, relating to survivors' benefits.

Articles 19 and 20. The following rules are followed for the calculation of benefits:

Incapacity to Work:

(a) Total temporary incapacity. A daily allowance of 90 per cent of the average daily earnings from the day after that on which incapacity begins.

(b) Partial temporary incapacity. The insurer's medical adviser can ask the industrial physician to consider whether the man can go back to work. In the meantime the victim is entitled to a total temporary incapacity allowance. When his employer suggests that he come back to his job, the victim may ask for the advice of the works Health and Safety Committee, or of the joint board responsible for inspection of the inter-occupational medical service of which the employer is a member.

(c) Permanent incapacity. An annual grant of 100 per cent, calculated according to the basic earnings and degree of incapacity. If the victim needs constant attention from somebody else, the rate may be increased to not more than 150 per cent. An assessment is made after three years, and if the victim is still found to be helpless, this grant is replaced by a life annuity.

Fatal Occupational Accident:

(a) Payment of a funeral indemnity equal to thirty (30) times the average daily earnings. In no circumstances may this indemnity be less than the corresponding allowance paid on the date of death, under the laws concerning compulsory sickness and invalidity insurance.

(b) Payment of a life annuity to survivors.

(c) The insurer pays the cost of taking the body to the point at which the family wants it buried.

As regards calculation of previous earnings, the following rules are followed (sections 34 to 40 of the Occupational Accidents Act): the basic earnings are those to which the worker was entitled for the year preceding the accident. The maximum amount taken into consideration is 300,000 Belgian francs a year. For apprentices and minors suffering from a temporary incapacity, the amount to be taken into account may not be less than 60,000 francs a year. The basic earnings are linked to variations in the consumer price-index. The basic period used in calculations of family allowances is the month (number of working days per month).

As regards all periodical payments (for all contingencies) and for every typical beneficiary shown in table II of the Convention, Belgian legislation goes far beyond the percentages shown in that table.

Family allowances are linked to variations in the consumer price-index.

Article 21. Following reassessment resulting from variations in the cost of living, benefits were twice raised during the period under review. The report gives details of these increases and says that they correspond to changes in the cost-of-living index and earnings index occurring during the period under review.

Article 22. The Government quotes sections 48 of the Occupational Accidents Act and 42 of the Co-ordinated Legislation concerning Occupational Diseases, which prescribe cases of authorised suspension.

Article 23. There is a right of appeal, to courts specially set up to deal with these matters.

Article 25. The Occupational Diseases Fund is a semi-official body. The Occupational Accidents Fund gives compensation when there is no employer.

Article 26. The preventive action taken comprises a vast corpus of detailed legislation concerning wage earners' health and safety (Act dated 10 June 1952) and action for social rehabilitation

(Act dated 16 April 1963), guidance in studies and the search for another job, special instruction, etc. The report gives some figures for occupational accidents and disease.

Article 27. Equality of treatment is a principle which brooks no exception.

The Social Security Department (Occupational Accidents and Disease Section) of the Ministry of Social Welfare, is responsible for seeing that laws and regulations are complied with.

YUGOSLAVIA

Laws of the Federal Republics of Yugoslavia respecting the health insurance of, and compulsory forms of health protection for, the population:

- (a) Social Republic of Bosnia and Herzegovina (Službeni List No. 35/70);
- (b) Socialist Republic of Macedonia (Službeni Vesnik No. 21/71);
- (c) Socialist Republic of Montenegro (Službeni List No. 20/70 and 27/70);
- (d) Socialist Republic of Croatia (Narodne Novine No. 32/70 and 48/70);
- (e) Socialist Republic of Serbia (Službeni Glasnik No. 27/70 and 50/70);
- (f) Socialist Autonomous Republics of Vojvodina, Kosova and Slovenia (Službeni List No. 24/70 and 34/70, Uzadni List No. 26/70).

Law respecting invalidity insurance (Službeni List of the FSRY No. 10/65, 14/66, 1/67, 23/67 and 55/69).

In accordance with article 153 of the Constitution of Yugoslavia the ratification of Conventions gives force of national law to their terms.

Articles 1-5 of the Convention. By virtue of the provisions of the Federal Republic's legislation, compulsory health insurance covers persons in regular employment, the members of the Representatives' Councils and their executive bodies, elected persons exercising permanent functions with the social, co-operative and self-governed organisations, members of the co-operative for artisans and fishermen whose activities in these co-operatives constitute their only or main occupation and apprentices in the vocational and other schools.

For the purpose of employment injury persons having no status of the insured persons and members of their families having no status by the provisions of the Republic's legislation on health

insurance when such persons participate in the work of youth or public nature, undergo pre-military studies or are students of professional schools or higher educational establishments and undergo obligatory practical work required by their curricula. In addition, all citizens participating in the activities connected with rescuing or fighting natural calamities or exercising public and civil functions on the request of the state bodies are covered in this respect.

Invalidity insurance covers regardless the cause of the invalidity all employed and assimilated persons enumerated above in respect of health insurance.

Articles 6-8. The Report gives the definition of the employment injury in the national legislation. This definition also includes commuting accidents. The list of occupational diseases constitutes the integral part of the legislation on invalidity insurance.

Articles 9-14. By virtue of the legislation on health insurance protection in case of employment injury comprises prevention and treatment of sickness, utilisation of all medical and orthopaedical means which are necessary for care and rehabilitation with the purpose of eliminating the consequences of employment injury. The protection also comprises compensation substituting personal incomes during the incapacity for work caused by employment injury as well as travel expenses in this respect, health protection is not subject to any condition of qualifying or waiting period.

The compensation for the first thirty days is at the expense of the employing organisation. The minimum rate of compensation is 60 per cent of the basis for calculation. In Serbia and autonomous regions of Kosovo, it is payable at the rate of 100 per cent. After expiration of thirty days compensation is payable from health insurance funds at the rate of 100 per cent of the basis for calculation.

Articles 15-21. The law respecting invalidity insurance guarantees to all insured persons the right for an invalidity pension and allowances for care, assistance and protection rendered by a third person; the right for free rehabilitation services; the right for employment and indemnities resulting therefrom (temporary allowances, allowances for shorter hours of work, allowances for reduced salaries as a result of transfer to another post); the right for travel allowances.

The right for invalidity insurance with the exception of the right for a pension does not depend on a qualifying period or a cause of invalidity.

In case of employment injury the right for invalidity pension does not depend on qualifying period.

The amount of the invalidity pension constitutes 85 per cent of the basis for the old-age pension. The latter is the average of the monthly personal income for any five successive years during the last ten years or the average of any ten successive years during the whole period of employment. The income for the last two years is taken at the nominal value whereas the income for the preceding years is adjusted to the level of the personal income of the year

preceding the last year of the work of the injured person. If the period of employment is less than twelve months the income is calculated on the basis of the old-age pension to which the person would have been entitled if he had fulfilled the prescribed conditions. The injured person having the right for family allowances continues his entitlement in the quality of invalid.

The amount of the family pension (survivors' pension) varies from 70 to 100 per cent of the basis for the old-age pension and depends on the number of the members in the family. In effect the basis for the family pension corresponds to the old-age or the invalidity pension to which the breadwinner had been entitled to on his death. In case of employment injury the amount of the family pension constitutes 85 per cent of the basic for the old-age pension regardless of the qualifying period.

Articles 22-25. The right for the invalidity pension begins on the date of the invalidity resulted from employment injury and continues during the whole period of invalidity giving the title for the pension.

When there are changes in the degree of invalidity or capacity for work which provoke the loss or modification of the required right the new right begins with the first day of the month following the date when such changes occur.

When the beneficiary finds an employment or exercises independent activities his pension can be withdrawn or reduced during such activities as well as compensation for care and protection of the professional invalidity.

No protection is rendered in case of the invalidity intentionally caused by the person concerned with the purpose of receiving the benefits from the invalidity insurance.

Health invalidity and old-age insurance is organised on the basis of self-management in the framework of insurance communities. The communities assure the application of the Federal and Republican legislation from the administrative and financial point of view. In addition they are dealing with professional rehabilitation and placement of invalids.

Article 26. The legislation on invalidity insurance obliges the organisations and institutions to reserve for invalids working places corresponding to their capacity of work. These places also serve for the purpose of professional rehabilitation of the invalids. The legislation also obliges employers to take preventive measures to assure that each worker who engages in the relations of work for the first time undergo medical examination and get a certificate that he satisfies the conditions of health required by the job. The legislation also prescribes preventive measures respecting safety and hygiene at the working places.

Article 27. Foreign citizens working in Yugoslavia have the same rights for social insurance as Yugoslavs.

Convention No. 122: Employment Policy, 1964

CAMEROON

Law No. 67-LF-6 of 12 June 1967 to institute the Labour Code
(LS 1967 - Cam. 1).

There is no specific law in regard to employment policy. However the Labour Code provides for placement and manpower services.

Employment policy is incorporated into general government policy on national economic and social development and improvement in the standard of living of the masses.

DENMARK

Greenland

Article 1 of the Convention. The objectives of economic policy correspond to those in Denmark and great importance is attached to the attainment of full employment. A permanent working group advises the Ministry for Greenland on questions of employment and training.

In order to increase the number of workplaces, a comprehensive state investment programme is carried out, covering investments both in public works and in production. Low-interest loans are given to private investors. Economic support can be granted to persons receiving training.

Article 2. Initiatives to modify or improve existing arrangements are taken by the political and administrative authorities. Over-all economic planning is the responsibility of the Ministry for Greenland in co-operation with the administrative authorities in Greenland.

Article 3. So far no negotiations with the organisations concerned have been initiated.

FRANCE

Act No. 66-892, dated 3 December 1966, to lay down a vocational training policy and programme (JO, 4 December 1966, No. 279, p. 10611).

Act No. 63-1240, dated 18 December 1963, respecting a National Employment Fund (LS 1963 - Fr. 10).

Ordinance No. 67-578, dated 13 July 1967, to establish a National Employment Agency (LS 1967 - Fr. 1).

Decree No. 70-238, dated 19 March 1970, respecting a national information office for training and career opportunities (JO, 20 March 1970).

Decree No. 71-96, dated 2 February 1971, to establish an inter-ministerial employment committee (JO, 4 February 1971, p. 1203).

Act No. 71-567, dated 15 July 1971, approving the Sixth Economic and Social Development Plan (JO, 16 July 1974, p. 7003).

Act No. 71-575, dated 16 July 1971, to organise continuing vocational training as part of life-long education (LS 1971 - Fr. 1).

Act No. 71-576, dated 16 July 1971, respecting apprenticeship (LS 1971 - Fr. 2).

Act No. 71-577, dated 16 July 1971, respecting guidance towards technological education (JO, 17 July 1971, No. 164, p. 7044).

Act No. 71-578, dated 16 July 1971, respecting the participation of employers in financing the first technological and vocational training schemes (*ibid.*, p. 7046).

Act No. 72-1150, dated 23 December 1972, establishing the mobility grant for young persons (*ibid.*, 27 December 1972, No. 301, p. 13480).

Article 1, paragraph 1, of the Convention. The goal of full employment, already written into the Fourth and Fifth Economic and Social Development Plans, has been restated in the Sixth Plan which stresses the need "to pursue a rapid, balanced growth, ensuring full employment with no slowing down of the present rate of change". The Plan aims at an annual increase in the gross domestic product of the order of 6 per cent for the period from 1971 to 1975. This policy of growth is accompanied by a planned development of community facilities and incentives to investment, with the particular aim of bringing about a more balanced distribution of activities over the country as a whole. An active employment policy has been progressively evolved over the last ten years by means of the aforementioned legislation. Comprehensive measures have been taken with a view to ensuring that immigration, when necessary, takes place in conditions which preserve the dignity of the immigrant workers and the interests of the national economy.

Article 1, paragraph 2. The goal pursued transcends the merely quantitative notion of full employment. Both workers' aspirations and the needs of the economy impel the quest for "better jobs" for all. This end is pursued chiefly through post-school vocational training and placement. Vocational training has been expanding rapidly since 1966 and is provided in the centres approved under the Act dated 3 December 1966, and through the National Association for Adult Vocational Training and the National Employment Fund. The working of the labour market has been improved, through the establishment of the National Employment Agency, which now operates in every département. The machinery for informing job applicants has been reinforced by setting up the National Information Office for Training and Career Opportunities, and the

fluidity of the market has been enhanced by measures such as transfer bonuses, and grants to cover costs of transport, removal and resettlement for unemployed workers who have completed a training course and are leaving an area of underemployment. Similarly, workers leaving agriculture receive help from the Social Action Fund for Restructuring Agriculture.

Article 1, paragraph 3. The high level of activity resulting from action in the field of employment policy makes available to the national community the resources necessary for improving the social protection of the worst-off groups in society, in particular people who are not able to work.

Article 2. Co-ordination between employment policy and economic policy as a whole is effected chiefly within the Development Plan. Thus the Sixth Plan was based on a combined physical and financial model which allows simultaneously for the physical variables of the economy such as production, employment and investment, and for the financial variables such as prices, incomes, public expenditure and revenue. The Sixth Plan is characterised by the introduction of an annual progress report on employment, for which the Employment Commission is responsible.

The Interministerial Employment Committee, presided over by the Prime Minister, comprises all ministers involved in general employment policy, the General Planning Commissioner, the Regional Development Delegate and the General Secretary of the Interministerial Committee for Vocational Training. The Minister of Labour, Employment and Population is a member of the Interministerial Committee on Regional Development and is represented on the specialised committees of the Economic and Social Development Fund. Progress in the field of employment is reviewed every three months at the regional and national levels by an interdepartmental group composed of representatives of the Ministers of Labour, Finance, Industry and the National Institute of Statistics and Economic Studies.

Article 3. Employers' and workers' organisations are closely involved both in drawing up and in implementing employment policy. Both groups sit on various committees of the Planning Commission, in particular the Employment Committee. Their representatives also sit on the Economic and Social Council, which publishes its opinions on plans and draft legislation with economic and social implications.

A Central Employment Board has been set up within the Ministry of Labour, Employment and Population. It is an advisory body of which almost a third of the members are representatives of employers' organisations and almost a third representatives of trade union organisations. Through its standing committee, this Board is involved in the administration of the National Employment Fund and gives its opinions on the methods used to select the occupations, regions and undertakings to be assisted by the Fund. Employers' and workers' organisations are also represented on the advisory committee attached to the National Employment Agency, on the economic and social committees at the regional level, on the département committees for vocational training, upgrading and employment and on the joint committees attached to all local employment agencies.

The implementation of employment policy is the responsibility of the Government and, more particularly, of the Minister of Labour,

Employment and Population, operating through the regional and département directorates of labour and manpower, the National Employment Agency, the National Immigration Office and the Association for Adult Vocational Training.

St. Pierre and Miquelon

The Convention has no application in the territory.

FEDERAL REPUBLIC OF GERMANY

Employment Promotion Act dated 25 June 1969 (LS 1969 - Ger. F.R. 1) as amended by the Pensions Reform Act dated 18 October 1972.

Protection Against Dismissal Act dated 25 August 1969 (LS 1969 - Ger. F.R. 3).

Disabled Persons Act dated 14 August 1961 (LS 1961 - Ger. F.R. 6).

Vocational Training Act dated 14 August 1969 (LS 1969 - Ger. F.R. 2).

Federal Act on Individual Measures to Promote Training dated 26 August 1971.

Act concerning the stability and growth of the economy dated 8 June 1967.

Act concerning the collective task of improvement of regional economic structures dated 6 October 1969.

Second outline plan for the collective task of improvement of regional economic structures for the period 1973-76, dated 22 March 1973.

Act concerning the granting of investment supplementation and the amendment of fiscal and subventionary provisions dated 18 August 1969.

Act concerning development of the zone border area dated 5 August 1971.

Guidelines for promotion of the taking up of employment in the Land of Berlin, version dated 10 February 1970.

Article 1, paragraph 1, of the Convention. The Government's view is that an active labour market policy should not take the form of post hoc reaction to events but should consist of preventive measures taken before problems arise. Though the main instrument for achieving full employment must be that of general management of the economy, active labour market policy can contribute at the level of the sector and locality by helping with the adjustment of workers to change. It can also help the individual to make a free choice of employment suited to his inclinations and aptitudes. This in turn serves an economic objective by hastening change.

The transition to this new concept of active labour market policy took place at the beginning of the sixties. The previous approach had concentrated on overcoming the unemployment and employment problems of the post-war period. When manpower shortage became a constraint, economic activity had to be switched to sectors of growing productivity. This coincided with the decline of primary production and growth of the services sector.

The turning point in legislation occurred with the entry into force in July 1969 of the Employment Promotion Act. The express aim of this Act is to focus the action of the Federal Employment Institution, within the framework of federal social and economic policy, on achieving and maintaining a high level of employment, on constant improvement of the employment structure and thereby on promotion of the growth of the economy.

Action by the Federal Institution in accordance with this Act has contributed to a situation in which neither unemployment, underemployment, nor manpower shortages arise or persist; occupational mobility is improved; disadvantageous consequences for workers of technological and structural change are averted, compensated for, or eliminated; employment integration of the disabled is advanced; women with family responsibilities as well as older and other workers whose employment under normal conditions is difficult are incorporated into the labour force; and the regional and sectoral structure of employment is improved.

Since the Act entered into force, the provisions for promotion of winter building have been extended. Employers receive up to 50 per cent grant towards the purchase of winter-building equipment and a lump-sum payment of two-thirds of the additional costs entailed by weather protection of the site. Workers receive a new social benefit in the form of "winter-money" of 2 marks per hour to compensate for the extra strain of working in inclement conditions.

Article 1, paragraphs 2 and 3. In 1972 the unemployment rate was 1.1 per cent and there were nearly twice as many unfilled vacancies as unemployed persons. The rate for 1973 was expected to be 0.9 per cent. The policy goals of full, optimal, productive and freely-chosen employment are interdependent and cannot be pursued by isolated measures. The various instruments used and their inter-relationship have been described in the Federal Government's report on manpower policy to the Organisation for Economic Co-operation and Development. These cover instruments to correct imbalances in the labour market, to effect structural change and to cope with fluctuations in the business cycle.

The 1967 Act concerning promotion of stability and growth of the economy provides the means for managing the economy, such as the creation of reserve funds and possibilities of influencing private investment and consumption demand. There are also stabilisers in the social security system. These instruments proved their worth in the 1966-67 recession. Regional policy also contributes to full employment. Regional action programmes based on the principle of establishing growth poles led to the creation of 384,000 new jobs in the period from 1968 to September 1972. The Federal Institution has supported these operations through low-interest loans from its reserves. Assistance is also given to certain sectors, such as agriculture and the coal and steel industry, and to certain groups such as the handicapped and older workers.

Measures to promote occupational training have a high place in policy to improve the quality of employment. Persons following courses of upgrading or retraining receive subsistence allowances in the case of full-time courses and reimbursement of training costs. If the conditions for grants are not met, loans are available. An induction grant is paid to employers for the initial period before a trained worker becomes fully productive. Training is seen as an aid to occupational mobility.

Although in principle jobs should be created in those places where there is underemployment, there is also a need in some cases for workers to move to take up work elsewhere. Provisions exist to facilitate geographical mobility. To make all these measures effective, the Federal Institution has a highly developed system of information, guidance and placement, backed by labour market investigations and the production of statistical data.

Citizens of the Republic and of other member States of the European Communities have free choice of employment. Other foreign workers acquire practical freedom of choice after five years of continuous lawful employment in the country. Free choice of employment leads to an optimal utilisation of human resources and is facilitated by the information, guidance and placement services.

Article 2. All federal ministries with responsibilities in the field of employment policy - principally the Ministries of Labour and Social Affairs, of the Economy, and of Education and Science - are committed to work closely together. This results in employment aspects being taken into account in all fields, and conversely in other factors being considered in employment policy. The Federal Government also works closely with the Länder in matters of employment policy, particularly regional development and education. Labour market problems are discussed at a round table consisting of representatives of the Federal Ministry of Labour and Social Affairs and of the Labour Ministers of the Länder. Labour market conferences in the individual Länder provide an opportunity for all interested parties (Federal, Land, commune and associations) to seek suitable solutions to problems facing the Land.

There is of course specially close collaboration between the Federal Ministry and the Federal Employment Institution which is an autonomous authority carrying out the tasks laid on it by the Employment Promotion Act. The Institution participates in the Ministry's discussions with other departments, with the Länder and with employers and workers. The Federal Ministry is represented in the executive organs of the Institution but can give it instructions only in regard to labour market statistics, employment permits for foreigners and new assignments.

Article 3. The Federal Government always endeavours to discuss its approach to employment matters with interested parties, particularly the employers' and workers' organisations. All legislative proposals are so discussed. A working party meeting two or three times a year in the Ministry for Labour and Social Affairs provides a separate opportunity for regular discussion between the Government and the social partners.

There is also a "concerted programme" within the Federal Ministry of the Economy with the participation of the most important employers' and workers' organisations which aims at agreement on

economic policies, and "social policy workshops" are organised by the Ministry of Labour and Social Affairs to help in reaching a consensus in all cases in which state action affects employers and workers.

The trade unions and employers' associations are each represented to the extent of one-third in the organs of the Federal Institution and they accordingly exert a strong influence on the application of the Employment Promotion Act. Employers and workers are also represented on the management committees of the Land and local employment office.

The Federal Government and Länder are jointly responsible for structural and education policy, the implementation of decisions being a matter for the Länder. The Federal Government is responsible for over-all policy to regulate the state of the economy, and the Federal Ministry for Labour and Social Affairs for labour market policy, the implementation of which is the task of the Federal Employment Institution.

ISRAEL

Employment Service Act, 1959 (LS 1959 - Isr. 1).

Employment policy is co-ordinated with and carried out within the framework of over-all economic and social policy through the tripartite national employment council established under the Employment Service Act and the employment councils in the fifteen service regions. The employment service is entrusted with the implementation of employment policy under the supervision of the Minister of Labour. As well as serving on the employment councils, the employers' and workers' organisations meet periodically and maintain contact with government officials.

There is a shortage of manpower and the unemployment rate in 1970-71 was 3.5 per cent, corresponding to virtually full employment. The average duration of periods of unemployment was 2.1 days.

There is an active policy to encourage investments and building. The occupational and geographical mobility of the labour force is encouraged by means of vocational training and retraining and special government assistance.

In 1969, improvements were introduced to reduce frictional unemployment. Regional unemployment practically disappeared with the maturing of investments in development areas and because of demand for labour in adjacent areas.

In January 1969, thirteen district labour exchanges and a branch network were established which have increased intra-regional mobility. There are special services for new immigrants, servicemen about to be discharged, and persons with academic training.

In 1972, a Bill establishing unemployment insurance was passed.

VIET-NAM

Labour Code.

Constitution of 1 April 1967.

Decree No. 036-SL/LD of 24 March 1972 establishing the National Manpower Committee.

Article 1 of the Convention. Article 15 of the Constitution of 1 April 1967 provides that each citizen has the right and duty to work.

Viet-Nam has not ceased to practice an active employment policy with the aim of national economic development and raising the standard of living. Although not declared officially, this policy has been set forth in the five-year economic development plans or implemented within the framework of special programmes.

To direct the employment policy, the Government established a tripartite committee in 1969, the Inter-Ministerial Committee on Manpower Co-ordination, presided over by the Minister of Labour. The National Committee on Distribution of Human Resources was also created in 1969. In 1972 these Committees were dissolved and replaced by the National Manpower Committee. Its functions are: to formulate a general manpower policy in conformity with national development objectives; to co-ordinate activities in the field of manpower as well as vocational guidance, vocational training, manpower planning and management in the public and private sectors to attain the goals of development and full employment; to fix manpower needs in the public sector so as to reduce employment and underemployment if necessary; to fix priorities in training and distribution of specialised manpower in national plans; to fix mobilisation and demobilisation policy so that the economy can progress rapidly and regularly; to authorise studies on manpower problems aimed at full employment policy.

The Government has adopted the following employment objectives: training and rational use of manpower; employment promotion to provide work for all available for work and seeking it; and improvement of conditions of work.

The employment situation is characterised by the imbalance common to developing countries: high rate of population growth, primary sector predominance, chronic underemployment in rural areas, lack of skilled manpower and surplus of unskilled manpower in the industrial and artisanal urban sectors, complicated by a long war.

The Government's main preoccupation during recent years has been to create employment for Vietnamese repatriated from Kampuchea, unemployed Vietnamese formerly working in the American sector and war refugees. In the future, when peace is completely re-established, the main thrust of employment policy will be directed to demobilised soldiers, victims of the war, populations of newly-controlled regions and newcomers to the labour market in the order of some 200,000 annually.

Employment promotion efforts will be directed primarily towards agriculture. The 1971-75 Plan provides for an increase in cultivated areas, re-establishment of abandoned paddies, modernisation of agriculture, improvement of yield, diversification of crops, strengthening of agricultural credit and encouragement of agricultural co-operatives. The standard of living of peasants is to be raised and rural areas to be made more attractive by implementing the law making the cultivator the owner of his rice fields, by creating agricultural processing industries, rural electrification and improving health and educational facilities. By applying these programmes, the Government hopes to create productive and freely-chosen employment for a considerable number of peasants, refugees and demobilised soldiers and at the same time resolve the problem of underemployment in the rural areas.

The Plan foresees industry as primarily a support for agriculture; certain important industrial sectors are to be developed: manufacturing, construction, mines, handicrafts and electricity, providing employment for 400,000 in 1972 and 516,000 in 1973. The Plan also provides for the infrastructure necessary to support the other sectors, and implementation of the planned projects will provide work for 2.033 million workers in 1972 and 2.276 million in 1973.

One of the prime objectives of the Plan in the field of education is to train skilled and technical manpower for the national economy's development needs. A programme for the development of education and training is outlined in the Plan.

The Plan makes provision for social action and medical assistance including family planning.

The Plan also provides for a homogeneous and rational development of the different regions, creation of employment and favourable conditions to improve the standard of living of regional populations, the control of population density in accord with the resources and possibilities of regional development, and the development of ethnic minorities.

Briefly, within the framework of economic development, the Government is attempting to create the most employment possible to give employment to all those available for and seeking employment, to bring together favourable conditions to improve workers' standards of living; to make their work as productive as possible by preparation at school and later, in vocational training centres or on the job.

At present several ministries are working on the problem of technical and vocational training for employment seekers. The vocational training connected with the Ministry of Labour has a double objective: to prepare the worker for skilled work, to offer all workers access to skills and promotion. It includes two stages: initial training and further training, either in vocational training centres or on the job. All forms of vocational training are free.

In view of the importance of placement procedures for employment policy, the Saigon placement office is being enlarged, two new provincial offices have been opened and five more are planned for 1973.

Article 2. The National Manpower Committee is responsible for ensuring the implementation of this Article.

Article 3. The Decree creating the National Manpower Committee provides both for consultation of the bodies, occupational organisations and experts concerned and for their participation in its meetings dealing with manpower and employment policy questions.

The ministries represented on the National Manpower Committee are responsible for implementing those aspects of employment policy which come within their terms of reference. The Committee supervises and co-ordinates the activities of the different ministries and follows progress in all fields so as to identify failures and successes, adjust the relevant forecasts as statistical information becomes available and make the necessary modifications in the employment policy. The Minister of Labour, as Secretary of the Committee, plays a leading role in its activities and must be kept informed of all developments affecting employment and manpower.

Convention No. 123: Minimum Age (Underground Work), 1965

BYELORUSSIA

Fundamental principles governing the labour legislation of the USSR and the Union Republics ("Vedomosti Verkhovnogo Soveta SSR", 22 July 1970, No. 29, Text 265) (LS 1970 - USSR 1).

Labour Code of the Byelorussian SSR, approved by the Supreme Soviet of the BSSR on 23 June 1972.

List of processes, occupations, specialities and types of work approved by the State Committee on Labour and Wages of the Council of Ministers of the USSR on 29 August 1959.

In accordance with article 75 of the Fundamental Principles governing the labour legislation of the USSR and the Union Republics and article 175 of the Labour Code of the Byelorussian SSR, persons below the age of 18 may not be employed on arduous work or work entailing harmful or dangerous working conditions or work underground.

An ordinance of the State Committee on Labour and Wages of the Council of Ministers of the USSR approved a list of occupations and types of work to which persons below the age of 18 are not admitted. This includes every type of work underground.

In this way the legislation in force in the Byelorussian SSR fully covers the requirements of the provisions of Convention No. 123 and does not require any change.

CAMEROON

Labour Code, Law No. 67-LF-6, to institute the Labour Code of Cameroon. Dated 12 June 1967 (LS 1967 - Cam. 1).

Order No. 17, relating to the employment of children. Dated 27 May 1969. (Official Gazette, 1 June 1969, No. 10, p. 939) (LS 1969 - Cam. 2B).

The provisions of the Convention are applied by Law No. 67-LF-6 of 12 June 1967 to institute the Labour Code, notably by section 93.

These provisions formed the basis of the regulations laid down in Order No. 17/MTLS of 27 May 1969 which prohibits the employment of children less than 18 years of age in underground work in mines, quarries or galleries, but permits exceptions to the prohibition of such work in respect of children more than 16 years of age, on condition that such types of work would provide a systematic vocational training given by competent persons.

FRANCE

Labour Code, Book II.

Ordinance No. 59-45 (6 January 1959) prolonging the school-leaving age (Journal Officiel, 7 January 1969, p. 376).

Decree No. 69-686 (18 June 1969) concerning recruitment and employment of young workers underground in mines, quarries, and the like (Journal Officiel, 22 June 1969, pp. 6336-6337).

Order dated 8 July 1969 concerning employment of young workers underground in mines, quarries, and the like (Journal Officiel, 20 July 1969, pp. 7350-7351).

Article 1 of the Convention. The terms "mines" and "quarries" are distinguishable only by virtue of that which is mined. A definition in accordance with the one given in the Convention appears in section 2 of the Mining Code (Decree No. 56-838).

Article 2. Section 2 of Book II of the Labour Code forbids the employment of minors who should be at school (up to the age of sixteen, according to the Ordinance dated 6 January 1969).

Section 56 of Book II of the Labour Code provides that special conditions must be laid down for the employment of young males under eighteen. These regulations appear in the Decree dated 18 June 1969, the application of which is ensured by the Order dated 8 July 1969.

Article 4, paragraph 1. The requisite action is taken to ensure compliance with the provisions concerning the employment of young people underground. Breaches of the law expose the offender to the punishments set forth in Book II of the Labour Code, sections 158-164.

Paragraphs 2-3. Section 95 of Book II of the Labour Code and section 77 of the Mining Code empower mining engineers to inspect compliance with the regulations governing mines and quarries. Section 120 of this same Book invests miners' safety representatives with the authority of staff delegates responsible for checking the conditions in which minors are employed.

Paragraphs 4-5. The requisite information is given in the records kept by the employer.

The provisions relating to the ban on the employment of young people under sixteen are ordinary statutory provisions and the special conditions applicable to young workers between sixteen and eighteen, employed underground, as set forth in the Decree dated 18 June 1969, were adopted (as called for by section 185 of the Labour Code, Book II), after the Labour Safety Committee had been consulted. This Committee includes representatives of employers and workers.

RWANDA

Act instituting a Labour Code. Dated 28 February 1967.

Act dated 30 January 1967 instituting a Mining Code, amended by Act dated 27 April 1971.

Presidential Decree No. 95/12 of 28 October 1968 ratifying Convention No. 123.

Ministerial Circular No. 221/2243/10/473/325 of 29 December 1970.

Article 1 of the Convention. The Mining Code, as amended by the Act dated 27 April 1971, defines what is meant by a "mine".

Article 2. Presidential Decree No. 95/12 (1968) lays down the minimum age for employment in mines and a draft decree, drawn up under section 124 of the Labour Code, expressly forbids underground work by children under eighteen years of age.

Article 3. Visits of inspection are made by representatives of a department of the social security and occupational hygiene authorities.

Article 4, paragraph 1. The Labour Inspection Department and the Occupational Health Department are responsible for seeing that the Convention is complied with.

Paragraph 2. Breaches are punished in accordance with sections 178 to 182 of the Labour Code.

Paragraph 3. The registers provided for in the Convention are being prepared.

Article 5. Since it was imperatively necessary to lay down a minimum age, there were no consultations.

THAILAND

National Executive Council (NEC) Announcement No. 103 (Proclamation of the Revolutionary Party No. 103) on Labour Protection and Labour Relations. Dated 16 March 1972 (B.E.2515) (Royal Thai Government Gazette, 20 March 1972, Vol. 26, No. 8, p. 137).

Notification of the Ministry of Interior respecting Labour Protection. Dated 16 April 1972 (B.E.2515) (Royal Thai Government Gazette, 10 May 1972, Vol. 26, No. 13, p. 215).

Article 1 of the Convention. The labour legislation does not define the term "mine" but the term "industrial work" is defined as including "mining and quarrying operations and other activities connected with mineral prospecting" (section 3 of the Notification of the Ministry of Interior respecting Labour Protection, 16 April 1972).

Article 2. Under section 25 of the Notification of Ministry of Interior respecting Labour Protection no children between the ages of 15 and 18 are to be employed in underground work.

Article 3. The minimum age for underground work is presently 18 years.

Article 4. 1. Under section 5 of NEC Announcement No. 103 of 16 March 1972 the Minister of Interior has the power to appoint officers to give effect to its provisions and to regulate the records to be maintained by the employer.

2. An inspection service is maintained by the Department of Labour and is to be strengthened in the very near future to ensure more effective supervision of the provisions of this Convention.

Sanctions in the case of contraventions of the provisions giving effect to the Convention are provided for by section 8 of NEC Announcement No. 103 of 16 March 1972.

3. No specific measures have been taken to give effect to paragraphs 4 and 5 of Article 4. The measures so required may be deemed to be covered by sections 71 and 72 of the Notification of the Ministry of Interior respecting Labour Protection.

Article 5. The Convention was registered for ratification on 5 April 1968 when there were no employers' and workers' associations. Since the minimum age stipulated in current legislation for employment in mines and quarries is higher than that specified in Article 2 of the Convention, there would appear to be no specific need for consultation with representative organisations at this stage.

The application of the Convention in Thailand may be regarded reasonably successful as indicated by very few instances of reported violations.

REPUBLIC OF VIET-NAM

Labour Code of Viet-Nam (LS 1956 - V-N. 1).

Order No. 10-LDTN/ND of 11 August 1954, determining Special Conditions of Work and Apprenticeship for Boys from 16 to 18 years of age employed underground. (Journal Officiel, 28 August 1954).

Articles 1, 2 and 3 of the Convention. Section 211 of the Labour Code prescribes that girls and women of any age and boys under 16 may not be employed or work underground in mines, surface mines and quarries.

The minimum age of 16 specified at the time of ratification has not been raised and for the moment there is no intention to that effect.

Article 4. According to section 327 of the Labour Code the application of general labour regulations and special provisions is supervised by the officials responsible for technical inspection who have in this respect the power of inspectors of labour and social security.

The provincial labour inspectors can visit mines and quarries at any time together with the officials mentioned above. The general inspector and regional inspectors have the same right.

Section 366 of the Labour Code provides for penalties in the case of contraventions of the provisions contained in section 211 of the Labour Code and Order No. 10-LDTN/ND of 11 August 1954. An employer who infringes these provisions is liable to pay a fine from 20 to 400 piastres and, in the case of a repetition of the offence, from 400 to 3,000 piastres.

Sections 3 and 4 of Order No. 10-LDTN/ND provide that the employer is obliged to keep records indicating, in respect of the children of masculine sex who are from 16 to 18 years of age and work underground, the date of birth and the date at which a child was employed in the undertaking for the first time.

Article 5. Order No. 10-LDTN/ND was issued after a notice of the National Advisory Committee for Labour in which employers and workers are widely represented.

The Ministry of Labour will not fail to consult this Committee as well as the most representative organisations of employers and workers concerned in the event of raising the minimum age specified at the time of ratification.

Convention No. 124: Medical Examination of
Young Persons (Underground Work), 1965

AUSTRIA

Act respecting mining (BGBL, 73, 1954) as amended (BGBL 67/1969).

General Mines Regulation Ordinance (BGBL 114/1959) as amended
(BGBL 185/1969).

Works Councils Act (BGBL 97/1947) as amended (BGBL 319/1971).

Article 1 of the Convention. The term "mine" is defined by the Federal Act respecting mining and includes all activities listed in the Convention.

Article 2. A medical examination for admission to work in mines is compulsory for all workers, irrespective of age. A periodic examination is required for persons under 21.

Article 3, paragraph 1. The Act does not require that doctors should be appropriately certified or officially approved, but in practice they are familiar with the working conditions in mines.

Paragraph 2. National legislation fully covers this provision of the Convention.

Paragraph 3. The medical examinations involve no expenses for workers or their families.

Article 4, paragraph 1. Penalties for infringements are laid down.

Paragraphs 2 and 3. Mine managements are responsible for enforcing legislation and regulations in this field.

Paragraph 4. The provisions of the Convention are covered.

Paragraph 5. The employer must make available to the works council information on all matters concerning the employees.

Article 5. It has not been judged necessary to consult employers' or workers' organisations. The inspectors of mines maintain regular contact with employers and workers.

BYELORUSSIA

The Labour Code of the Byelorussia SSR adopted on 23 June 1972.

The Byelorussian SSR Health Act.

Order of the Health Ministry of the USSR dated 30 May 1969 concerning the preliminary medical examination of workers.

Article 1. Regulations concerning compulsory medical examinations of persons employed in mines applies also to persons working in quarries.

Article 2. All young persons without exception undergo a thorough medical examination upon entering employment.

Article 3. 1(a). The preliminary medical examinations are carried out by the workshop physician appointed by the head of the medical service, or of the hospital or policlinic.

1(b). The medical examinations are organised and carried out by the medical institutions (hospitals, policlinics, medical centres) servicing the undertaking - general supervision of this activity is covered by the health department and epidemiological centre of the district or town.

2. An X-ray of the lungs is compulsory for all persons upon entering employment and on subsequent periodic medical examinations.

3. Medical examinations are carried out free of charge.

Article 4, paragraphs 1, 2, 3 and 5. Enforcement of the legislation concerning medical examination of young persons is carried out by state bodies and by trade unions which have their technical and legal inspectors. Sanctions against guilty persons are provided.

Paragraph 4. Enterprises have all information concerning their workers including the date of birth, nature of work, their fitness for work, etc. The representatives of the supervisory bodies may see this information on request.

Article 5. A great deal of attention is given to safety and health conditions of work with participation of state bodies, trade unions and voluntary public bodies.

FRANCE

Decree dated 4 May 1951, to make general regulations for the operation of solid mineral fuel mines.

Decree dated 27 January 1959, to make general regulations for the operation of mines other than solid mineral fuel mines, etc.

Decree dated 16 November 1964, to make regulations for the operation of underground quarries.

Ordinance No. 59-46 dated 6 January 1959.

Decree No. 64-972 dated 12 September 1964.

Article 1 of the Convention. The terms "mines" and "quarries" are defined by the provisions of Decree No. 56-838 dated 16 August 1956.

Article 2, paragraph 1. Medical examinations for admission to employment underground and periodic examinations thereafter are required under national legislation.

Paragraph 2. Young persons, between 18 and 21 years, are given yearly medical examinations.

Article 3, paragraph 1. The physicians who carry out the medical examinations are the works physicians and are qualified and officially approved in accordance with the legal provisions in force.

Paragraph 2. The legislation makes it compulsory to have chest X-rays at the initial or periodic medical examinations.

Paragraph 3. The medical examinations involve no expenses for workers, whether young people or adults.

Article 4, paragraph 1. Appropriate measures, including penalties, are taken to ensure that the provisions of the Convention are observed.

Paragraph 2. Enforcement is the responsibility of the medical inspectors of labour in the mining industry.

Paragraph 3. Mines and quarries are under the supervision of mining engineers.

Paragraph 4. The regulations require that a medical register be kept.

Paragraph 5. The elected workers' safety delegates are responsible for reporting any infringements concerning the employment of children.

Article 5. Employers' and workers' organisations are represented on the special committee on health questions and medical services in mines and similar undertakings.

French Guiana, Guadeloupe, Martinique, Réunion

See under France, Convention No. 124.

Comoro Islands

The kind of employment and work referred to in this Convention do not exist in the Comoro Islands.

New Caledonia

The Order No. 59-057/CG (26 January 1959), on work by women and children gives effect to this Convention.

Territory of the Afars and Issas

Since there is no underground work in mines in this Territory, it follows that there is no legislation covering these matters.

NETHERLANDS

Surinam

There are no underground mines in Surinam.

SPAIN

Act respecting mining dated 19 July 1944.

General Regulations of the Act respecting mining, dated 9 August 1946.

Initial consolidated text under the Act to define the basic principles of social security, approved by Decree 907/1966 dated 21 April.

Decree 2892/1970 dated 12 September, to approve the General Regulations respecting offences and penalties under the General Social Security Scheme.

Order dated 19 January 1973 (BOE 27 January) respecting medical examination for fitness for employment underground in mines for persons under 21 years.

Act dated 21 July 1962 respecting the organisation of the Inspectorate of Labour.

Article 1 of the Convention. The Act respecting mining dated 19 July 1944 and the general regulations dated 9 August 1946 govern all matters concerning mines.

Article 2. Section 1 of the Order dated 19 January 1973 makes it obligatory for undertakings employing workers under 21 years in mines, to carry out a medical examination for fitness for employment and six-monthly periodic examinations.

Article 3. Section 2 of the above-mentioned Order lays down that the medical examination must include chest X-rays and laboratory analyses in all periodic examinations, the costs of these examinations being borne by the employer.

Article 4. Section 3 of the above-mentioned Order states that the National Inspectorate of Labour is responsible for enforcement of the legislative provisions. With regard to penalties for failure to observe the provisions, the General Regulations respecting

offences and penalties under the General Social Security Scheme impose penalties for "not carrying out ... medical examinations". This Order also makes it compulsory for undertakings to keep a register of employees.

Article 5. The aforementioned Order was communicated prior to its adoption to the Trade Union Organisation.

The National Inspectorate of Labour is responsible for enforcement of these provisions and the statistics collected on the number of infringements, which in 1972 with regard to employment of women and young persons amounted to 5,322, are available in its general report.

REPUBLIC OF VIET-NAM

Labour Code (LS 1956 - V-N. 1).

Order No. 10 dated 11 August 1954, to regulate the special employment and apprenticeship conditions for boys between the ages of 16 and 18 years employed underground.

Articles 1-3 of the Convention. The Labour Code prohibits the employment underground of girls and women of all ages and of boys under 16 years. It is compulsory, under national legislation, to carry out a medical examination prior to employment, and periodically thereafter. The labour inspectors are responsible for enforcement of this legislation. There are no legal provisions in this field for young workers between 18 and 21 years.

Articles 5 and 6. See under Convention No. 123.

Convention No. 126: Accommodation of Crews (Fishermen), 1966

FRANCE

Act No. 67-405 (20 May 1967) on Safety of Life at Sea and Standards applicable to Crew's Living Quarters (Journal Officiel, No. 117, 21 May 1967).

Decree No. 68-206 dated 17 February 1968 (Journal Officiel, No. 52, 2 March 1968).

Orders dated 6 August 1971, laying down safety standards for ships of 500 gross tons or more and for ships below 500 tons other than passenger ships and pleasure launches less than 25 metres long.

Article 1 of the Convention. The rules in force ensure that the Convention in force applies to fishing smacks 12 metres or more in length. As regards vessels not so long as this, the local authorities base their rules on the same regulations, but make allowance for the characteristics of the vessel and navigating conditions.

Articles 2 and 3. The competent authority as regards application of the Convention is the Secretary-General of the Merchant Marine, answerable to the Ministry of Transport.

The shipping and maritime labour inspectors are responsible (subject to the authority of the officials administering maritime affairs) for ensuring that the Convention is complied with, and for inspecting all vessels subject to international or national regulations. These officials belong to the General Secretariat of the Merchant Marine.

Ships' doctors, also belonging to this General Secretariat, also take part in checks and inspections.

Ships are inspected before they start operating; annual inspections and inspections without prior warning are carried out too. They are even inspected after modification or repairs, and can be inspected if the crew so demand.

Should breaches of the regulations be observed by the inspectors, sanctions of two kinds can be imposed: the penalties provided for by the Act dated 20 May 1967; a ban on the sailing of the ship, in which event, the ship's safety certificates are impounded, with the result that the ship cannot put to sea.

The employers' and workers' organisations are consulted in drawing up the rules, in the preliminary study of designs for new ships, and in inspections before commissioning. For this purpose they are represented on safety and inspection committees, where their representatives can advance their objections and give their views.

Articles 4 and 5. Before any fishing vessel is built or modified, the plans are submitted for approval to a safety committee, or at least to a shipping inspector if the vessel has an over-all length of less than 12 metres.

Before a vessel comes into service, it is inspected, on which occasion the crew's quarters are examined, and the same happens thereafter on the occasion of the annual safety inspection. Such inspections are also made should a complaint be made by not less than three members of the crew to a crewmen's delegate or to the delegate of a representative trade union organisation, provided the complaint is submitted in writing to the Maritime Affairs Administrative Officer sufficiently well in advance to ensure that there will be no delay in sailing.

The crew's quarters must be inspected by the skipper or an officer appointed by him, accompanied by a crewmen's delegate, at least once a week.

Articles 6 and 7. Sections 8.04, paragraph 4, of the two Orders lay down the conditions to be met by the heating appliances.

When the outside temperature is at freezing point, the temperature in the crew's quarters must be kept at 64° F.

Articles 9 and 10. In exceptional circumstances, and provided the safety committee raises no objection, the rules governing the maximum number of men who can be accommodated in crew's sleeping quarters may be relaxed.

Articles 11 and 12. On board ships of 500 tons and more, at least 50 litres of fresh water per man per day must be carried; for ships of less than 500 tons the quantity is 20 litres. On board ships less than 35 metres in length, however, the regulations merely stipulate that as much fresh water as possible shall be carried.

Article 13. Sick quarters have to be provided aboard any ship of 500 tons or more, carrying a crew of at least fifteen men, when the ship undertakes voyages lasting more than two days.

On board sea-going vessels 35 metres or more in length (i.e. sailing more than twenty miles from the coast and more than one hundred miles from the port of departure), a special cabin must be provided in which a sick or injured man can be isolated. This rule applies, as far as possible, to smaller boats operating in the same conditions.

Article 17. The new rules apply to ships laid down after 2 September 1971, and as far as is deemed possible and desirable (the safety committees having been consulted) to ships undergoing major refits after this date, as well as to ships freshly registered.

The French regulations are applied subject to the over-all authority of the Secretary-General of the Merchant Marine, by the Maritime Affairs Administrative Officers and the shipping and maritime labour inspectors employed either at headquarters or in maritime affairs offices on the coast. They are also applied by maritime medical officers.

The Convention is applied in France proper and in the overseas departments of Martinique, Guadeloupe, Guyana and Réunion.

Guadeloupe, Guyana, Martinique, Réunion

See under France.

PANAMA

Labour Code, sections 8 and 1064(2) (LS 1971 - Pan. 1).

Article 1 of the Convention. The Government of Panama accepts all the exceptions provided for in paragraphs 1 to 7 of Article 1.

Article 2. There is no legal definition of the terms used in Article 2 but in practice the definitions given in the Convention are used as they stand.

Article 3. Current legislation provides that all concerned must be notified of the terms of the Convention. Seamen have been informed of the existence of Convention No. 126 and told that it has been ratified by Panama. The Merchant Marine Division and the Inspection Division of the Ministry of Labour and Social Welfare share in ensuring application of the Convention, in collaboration with the Labour Safety Department of the Ministry. All these bodies can undertake inspections to find out whether the Convention is being complied with. Furthermore, section 1064(2) of the Labour Code lays down that in the event of a breach of the Code or other labour legislation, and in the absence of other duly specified sanctions, the Ministry of Labour and Social Welfare, or the labour courts, may impose a fine of between 25 and 200 balboas.

Article 4. The big fishing vessels to which the Convention applies are not built in Panama but in Japan, Italy, the United States and elsewhere.

Article 5. The competent authorities mentioned above make an inspection when a fishing vessel is first registered, and in the event of fresh registration, to ascertain whether the vessel is equipped in accordance with the Convention.

Articles 6 to 16. The Ministry of Labour (Merchant Marine and Labour Safety Divisions) is at present devising an inspection system. Plans are also being made to set up an office staffed by a naval engineer, to ascertain whether all the regulations and requirements mentioned in the Convention are complied with.

Article 18. This is given effect by section 8 of the Labour Code, which lays down that contracts, labour agreements and other similar agreements, together with stipulations, acts or statements applying a reduction or change in, or renunciation of, the workers' acquired rights, shall be considered null and void.

UKRAINE

Sanitary rules for seagoing ships of the USSR of 22 July 1964.

Sanitary rules for ships of the shipping fleet.

Article 1 of the Convention. The requirements of the sanitary rules apply to all self-propelled fishing vessels irrespective of their tonnage or length.

Articles 2 to 5. In designing and altering seagoing fishing vessels the standards for the installation and maintenance of crew accommodation are governed by the above-mentioned sanitary rules. When the construction or reconstruction of a fishing vessel is completed it is taken over by a State Committee which includes a representative of the Ministry of Health and a technical inspector from the Food Industry Trades Union. State control over the

observance of sanitary rules is carried out by organs of the Sanitary and Epidemiological Services of the Ministry of Health of the Ukrainian SSR. Compliance with sanitary rules is guaranteed by the fact that plans for the ships being built or remodelled have to be agreed with organs of the Ministry of Health.

Article 6 to 16. At present the fishing fleet of the Azov and Black Sea basin has ships equipped in accordance with modern sanitary and technical standards. Living accommodation for the crews aboard ship includes comfortable cabins with good ventilation, heating, air conditioning, adequate sanitary installations (wash basins, showers, lavatories, accommodation for keeping and drying protective clothing, etc.). All ships have a well-equipped medical post. The temperature in living and working quarters is laid down in Article 252 of the Sanitary Rules for Seagoing Ships.

Minimum standards for water supply per person aboard ship are laid down in Article 214 of the Sanitary Rules for Seagoing Ships.

Article 18. In addition to the administration of the fishing fleet and the health authorities who deal with the enforcement of legislative acts concerning crew accommodation aboard fishing vessels, trade union organisations also carry out permanent supervision to ensure healthy and safe working conditions for fishermen.

USSR

Health Regulations for Soviet Seagoing Ships, 1964 (29 July 1964).

Decree by the Minister of Fisheries, No. 1511/9 (19 January 1968).

Article 1 of the Convention. The health regulations apply to all ships, whether mechanically propelled or not, belonging to the Ministry of Fisheries, with the exception of small sports craft. Ships used at sea fall into four groups, as follows: ships with an unlimited radius of action, including those plying in foreign waters, in the Arctic and in Antarctica; ships plying within 100 nautical miles of the coast, and remaining at sea for more than 24 hours; ships remaining out of harbour for between six and 24 hours, including lighters, dredgers, etc.; and ships remaining out of port for not more than six hours at a time.

Article 3. The appropriate departments and services of the USSR Ministry of Health and of the Ministries of Health of the Soviet Republics, give approval to plans and explanatory notes concerning ships in process of design or refitting, as may be submitted to them by the administrations. The representatives of these ministerial organs and services are seated in the committees which take delivery of ships and are authorised to forbid operation of the latter until the requisite health and epidemiological measures have been taken.

Article 5. The owners of mechanically-propelled ships must once every two years submit their ships for inspection by the health authorities. The competent authorities can also demand that shortcomings be eliminated at any time.

Article 8. Temperature standards defined for crew posts and service stations are as laid down in the Convention and are defined in section 242 of the Health Regulations.

Article 10. The exceptions provided for in paragraph 8 are allowed only after agreement with the inspection services of the health authorities.

Article 12. Section 214 of the Health Regulations lays down minimum standards of fresh water per person per day.

Article 17. No case of breach has come to our knowledge and no complaint has been received from seamen.

Convention No. 127: Maximum Weight, 1967

ECUADOR

National legislation contains no definitions of the terms "manual transport of loads" and "regular manual transport of loads" nor, in general, any provisions related to the principles laid down by this Convention. For this reason, the Government has recommended that the Legislative Committee should include the provisions of the Convention in the chapter of the Labour Code concerning the prevention of occupational hazards.

THAILAND

Announcement No. 103 on Labour Protection and Labour Relations promulgated by the National Executive Council on 16.3.1972.

Announcement of the Ministry of Interior on Labour Protection of 16.4.1972.

Announcement of the Ministry of Interior concerning the Employment of Children of Twelve and Below Fifteen Years of 16.4.1972.

Article 1 of the Convention. The terms "manual transport of loads" and "regular manual transport of loads" are not defined in the national legislation.

Article 2. Are excluded from the existing system of labour inspection: (a) agricultural undertakings and (b) any employment with a non-economic gain objective.

Article 3. The restriction on the weight load to be lifted, or carried on the shoulder or on the head, or pushed by women and children between 12 and below 15 is provided by the Announcements of the Ministry of Interior. Regular inspection is undertaken to ensure workers' health and safety in such activities.

Articles 4 to 6. Mechanisation and modern equipment for loading and lifting have been introduced to all branches of economic activity. In the areas where modern mechanisation cannot be utilised elephants and other animals are employed for the purpose. Instruction should be given to the workers concerned by the supervisors in some special cases.

Article 8. The Department of Labour holds regular consultation with the representatives of employers and of workers to consider any problems of mutual interest including matters relating to the application of labour legislation and ILO standards.

Convention No. 128: Invalidity, Old-age and
Survivors' Benefits, 1967

FEDERAL REPUBLIC OF GERMANY

Social Security Code (RVO), as amended in particular by the Federal Act of 23 February 1957 on wage earners' pension insurance (BGBI I 45) (LS 1957 - Ger. (F.R.) 1).

Salaried employees' pension insurance (AVG), as amended in particular by the Federal Act of 23 February 1957 (ibid.).

Miners' pension insurance (RKG), as amended in particular by the Act of 21 May 1957 (BGBI I 27 May 1957).

Part II. Invalidity Benefits

Article 8 of the Convention. Under the wage earners' and salaried employees' pension insurance schemes, the contingency covered is either occupational incapacity or incapacity to engage in any gainful activity. In the miners' scheme, a distinction is made between reduced capacity for work as a miner and incapacity to engage in this or any other occupation.

Article 9. Effect is given to subparagraph (a) (protection of all employees including apprentices). In 1972, the total number of protected employees was 21,504 and the total number of employees was 22,586.

Article 10. Benefits are calculated in accordance with Article 26 of the Convention. The number of years insured taken into account in calculating the benefit depends on age at the time of the contingency and the length of the period between that time and the date on which the protected person reaches the age of 55 (article 1260 RVO; article 37 AVG; article 58 RKG). The average number of years insured for the calculation of pensions paid in 1971 was 35. The benefit rate consists of a personal basic value multiplied by the number of years insured and a co-efficient of 1 per cent for occupational disablement pensions and of 1.5 per cent for general incapacity pensions in both the wage earners' and the salaried employees' scheme (article 1255 RVO). The personal basic value is a percentage of the general basic value corresponding to the ratio of the gross income of the protected person during

his occupational life to the average gross income of all insured persons during the same period. The gross basic value is the mean of the average annual income of all insured persons over the preceding three years. The personal basic value cannot be less than twice the general value during the year of the contingency, i.e. twice 12,008 DM in 1972. The annual income of the standard skilled worker in 1972 was 12,026 DM. A pension is increased by an amount equal to 10 per cent of the general basic value, for each child (1,200 DM in 1972). The 50 per cent required by the Convention was thus attained for a standard beneficiary after 34 years' contributions. The amount of pensions under payment is adapted in accordance with variations in the general basic value.

Article 11. The qualifying period is normally five years (articles 1246 and 1247 RVO; articles 23 and 24 AVG; articles 49 and 100 RKG).

Article 12. The invalidity pension is converted into an old-age pension when the insured person reaches the age of 65 (60 under certain conditions, for miners' pensions) and completes the required qualifying period (article 1254 RVO; article 31 AVG; article 53 RKG). The invalidity pension:

- (a) is suspended so long as a protected person of foreign nationality is normally resident abroad;
- (b) can be refused partly or in full if the invalidity is due to a crime or offence committed by the protected person (article 1277(2) and (3) RVO; article 54(2) and (3) AVG; article 73(2) and (3) RKG);
- (c) is not granted when the invalidity is brought about intentionally (article 1277(1) RVO; article 54(1) AVG; article 73(1) RKG);
- (d) can be refused if the disabled person declines to use the medical or rehabilitation services (article 1243 RVO; article 20 AVG; article 73(1) RKG).

A suspended pension can be transferred either partly or in full to the dependants in the cases foreseen in articles 1277 and 1289 RVO, 54 and 56 AVG, 73 and 81 RKG.

Article 13. If the protected person's ability to engage in gainful activity is threatened or decreased by a disease or disablement, the insurer can take measures for the treatment or occupational rehabilitation of the person concerned (articles 1236, 1237 and 1240 RVO; articles 13, 14 and 17 AVG; articles 35, 36 and 37 RKG).

Part III. Old-Age Benefits

Article 15. Old-age benefits for wage earners, employees and miners are normally paid at the age of 65. The old-age pensions for wage earners and employees can also be paid, under certain special qualifying period conditions, at the age of 63 and, in the case of seriously disabled persons, from the age of 62. Moreover,

under certain conditions, old-age pensions can be paid from the age of 60 to the unemployed, to insured women who no longer work and to miners who have left mining.

Article 16. See under Article 9.

Article 17. Effect is given to Article 26. The old-age pensions are calculated and their sums adapted in the manner indicated for invalidity pensions. Taking into consideration the personal basic value for pensions, defined by article 1255 RVO, the old-age pension represents 45 per cent of former income, after thirty years' coverage. In the miners' scheme, this percentage is higher.

Article 18. Old-age pensions are paid after a qualifying period which is normally 15 years (article 1248 RVO; article 25 AVG; article 48 RKG). After 15 years' coverage, the old-age pension paid to wage earners amounts to 22.5 per cent of the basic figure.

Article 19. Old-age pensions are paid throughout the contingency period.

Part IV. Survivors' Benefits

Article 21. The persons entitled to a survivors' pension are the widow, widower, orphans and ex-wife of the deceased protected person. Pensions known as "minor widows' pensions" are granted without any age conditions; pensions known as "major widows' pensions" are granted provided the widow has attained the age of 45, unless she is suffering from an occupational incapacity or incapacity for gainful employment or is responsible for the education of an orphan (article 1268 RVO; article 45 AVG; article 69 RKG). Surviving children are entitled to an orphan's pension if they are less than 18 years, or less than 25 years in cases of school attendance, occupational training or invalidity (article 1267 RVO; article 44 AVG; article 67 RKG).

Article 22. See under Article 9.

Article 23. A widow responsible for two children is entitled to a pension equal to six-tenths for herself and a pension for each child equal to one-tenth of the pension for incapacity for gainful employment; to these are added children's supplements equal to one-tenth of the general basic figure, for each child. The survivors' pensions are calculated and their amounts adapted in the manner indicated for invalidity pensions.

Article 24. The qualifying period is five years (article 1263 RVO; article 40 AVG; articles 49 and 63 RKG).

Article 25. The widow's pension is paid until the decease of the widow; in the event of remarriage, the pension is replaced by a payment equal to five times the annual pension. Orphans' pensions are paid until the ages indicated under Article 21.

Article 30. Rights in course of acquisition are maintained without time limit.

Article 31. The pensions are paid, in principle, even if the beneficiary is engaged in gainful activity.

Article 33. Rules for cumulation of pensions are given in articles 1278, 1280 and 1283 RVO; articles 55, 57 and 60 AVG; and articles 75, 77 and 80 RKG.

Article 34. In appeal procedures, the persons concerned may be assisted or represented by, in particular, the members or officials of a union or employers' association.

Article 36. The social welfare organisations are bodies corporate under public law and under state supervision. Representatives of the protected persons and employers participate in their administration.

Article 37. Certain categories of person performing casual work are excluded from the compulsory insurance. There are no statistics on the number of such persons.

Convention No. 129: Labour Inspection
(Agriculture), 1969

GUYANA

The Labour Ordinance, Chapter 103.

The Labour Amendment Ordinance, No. 8 of 1960.

The Employment of Women, Young Persons and Children Ordinance, Chapter 107.

Recruiting of Workers Ordinance, Chapter 106.

Miscellaneous Enactments (Amendment) Act No. 12 of 1967.

Ordinance No. 46 of 1955 for the Notification of Accidents and Occupational Diseases.

The Education Ordinance, Chapter 91, section 17.

The Law Revision Act, No. 4 of 1972.

Factories Ordinance, Chapter 115.

The Factories (Amendment) Ordinance, No. 14 of 1949.

The Factories (Amendment) Ordinance, No. 39 of 1954.

Article 1 of the Convention. The term "agricultural undertaking" is accepted in Guyana in the same sense as used in the Convention. Steps are well advanced to have the legislation on labour inspection in industry and commerce amended so that it includes labour inspection in agriculture. Steps are being taken to vest the agricultural assessors with the powers of labour

officers so that they can enforce the provision of national legislation.

Article 2. Several collective labour agreements are in force in agricultural undertakings in the sugar, coconut, timber and rice industries, and are enforceable by labour inspectors.

Article 3. In addition to the chief labour officer's staff, a Factories Division has been created to maintain a system of labour inspections in industry, commerce and agriculture.

Article 4. Sections 1, 2, 3 and 9 of the Factories Ordinance and section 38 of the Labour Ordinance specify the undertakings that are liable to inspection. All employees in the undertakings are protected by the labour inspectorate.

Article 5. Co-ordinating Committees have already been established.

Article 6(a). Labour inspection in agriculture is responsible for the enforcement of a number of legal provisions.

6(b) and (c). Sections 3, 4, 6, 14 and 38 of the Labour Ordinance and sections 9 and 10 of the Factories Ordinance, Chapter 115, refer to the duties of the Labour Inspectorate.

Apart from the duties listed in this Article, labour officers also perform duties on advisory committees which recommend minimum wages and conditions of employment and wages council and arbitration tribunals.

Article 7. Supervision and control of the system of labour inspection in agricultural undertakings are vested in the Ministry of Labour.

Article 8. Labour officers are on the fixed establishment. They are assured of stability of employment and are independent of changes of government and of improper external influences.

Article 9. All labour officers are appointed on the basis of qualifications only. The Public Service Commission is the competent authority responsible for appointments, promotion and separation. Agricultural assessors attached to the Ministry of Labour, who are basically qualified in agriculture, are under the training and the control of the Chief Factories Officer.

Article 10. Women are not precluded from appointment as labour officer (agriculture). There are two female labour officers attached to the staff of the Ministry. None of them, however, is solely involved in labour inspection in industrial, commercial or agricultural undertakings.

Article 11. Personnel with technical knowledge are on the staff of the Ministry of Labour. The Ministry is also free to consult expert persons in the public and private sectors.

Article 12. The Factories Division has close liaison with the National Insurance Scheme and other government departments.

Article 13. There is close collaboration between officers of the labour inspectorate, personnel officers and trade union officials.

Article 14. The Factories Division is staffed by nine officers, including three agricultural assessors. Three officers are specifically allocated to carry out the duties of inspection in agricultural undertakings. They are to be assisted as the need arises by technical officers of the Ministry of Agriculture and the Forestry Department.

Article 15. The Government has acquired two land rovers for inspection purposes. Moreover, officers are paid subsistence allowances in accordance with the Civil Service Rules and General Orders.

Article 16. Sections 10, 11 and 18 of the Factories Ordinance and sections 14 and 38 of the Labour Ordinance, give effect to this Article.

Paragraph 3 is applied by sections 38, 4c(2) of the Labour Ordinance.

Article 17. A special standing Safety Committee, composed of officers from the Agricultural Inspectorate and other public institutions examines the question of preventive control of accidents and occupational diseases in general.

Article 18. The provisions of paragraphs 2(a) and (b) and 4 of the Article are enforced by Part IV (Safety) sections 18, 19 and 20 of the Factories Ordinance.

Article 19. Section 31 of the Labour Ordinance, sections 21, 22 and 23 of the Factories Ordinance, and sections 3, 4 and 5 of Accidents and Occupational Diseases (Notification) Ordinance No. 46 of 1955 enforce paragraph 1 of this Article.

Section 24 of the Factories Ordinance and section 6 of the Accidents and Occupational Diseases (Notification) Ordinance No. 46 of 1955 give effect to paragraph 2 of this Article.

Article 20. Section 9(6) of the Factories Ordinance satisfies paragraph (a) of this Article.

Section 39A of the Labour Ordinance and Civil Service Regulations ensure compliance of paragraph (b) of the Article.

Paragraph (c) of the Article is satisfied by administrative rules.

Article 21. Inspection of all workplaces are made regularly and at convenient intervals. Ad hoc investigations are also made following complaints regarding breaches of the regulations.

Article 22. The Labour Ordinance, the Factories Ordinance and the Accident and Occupational Diseases (Notification) Ordinance No. 46 of 1955 provide for penalties in case of breach of law. However, officers of the entire inspectorate usually advise employers on the regulations and give them adequate time to comply, failing which legal proceedings are taken.

Inspecting officers do exercise a certain amount of discretion prior to recommending legal proceedings against defaulting employers.

Article 23. Labour officers responsible for inspection in agriculture, on discovering breaches of the regulations, refer the matter to some competent authority in this case, perhaps the Ministry of Agriculture, the Ministry of Health, etc.

Article 24. The penalties imposed for violation of the legal provisions are included in the legislation referred to above. Section 39 of the Labour Ordinance and section 35 of the Factories Ordinance, lay down penalties for obstruction of labour officers.

Article 25. Labour officers (agriculture) submit inspection reports to the Chief Factories Officer on each undertaking inspected.

Article 26. Annual reports of the Ministry of Labour are laid in Parliament and copies are sent to the Director-General of the International Labour Office.

Article 27. The annual report published by the Ministry of Labour gives the information listed under this Article.

Comments were made by the Consultative Association of Guyanese Industry Limited, the employers' organisation, prior to the ratification of the Convention.

MALAWI

Trade Union Act of 4 March 1959 as amended (Cap. 54:01).

Trade Disputes (Arbitration and Settlements), No. 22 of 4 December 1952 as amended (Cap. 54:02).

Regulation of Minimum Wages and Conditions of Employment (Cap. 51:01) (Government Notices 326, 327, 330, 333, 334).

The Employment Act No. 14 of 17 March 1964 (Cap. 55:02) (LS 1964 - Ny. 1).

The Workmen's Compensation Act (Cap. 55:03).

The Employment of Women, Young Persons and Children Act, No. 22 of 20 November 1939 as amended (Cap. 55:04).

The Apprenticeship Act, No. 7 of 18 March 1961 (Cap. 55:06) (LS 1961 - Ny. 1).

The Factories Act, No. 21 of 17 March 1964 (Cap. 55:07).

The Labour Legislation (Miscellaneous Provisions) Act, No. 15 of 17 March 1964 (Cap. 56:01) (LS 1964 - Ny. 2).

The African Immigration and Immigrant Workers Act, No. 1 of 28 May 1954, as amended (Cap. 56:02).

Article 1 of the Convention. The national system of labour inspection applies to all undertakings except those employing persons referred to in Article 5(1) of the Convention.

Article 3. The national system of inspection covers agriculture as well.

Article 4. See under Article 1.

Article 5. Undertakings employing the categories of persons defined under this Article are excluded.

Article 6. Section 4 of the Labour Legislation (Miscellaneous Provisions) Act.

Article 7. The central authority responsible for labour inspection in agriculture is the Ministry of Labour which is responsible for all sectors of economic activities.

Article 8. Labour inspections in agriculture are carried out by the officials of the Ministry who are public officials enjoying the same status and conditions as other government officials, sure of stability of employment and not subject to external influences. Section 5 of the Employment Act is relevant.

Article 9. Labour officers are recruited through the Public Service Commission which takes into account their qualifications for the efficient performance of their duties. The officers are given training both within and outside Malawi before and in the course of their employment.

Article 10. Sex is not a bar to employment in the Ministry of Labour.

Article 11. Suitably qualified persons are employed to carry out labour inspection in agriculture.

Article 12. No occasion has arisen when the functions of the Ministry of Labour were delegated to other institutions.

Article 14. Labour inspectors are employed in the numbers which the economy of the country can afford.

Article 15. Inspectors are posted to all convenient places with adequate transport. Expenses are fully reimbursed.

Article 16. Under sections 4 and 6 of the Labour Legislation (Miscellaneous Provisions) Act, labour offices are given statutory powers which comply with the requirements of this Article.

Article 17. Section 8 of the Factories Act is relevant.

Article 18. Under the provisions of section 35 of the Factories Act, inspectors are given the powers provided for in this Article.

Article 19. Sections 59, 60 and 61 of the Factories Act and section 14 of the Workmen's Compensation Act make provision for the notification of accidents and occupational diseases.

Article 20. Section 4(3) of the Labour Legislation (Miscellaneous Provisions) Act.

Article 21. All establishments employing labour in Malawi are inspected at regular intervals or as often as circumstances require.

Article 22. Under sections 4(1) and 7 of the Legislation (Miscellaneous Provisions) Act, a labour officer can institute proceedings against any offender. He only does it in the last resort after due warning has been given.

Article 24. Section 76(1)(2) of the Factories Act and section 7 of the Labour Legislation (Miscellaneous Provisions) Act.

Article 25. Labour inspection reports are regularly sent to headquarters.

Article 26. Annual reports on the work of the labour inspection services are published in accordance with the provisions of the Article.

Article 27. As far as possible, the subjects listed in this Article are covered in the annual reports.

NORWAY

Act of 19 December 1958 respecting the conditions of employment of agricultural workers.

Act of 7 December 1956 respecting the protection of workers
(LS 1968 - Nor. 1).

Article 1 of the Convention. The Act of 19 December 1958 respecting the conditions of employment of agricultural workers gives in section 1 a definition of the term agriculture. The term also includes forestry and other activities connected with agriculture, the scope of which does not exceed to any marked degree what is necessary for running the farm or the household. Included in the term agriculture are also activities like animal husbandry including livestock production and care, farm-breeding of furred animals and horticulture, even though these activities are unconnected with agriculture in the usual sense. Some activities, which according to the definition given in the Convention must be considered to come under the term agriculture, are not covered by this Act, for example general forestry. Such activities are regulated by the Workers' Protection Act of 7 December 1956. The same rules regarding labour inspection apply under both Acts, and the inspection is carried out by the same labour inspection system.

The Acts concerning agricultural workers and labour inspection apply to all agricultural undertakings employing workers or machine power of 1 h.p. or more.

When dealing with cases connected with working conditions in agriculture, representatives of employees and employers must,

according to section 32 of the Agricultural Workers' Act, be members of the Board.

Article 4. Section 2 of the Agricultural Workers' Act defines the term worker as anyone who is in someone else's service. General agricultural labourers, tenders, domestic servants and other employees are thus covered by the activities of the Labour Inspectorate.

Article 5. Norway has not issued a declaration in conformity with sections 1 and 2 in this Article, and does not propose to apply the Convention in so far as the categories of persons specified in section 1 are concerned.

Article 6. According to section 32 of the Agricultural Workers' Act, the Labour Inspectorate must see to it that the regulations in the Act regarding the provision of healthy and safe workplaces and regarding working hours are being kept. According to section 32 of the Workers' Protection Act, sections 54-59, section 62(1) and (2)(a) (see last paragraph), as well as sections 63 and 71 of the general Workers' Protection Act apply to agriculture. According to the third paragraph of section 32, the Labour Inspectorate must give guidance and information regarding safety measures for agricultural workers, including types of work that are not covered by this Act.

Pursuant to an instruction, the Labour Inspectorate has a duty to make the necessary regulations for the provision of safe and healthy places of work. According to the second and third paragraphs of section 32 of the Agricultural Workers' Act, the inspection of hygienic conditions in the household and lodgings comes under the Health Council. The Labour Inspectorate must notify the Health Council if complaints have been made to it regarding these conditions, or if it has reason to believe these conditions should be looked into.

Other tasks than those mentioned in sections 1 and 2 are not part of the duties of the inspecting personnel.

Article 7. The Labour Inspectorate comes under the Ministry of Local Government and Labour. Norway has no separate labour inspectorate for agriculture.

The Directorate for Labour Inspection employs civil servants qualified to deal with agricultural matters. In some districts there are qualified agricultural civil servants carrying out inspections in agricultural undertakings. The local labour inspectorates are being expanded.

Article 8. The agricultural personnel of the Labour Inspectorate are ensured permanent employment like other civil servants and their posts are not affected by changes of government. The agricultural labour inspection system does not include trade union officials or representatives.

Article 9. Appointments of agricultural specialists to the Labour Inspection Service are strictly based on qualifications only. All newly appointed inspection personnel in the state labour inspection have to follow an initial course lasting for several weeks.

Later the civil servants take part in different courses connected with their activities. From time to time specialists give expert advice on particular problems in this field.

Article 10. Men and women can apply on equal terms for positions as inspectors with the Labour Inspection Service.

Article 11. Many qualified civil engineers are employed by the Labour Inspection Service. The Directorate of Labour Inspection has also at its disposal technical experts in agriculture.

Article 12. The Labour Inspectorate is by order obliged to co-operate with such institutions as mentioned in section 1. General inspection activities in the area of workers' protection is the responsibility of the Labour Inspectorate solely.

Article 13. The Labour Inspectorate is by instruction charged to co-operate with both parties. Both parties are also represented on the Board of Labour Inspection.

Article 14. The local labour inspectorates employ at the moment forty inspectors whose task is to supervise the implementation of the Workers' Protection Acts. In the districts, three agricultural experts have been appointed as inspectors. In addition, there are several hundred labour inspection offices, with the task, among others, to supervise the implementation of the Agricultural Workers' Act.

Article 15. Inspectors are entitled to make use of all means of public transport, or of their own cars, for the purpose of agricultural inspection.

Article 16. According to section 32 of the Agricultural Workers' Act, section 57 of the general Workers' Protection Act applies also to agricultural undertakings. Members of the Board of Labour Inspection, the officials of the Inspectorate and experts have at any time access to any workplace which is covered by the Act. It is the duty of the employer, the employees and every other person connected with the undertaking to furnish all the information considered necessary for the carrying out of the inspection. In carrying out an inspection at the workplace, the officials of the Inspectorate consult the safety representatives of the employer and of the employees.

As a rule, the Labour Inspectorate has no access to the employer's private premises.

Article 17. Reference is made to section 8 of the Agricultural Workers' Act. The instructions to the local labour inspection offices impose upon them the duty to give also general guidance.

As far as preventive measures are concerned at new agricultural plants, with new materials or ingredients, or new methods of processing of products which could be expected to be a danger to health and safety, the Labour Inspection Service apply the same guidelines as appropriate to industrial conditions; see also section 14 of the general Workers' Protection Act.

Article 18. In accordance with section 56 of the general Workers' Protection Act, which also applies to agriculture, the Inspectorate gives the general provisions, recommendations and instructions, and furthermore takes such decisions as may be necessary for the proper implementation of the Act.

If an instruction is not complied with, and the Inspectorate sets a new time limit for its execution without the new date being met, the Inspectorate can close down the plant completely or partly until the condition complained of has been rectified.

Article 19. According to section 9 of the Agricultural Workers' Act, accidents at work and occupational diseases must be subject to notification to the Labour Inspectorate.

When the Labour Inspectorate has been notified of an accident at work, it should, in compliance with service instructions, make sure that the case is investigated in a proper manner, preferably on the spot (see instruction to the local inspection office, section 17).

Article 20. According to section 33 of the Agricultural Workers' Act, officers of the Labour Inspectorate must not own or have any major economic interest in the undertakings under their control, if any.

According to section 59 of the Workers' Protection Act officers of the Labour Inspectorate must preserve secrecy as regards the administration and commercial activities of the undertakings they have come into contact with while carrying out their work. Under the Workers' Protection Act, section 59, the identity of the person reporting conditions to the Labour Inspectorate which are in contravention of the Workers' Protection Act, must not be divulged, unless he expressly consents to be named, or the complaint is shown to be unfounded.

Article 21. The local Labour Inspectorate is being expanded, and the situation may arise when it becomes necessary to appoint more agricultural inspectors in order to make the inspection service more efficient.

Article 22. The Workers' Protection Act provides for a series of penalties which may be invoked against infringements of the Act.

In the case of less serious offences, chief district officers have preferred to give warnings and instructions instead of advising the institution of proceedings.

Article 23. The agricultural labour inspectors report punishable offences against the Agricultural Workers' Act to the chief district officer, who decides whether the case should be submitted to the prosecuting authority.

Article 24. Sections 37-38 of the Agricultural Workers' Act fix penalties for employers who are in breach of regulations intended to provide for healthy and safe places of work or who infringe other regulations intended to protect the workers' interests. Section 39, in its turn, fixes penalties for employees who infringe regulations intended to provide for healthy and safe places of work.

Section 42 of the Agricultural Workers' Protection Act fixes penalties for persons trying to prevent investigations by the Labour Inspectorate or omitting to give information or assistance that are necessary for the adequate functioning of the inspection service.

Articles 25 and 26. According to section 22 of the instructions for the local Labour Inspectorate, the Chief District Officer must send a quarterly report concerning the Inspectorate's activities to the Directorate. In addition to the quarterly report, an annual report has also to be prepared.

Article 27. Reference is made to the enclosed annual report on labour inspection. As regards the statistics mentioned under (c), the Labour Inspectorate will receive instruction to prepare such statistics.

SPAIN

Act 39 of 21 July 1962 respecting the organisation of the Inspectorate of Labour (Boletín Oficial del Estado, 23 July 1962) (LS 1962 - Sp. 4).

Ordinance to approve General Regulations for rural work, approved by Ministerial Order of 2 October 1969 (*ibid.*, 7 October 1969) (LS 1969 - Sp. 2).

Decree 2121 of 23 July 1971 to approve the Labour Inspectorate Staff Regulations (*ibid.*, 21 September 1971).

Decree 2122 of 23 July 1971 to approve the Labour Inspectorate Regulations (*ibid.*, 21 September 1971) (LS 1971 - Sp. 5).

Decree 3772 of 23 December 1972 to approve the General Regulations of the special security scheme for agricultural workers (*ibid.*, 19 February 1973).

The General Occupational Safety and Health Ordinance approved by Ministerial Order of 9 March 1971 (BOE, 16 March 1971) (LS 1971 - Sp. 2A).

Article 1 of the Convention. 1. The expression "agricultural undertaking" is defined as in the Convention in the relevant parts of the General Labour Ordinance, and in the new texts of Acts Nos. 38 of 31 May 1966 and 41 of 22 December 1970.

2. It has not been necessary to define the line separating agriculture from industry and commerce.

Articles 2 to 4. By Act No. 39 (21 July 1962) respecting the organisation of the Inspectorate of Labour and the Inspection of Labour Regulations, inspection is extended to all undertakings and workplaces in all branches of the economy.

The general labour ordinance in this field indicates the agricultural undertakings subject to inspection and the categories of workers protected.

The general regulations of the special social welfare scheme for agricultural workers establishes the field of activity of labour inspection, which also covers social security inspection.

Article 5. As the categories of workers referred to in subparagraphs (a), (b) and (c) are covered by the special social welfare scheme for agricultural workers, it has not been necessary to extend the labour inspection to such workers in writing.

Article 6, paragraph 1(a). The functions of labour inspection in agriculture are to enforce the general labour ordinance and the provincial collective agreements applicable to farming.

Paragraph 1(b) and (c). The functions foreseen in these subparagraphs are performed by visits to the workplaces, in accordance with the relevant regulations.

Paragraph 2. The inspectors do not perform these functions.

Article 7. The National Inspectorate of Labour operates as a single and exclusive body whose responsibility cannot be delegated. The inspectorate is composed of a central office and provincial offices. The central office is responsible for the over-all direction of inspection, whilst respecting the autonomy of the provincial offices, and promotes the co-ordination of this work in the various economic sectors and geographical areas.

The labour inspectors attend updating and specialisation courses, designed to improve their professional ability.

Article 8. 1. The National Inspectorate of Labour, which is responsible for inspection in agriculture, is composed of public officials forming a special body within the public service, which they enter by a process of selection and competitive examination. The service conditions guarantee them stability of employment and independence of action (articles 7 to 13 and 29 to 30 of the Statutes of the National Inspectorate of Labour).

2. The labour inspectors for agriculture do not include officials or representatives of the occupational bodies, although there is legal provision for such collaboration.

Article 9. See Article 8.

Article 10. Women can take part in the selection tests for entry to the National Inspectorate of Labour and some are already serving on this body.

Article 11. Article 4 of the Act and article 8 of the regulations on the inspection of labour make provision for the collaboration of experts and technicians in labour inspection work.

Article 12. 1. As there are no governmental services or public institutions engaged in activities similar to those of labour inspection in agriculture, there is no need to promote collaboration in this sphere. Nevertheless, articles 4 et seq of the Act respecting the Organisation of the Inspectorate of Labour make provisions for general collaboration with all types of body.

2. It has not been found necessary to entrust inspection functions in agriculture to governmental services.

Article 13. The requirements of this Article are complied with by article 4 of the Act respecting the Organisation of the Inspectorate of Labour and by articles 8 and 12 of the relevant regulations.

Article 14. (a) Four hundred labour inspectors are active in the agricultural sector.

(b) Fifty-two labour inspectorate offices supervise labour conditions in agriculture.

Article 15. 1. Fifty-two labour inspection offices and eight vehicles are used in the various provinces, according to the farming work being done. The labour inspectors also use private vehicles, for which compensation is paid on a mileage basis.

2. In accordance with the State Administration and Financial Questions Act and the Public Services Personnel Act, the labour inspectors are reimbursed for any expenses involved in the performance of their duties.

Article 16. The requirements of this Article are covered by Article 13 of the Act respecting the Organisation of the Inspectorate of Labour and articles 22 and 23 of the Labour Inspection Regulations.

Article 17. This Article is implemented by article 21 of the Labour Inspection Regulations and by the General Ordinance on Occupational Safety and Health, which covers agriculture also.

Article 18. The powers foreseen in subparagraphs (a) and (b) of paragraph 2 are conferred by article 23 of the Labour Inspection Regulations. Any defects noted have to be made known to the employer and the representatives of the workers, by making an entry in the inspection book which has to be kept available for each place of work.

Article 19. Under article 17 of the Labour Inspection Regulations, undertakings have to inform the insurers of work accidents which occur, for immediate notification to the provincial labour delegations, where the local labour inspectorate has its offices; the inspectorate is informed in turn so that it can establish a report on the causes and circumstances of the accident.

Article 20. The requirements of this Article are satisfied by articles 32 to 35 of the Regulations of the National Inspectorate of Labour.

Article 21. The frequency of inspections is established by article 10 of the Labour Inspection Regulations.

Article 22. 1. Penalties for infringement of, or failure to observe, the relevant legal provisions are imposed by special procedures established under the Decree of 2 June 1960, in accordance with article 13 of the Act respecting the Organisation of the Inspectorate of Labour and article 18 of the Labour Inspection Regulations.

2. Article 12 of the Labour Inspection Regulations provides for the giving of warning and advice.

Article 23. The Decree of 2 June 1960 empowers labour inspectors to initiate prosecution procedure.

Article 24. Various decrees and special standards establish penalties for infringements of the legal provisions.

Article 25. 1. The inspectors report monthly to the central inspectorate on their activities.

2. Models of such reports are attached.

Articles 26 and 27. The annual reports called for in these Articles are issued.

Convention No. 131: Minimum Wage Fixing
Convention, 1970

ECUADOR

The 1945 Constitution.

The Labour Code (LS 1971 - Ecu. 1).

Decree No. 1000 of 15 December 1970 (Registro Oficial, No. 122, dated 16 December 1970).

Article 1 of the Convention. 1. The law makes no distinction at all between wage earners. It protects them all, as laid down in the Labour Code (section 115). The 1945 Constitution, section 148, guarantees adequate minimum earnings for every worker, to meet his own needs and those of his family.

The law provides for a system of Minimum Wage Boards to devise and enforce regulations concerning minimum wages. Section 116 of the Labour Code lays down that in provincial capitals and in such cantons and other places as the Ministry of Social Security may see fit, there shall be minimum wage boards to lay down minimum wages and salaries for their respective areas. These boards will consist of one representative of the Department of Labour or of a branch office of the same, a doctor appointed by the Ecuadorian Social Security Institute, and a representative of the municipality concerned. Furthermore, there will be two other members, one representing the employers and the other the workers, appointed by the employers and workers respectively, in accordance with the relevant regulations.

2. The competent authorities, as regards minimum wages, are the boards set up as laid down in section 116. Furthermore, section 118 provides that minimum wages shall be reviewed by the boards every two years, with an eye to current necessities, unless circumstances be such as to call for a more frequent review. Section 119 lays down that if a board's decisions are not unanimous, those of

its members who have voted against may appeal to the Department of Labour, which will give a ruling. Section 121 provides that if for any reason the minimum wage boards do not fulfil the purposes for which they were created, the Minister of Social Security and Labour shall lay down minimum wages himself.

It will be seen from section 116 of the Labour Code that since employers' and workers' representatives have a say in fixing minimum wages, the occupational organisations are adequately consulted.

3. There is no exception.

Article 2. 1. Section 148(c) and (h) of the Constitution and section 123 of the Labour Code lay down that minimum wages may not be reduced. If it is established that minimum wages have not been paid, then a fine can be levied, as provided for in section 120.

2. The wages system applies without discrimination to all workers, except for officials, whose emoluments are as provided for in the General State Budget and regulated by the Civil Service and Administrative Careers Act.

In addition, workers' wages may be arrived at by collective bargaining. In any event, if clauses in individual contracts of employment run counter to those in a collective agreement, the latter prevails (the Labour Code, section 218). The law does not say that any particular class of worker may be subject to collective bargaining, but refers to workers in general.

Article 3. The Labour Code, section 3, lays down the factors which a board has to bear in mind in laying down minimum wages.

Article 4. 1. Section 118 of the Labour Code provides that minimum wages shall be periodically adjusted.

Decree 1,000 (Official Gazette No. 122, dated 16 December 1970) indicates the minimum wages to be paid to certain kinds of worker such as those employed in small workshops, whose monthly minimum wage is 600 sucres. Domestic servants earn a minimum of 375 sucres a month.

The labour legislation deals exclusively with the worker in general, while Decree 1,000 lays down that every worker in the country, no matter what his work or hours of work may be, shall be entitled to 750 sucres, except for agricultural workers, who are to go on drawing the monthly minimum wage in force.

Apart from the minimum wage boards and the family allowances system, there is a machinery for wage and salary adjustment, to which end national and regional wage adjustment boards have been created, in accordance with section 122 of the Labour Code.

Section 120 of the Labour Code lays down that there shall be, in the Ministry of Labour, a Minimum Wage Department, to assemble data, give instructions to the minimum wage boards, ensure that particulars of minimum wages appear in the Official Gazette, and that the regulations governing wage-fixing are duly complied with.

2. Please refer to Article 1, paragraph 2 of the Convention.

Furthermore, the Ministry of Social Security and Labour is now drawing up a Bill to establish a tripartite National Wages Commission, to devise a national wages policy. National and international technical bodies will have a say in its deliberations.

3(a). The employers' and workers' representatives have a direct say in minimum-wage fixing, as laid down in section 116, paragraph 3.

Before Decree 1,000 was enacted (laying down minimum wages for workers), the various Ecuadorian occupational organisations were duly consulted, together with various state bodies which gave their views on the minimum-wage fixing machinery and systems proposed.

Article 5. In accordance with the last paragraph of subparagraph (a) in section 120, the Labour Inspection Department may be the body responsible for auditing the accounts of undertakings and seeing that minimum-wage legislation is duly complied with.

The law lays down that decisions taken by the Minimum Wage Boards shall appear in the Official Gazette, a journal with a wide audience in Ecuador, in accordance with the Labour Code, section 120(f).

JAPAN

Legislation: see under Convention No. 26.

Article 1, paragraph 1, of the Convention. As regards the groups of wage earners to which the minimum wage system applies and the number of persons covered in each group, see under Convention No. 26.

Paragraph 2. Full consultation took place in 1957 with the representative organisations of employers and workers in the Central Wages Council established under the Labour Standards Law, before the enactment of the Minimum Wages Law. Full deliberation was made on the coverage of minimum home work wages in the Home Work Council, on the occasion of the enactment of the Industrial Home Work Act.

Paragraph 3. National and local public employees in the regular service are not covered by the minimum wage system, since their wages are fixed by law.

Article 2, paragraph 1. See under Convention No. 26.

Paragraph 2. Collective bargaining is respected; 9,956,000 workers have their wages fixed through collective bargaining, but they are also covered by the Minimum Wages Law.

Article 3. Under section 3 of the Minimum Wages Law and section 13 of the Industrial Home Work Act, minimum wages are fixed taking comprehensively into consideration the elements provided for in this Article.

Article 4. See under Convention No. 26.

With reference to paragraph 3(b), persons representing the public interest are appointed as members of the Minimum Wages Council and in practice the organisations of employers and workers are consulted before their appointment.

Article 5. See under Convention No. 26. There are some cases of violation, but up to now there have been no cases where penalties were imposed.

SPAIN

The Labour Charter of 9 March 1938 (LS 1938 - Sp. 1), 17 July 1945 (Boletín Oficial del Estado, 18 July 1945).

Basic Law of the State dated 10 January 1967 (BOE, 11 January 1967).

An Act respecting the Drafting and Promulgation of Labour Regulations. Dated 16 October 1942 (LS 1942 - Sp. 2).

The Contract of Employment Act, 1944 (Decrees dated 26 January and 31 March 1944) (LS 1944 - Sp. 1(A) and (B)).

Decree 1541/1972, dated 15 June 1972 (BOE, 16 June 1972).

Act setting forth the IIIrd Economic and Social Development Plan, dated 15 May 1972 (BOE, 16 June 1972).

Decree 527 dated 29 March 1973, on new minimum inter-occupational wage rates and bases for social security contributions (BOE, 31 March 1973).

Decree 2380 (17 August 1973) on wage grading (BOE, 4 October 1973).

Act 39 (21 July 1962) on Organisation of Labour Inspection (LS 1962 - Sp. 4).

Article 1 of the Convention. The 1938 Labour Charter, declared to be a Fundamental Law by the Basic Law of the State dated 10 January 1938, lays down that the State shall set minimum standards for labour (Declaration III). The standards in question include earnings. The Spaniard's Charter, or Fuero de los Españoles (17 July 1945), embodied as a Fundamental Law by the Basic Law of the State, lays down (section 27) that the right of all workers to a just and adequate income shall be protected by the State - an income adequate for themselves and their dependants and such as would enable them to enjoy a worthy standard of living. The Contract of Employment Act, 1944, section 9(1) lays down as a primary source: "the standards laid down by laws, decrees and labour enactments of various kinds". Paragraph 2 says that the will of the parties shall be a subsidiary source. The Act dated 16 October 1942 specifies that the systematic regulation of minimum standards in worker-employer relations shall be a matter for the State, and shall be exercised by the Ministry of Labour, which shall be unable to delegate the responsibilities in question.

Spanish law demands that minimum wage rates shall be laid down for each occupation. Decree 2380 (1973) specifies that the minimum inter-occupational wage shall not modify the make-up of wages fixed by regulations, ordinances, collective agreements or resolutions by the labour authorities, nor may the amounts be altered. The present method of fixing minimum wage rates came into use in 1963. The minimum wage is reviewed each year (Act dated 11 February 1969, approving the IInd Economic and Social Development Plan), the Trade Union Organisation having first been consulted; allowance is made for the cost of living, productivity, and the state of the Spanish economy. Minimum wage rates are set and regulated inter-occupationally without distinction for all workers over eighteen, those of 14 and 15 years of age, and those of 16 and 17 (Act dated 10 May 1972, approving the IIIrd Economic and Social Development Plan). The minimum wages in force on 1 April 1973 to 31 March 1974 are as laid down by Decree 527 (1973) dated 29 March.

Article 2. The inter-occupational minimum, according to Decree 527 (1973) cannot be further reduced. Section 5 of this same Decree recognises free collective bargaining.

Article 3. Minimum wages are defined with an eye to the factors mentioned in Article 1.

Article 4. Minimum wages are adjusted in accordance with section 14 of Decree 527 (1973) (April to April, every year). This is done by the Ministry of Labour.

Article 5. The labour inspection authorities ensure that minimum-wage legislation is complied with (Act 39, 1962, section 3). In 1972 there were 2,037 breaches reported. In that same year, 187,849 visits of inspection were made.

LIST OF REPORTS CONTAINING INFORMATION WHICH
HAS NOT BEEN SUMMARISED

- A. Reports containing information on important changes in the implementation of Conventions, or information supplied in reply to Observations or Direct Requests made by the Committee of Experts.
- B. Reports containing information on the practical effect given to Conventions, or on minor changes in their implementation.
- C. Reports merely repeating or referring to the information previously supplied.

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
Aghanistan	-	-	100, 111
Algeria	29, 42, 81, 95, 105	6, 63, 68, 88, 89	10, 56, 69, 71, 73, 74, 92, 94, 96, 101
Argentina	17, 29, 32, 34, 77, 81, 95, 105	2, 12, 52, 53, 79, 88, 90	6, 10, 16, 18, 19, 22, 41, 71, 73, 78
Australia	42, 63, 105	19, 88	10, 12, 22, 29
New Guinea	42, 105	-	10, 12, 19, 29, 85
Norfolk Islands	-	-	10, 29, 105
Papua	42, 105	-	10, 12, 19, 29, 85
Austria	19, 81, 94	2, 6, 12, 17, 18, 24, 25, 29, 42, 63, 89, 101, 105	10, 95
Bangladesh	16, 18, 22	6, 81, 89, 90	19, 118
Belgium	81	-	-
Bolivia	5, 26, 87, 96	-	19
Brazil	12, 22, 29, 42, 107, 117, 118, 122, 124, 127	88, 89, 115, 125	113
Bulgaria	29, 53, 124	12, 16, 17, 18, 19, 24, 25, 34, 42, 52, 55, 56, 71, 73, 77, 78, 79, 81, 95	6, 10, 22, 23, 44, 69, 94, 113

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
Burma	-	2	11
Burundi	-	-	11
Byelorussian SSR	29, 87, 98	52, 77, 78, 115	10, 79, 90, 95, 100, 111
Cameroon	19, 81, 87	-	10, 11, 16, 29, 94, 95, 98
Eastern Cameroon	-	-	6
Western Cameroon	-	-	65
Canada	105	22, 63, 88	16, 69, 73, 74
Central African Republic	18, 29, 81, 94, 105	2, 88	6, 10, 17, 19, 41, 52, 95, 101, 104, 117, 118
Chad	-	-	24
Colombia	12, 111	23	4, 16, 19, 52, 104, 105
Costa Rica	87, 96, 98	89, 90	11, 100, 111
Cuba	17, 53	-	77
Cyprus	44, 88, 95, 114, 121	2, 19, 81	16, 29, 89, 90, 94, 124
Czechoslovakia	87, 115	17, 18, 34, 42, 52, 63, 88, 98	10, 12, 19, 25, 89, 90
Denmark:			
Faroe Islands	105	5, 6, 52, 106	9, 11, 12, 14, 19, 87, 92, 98
Greenland	-	-	6, 19
Dominican Republic	-	-	10, 19, 79, 90, 104
Egypt	17, 18, 19, 29, 74, 81, 87	88, 96	52
El Salvador	105	12	104
Ethiopia	11, 87, 111	-	-

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
Finland	18, 29, 53, 81, 94, 105, 118, 121, 124	2, 17, 63, 92, 119	12, 16, 19, 22
France	12, 35, 36, 37, 38, 53, 78, 81, 96	2, 44, 63, 71, 74, 88, 95, 125	6, 10, 16, 22, 23, 24, 52, 55, 56, 69, 73, 77, 89, 92, 94, 101, 113, 114
Overseas Departments:			
French Guiana	18	71, 74, 81, 91	6, 10, 55, 56, 69, 73, 89, 92, 94, 95, 101
Guadeloupe	18	71, 74, 91	6, 10, 55, 56, 69, 73, 81, 89, 92, 94, 95, 101
Martinique	18	71, 74, 81, 91	6, 10, 55, 56, 69, 73, 89, 92, 94, 95, 101
Réunion	18	71, 74, 91	6, 10, 55, 56, 69, 73, 81, 89, 92, 94, 95, 101
Overseas Territories:			
Comoro Islands	6, 82	-	85, 95
French Polynesia	-	95	-
French Terri- tory of the Afars and the Issas	-	-	6, 29, 82, 95
New Caledonia	-	82, 95	6, 29
St. Pierre and Miquelon	-	-	6, 95
Gabon	-	111	-
Germany (Fed. Rep. of)	22, 81, 96, 105	12, 17, 18, 25, 29, 42, 63, 88, 101	2, 10, 16, 19, 23, 24, 56, 114

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
Ghana	65	22, 74, 81, 88	8, 16, 19, 23, 29, 58, 69, 89, 90, 92, 115
Greece	55	2, 42, 69, 88, 90	6, 16, 19, 29, 52
Guatemala	77, 78, 81, 87, 89, 95, 105, 113, 114	63, 79, 88, 90, 96	19, 65, 94, 101, 118
Guinea	16, 17, 18, 111, 114, 117, 118, 120, 121, 122	10, 29, 52, 89, 105	81, 90, 94, 95, 113, 115
Guyana	42, 105, 115	81	2, 10, 19, 29, 65, 82, 94, 95
Haiti	24, 25, 42, 105	17, 29	1, 5, 12, 14, 19, 30, 45, 77, 78, 81, 98
Honduras	29, 32, 42, 62, 78, 95, 105, 111	108	98, 100
Hungary	29, 48, 124	6, 18, 42, 77, 78, 115	2, 10, 12, 16, 17, 19, 24, 41, 52, 87, 95, 101
Iceland	-	29, 105	-
India	29	18, 22, 42, 81, 88	6, 16, 19, 90, 118
Iran	-	-	104
Iraq	16, 17, 22, 42, 78, 81, 95, 115	29, 88, 89	19, 52, 77
Ireland	74	10, 69, 81, 88	12, 16, 22, 23, 89, 92
Italy	81, 89, 111	-	-
Ivory Coast	29	52, 85, 110	6, 18, 19, 41, 95, 96, 105, 111
Jamaica	-	-	29, 65
Japan	81	2, 18, 42, 88, 96	10, 19, 29
Kenya	81	88	65, 94
Khmer Republic	-	4, 6	-

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
Kuwait	81, 117	89	-
Liberia	29, 87, 105	53	55, 65, 104, 114
Libyan Arab Rep.	98, 100	-	-
Luxembourg	18, 29, 42, 77, 78, 100	12, 19, 24, 25, 30, 79, 88	2, 6, 16, 17, 22, 23, 90, 105
Madagascar	87	-	11, 100, 111
Malawi	97, 98	81	12, 19, 65, 89
Malaysia	17, 81, 95	29	65, 98
States of Malaya	-	-	12, 19
State of Sabah	-	-	16, 94
State of Sarawak	94	-	12, 16, 19
Mali	29	17, 52, 81	6, 18, 19, 95
Malta	16, 22, 42, 88, 105	2, 12, 19, 81	10, 29, 89, 95
Mauritius	17, 81	65, 74	12, 19, 29, 42, 94, 95
Mexico	17, 22, 34, 42, 124	90	12, 16, 19, 23, 29, 52, 53, 55, 95
Mongolia	-	111	59, 87, 98, 103
Morocco	29, 55, 81, 94, 101	2, 12, 17, 18, 42, 52	19, 22, 41, 65, 104, 105
Netherlands	29, 69, 71, 81, 105, 115, 121, 124	44, 63, 74, 90	10, 16, 19, 22, 25, 73, 89, 92, 95, 118
Netherlands Antilles	17, 81, 94, 105	2, 69, 74, 88	10, 22, 58, 89, 90, 95
Surinam	19, 81, 88, 94, 95, 118	2, 29, 42, 96, 105	17, 101
New Zealand	17, 22, 42, 81	2, 44, 52, 53, 63, 88	10, 12, 16, 29, 65, 74, 82
Cook Islands	-	-	11, 14, 65, 82, 84, 99, 104

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
Nine Island	-	105	65, 82, 104
Tokelan Islands	-	-	65, 82, 104, 105
Nicaragua	24, 25, 100, 111	2, 9	1, 4, 6, 16, 22, 87, 98
Niger	33, 95, 102, 111, 117	85	5, 6, 11, 18, 29, 41, 65, 87, 98, 100, 104
Nigeria	29, 81, 105	-	19, 65, 88, 94, 95, 104
Norway	24, 25, 29, 42, 56, 81, 92, 96, 105	2, 12, 18, 22, 44, 53, 63, 69, 71, 73, 88	10, 19, 90, 95, 101, 115, 126
Pakistan	18, 29, 81, 105, 118	96	6, 16, 19, 22, 89, 90
Panama	12, 16, 17, 19, 22, 23, 29, 65, 71, 73, 78, 95, 104, 105, 111, 113, 114, 124, 127	42, 52, 53, 69, 81, 88, 92, 125	10, 16, 89
Paraguay	11, 77, 78, 81, 95, 120, 124	79, 89	14, 26, 90, 98, 101
Peru	27, 29, 62, 77, 78	-	-
Philippines	-	-	90
Poland	12, 17, 19, 25, 42, 115	2, 24, 69, 74	6, 10, 16, 18, 23, 73, 77, 78, 79, 90, 95, 96, 101
Romania	1, 6, 24, 29, 87	2, 10, 89	-
Rwanda	17, 19, 26, 42, 64	-	94
Sierra Leone	15, 22, 81, 111	88, 101, 125, 126	5, 16, 19, 59, 65, 94
Singapore	29, 105	12, 81, 88	16, 19, 22, 65, 94
Spain	22, 53, 105	12, 18, 42, 69, 126, 127	2, 6, 10, 16, 17, 19, 24, 25, 29, 48, 81, 88, 95, 113, 114, 115

Country	A Conventions Nos.	B Conventions Nos.	C Conventions Nos.
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Sudan	105	2, 29, 81	19, 95
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International Labour Conference
59th Session 1974

Report III
(Part 2)

Third Item on the Agenda

Information and Reports on the Application
of Conventions and Recommendations

Termination of Employment

**Summary of Reports on Recommendation No. 119
(Article 19 of the Constitution)**

International Labour Office Geneva

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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INTRODUCTION

Article 19 of the Constitution of the International Labour Organisation provides that Members shall "report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body" on the position of their law and practice in regard to the matters dealt with in unratified Conventions and in Recommendations. The obligations of Members as regards Conventions are laid down in paragraph 5(e) of the above-mentioned article. Paragraph 6(d) deals with Recommendations, and paragraph 7(a) and (b) deals with the particular obligations of federal States.

Pursuant to the above-mentioned provisions, the Governing Body selects each year the instruments on which Members are requested to supply reports. Since 1950 the summaries of these reports have been submitted each year to the Conference.

The reports which are summarised in the present volume concern the Termination of Employment Recommendation, 1963 (No. 119).

The governments of member States were requested to send their reports to the International Labour Office before 1 July 1973. The present summary, which is submitted to the Conference in conformity with article 23, paragraph 1, of the Constitution, covers reports received by the Office up to 1 November 1973.

The report of the Committee of Experts on the Application of Conventions and Recommendations (Report III, Part 4B), which will also be submitted to the Conference at its 59th (1974) Session, will include the general survey by the Committee on the reports on the above-mentioned Recommendation.

TERMINATION OF EMPLOYMENT RECOMMENDATION,
1963 (No. 119)

ALGERIA

Labour Code, First Book, section 22A (Ordinance of 2 November 1945, rendered applicable by a Decree dated 25 March 1946); section 23; section 24 (Act No. 55-1466 of 12 November 1955, rendered applicable by section 4 of the Act itself); section 24a (Act No. 53-1350 of 31 December 1953, extended by decision of the Algerian Assembly, approved by a Decree dated 4 August 1954).

Ordinance No. 45-1030 of 24 May 1945 respecting the placing of employees and the supervision of employment (section 10), rendered applicable by Decree No. 46-1351 of 6 June 1946.

Ordinance No. 71-74 of 16 November 1971 respecting the socialist management of undertakings.

Ordinance No. 71-75 of 16 November 1971 respecting collective employment relationships in the private sector.

Paragraph 2 of the Recommendation. Under the terms of the legislation antedating independence, the grounds for dismissal must be connected with the capacity or conduct of the worker or the economic circumstances of the undertaking or establishment.

Section 29 of the draft text of the new Labour Code specifies as being valid reasons for the dismissal of individual workers only serious misconduct on the part of the worker and inability to perform his work satisfactorily. It lists the acts deemed to constitute serious misconduct and giving grounds for dismissing the worker without notice or compensation and stipulates that a worker may be dismissed for inability to perform his work satisfactorily only after all possibilities of transferring him to another post have been explored.

Paragraph 3. Under the terms of section 15 of Ordinance No. 71-74 of 16 November 1971, all workers enjoy the right to organise. Any worker may seek office as a worker's representative (sections 19 to 48 of Ordinance No. 71-74, sections 1 to 10 of Ordinance No. 71-75). Before a member of a trade union bureau may be dismissed the bureau must vote on the matter by secret ballot after having heard him state his case, and the dismissal does not take effect until it has been approved by the Labour Inspectorate, failing which it is null and void; these provisions apply also to former trade union bureau members who have ceased to hold office within the past year (section 10 of Ordinance No. 71-75 of 1971).

The preamble to the Charter for the Socialist Organisation of Undertakings proclaims the principle of equality as between all workers, "all workers, without distinction, being entitled to enjoy the social rights".

Paragraph 4. Workers are afforded the opportunity to bring any dispute arising in connection with an employment contract or relationship to the attention of the disciplinary board, where one exists in the undertaking, or of the court responsible for dealing with labour matters.

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The trade union bureau for the unit, undertaking or establishment, which meets regularly with the employer with a view to settling, within the undertaking, matters pertaining to labour-management relations, is responsible for the enforcement of the provisions of the laws and regulations which constitute the labour law and for reporting any breach of these provisions to the labour inspector (section 12 of Ordinance No. 71-75 of 1971).

Under the terms of section 30 of the draft Labour Code, no worker may be dismissed (for serious misconduct or inability to perform his work satisfactorily) until the joint disciplinary board has expressed its opinion, failing which the dismissal shall be deemed to be wrongful unless the employer can show proof to the contrary.

Paragraph 5. The disciplinary board is required to express a prior opinion with respect to all disciplinary matters, which must compulsorily be referred to it (section 54 of Ordinance No. 71-74 of 1971).

Paragraph 6. Under the terms of section 36 of the draft Labour Code, any dismissal recognised to be wrongful is deemed to be null and void and the worker must be reinstated.

Paragraph 7. Unless he has been dismissed for serious misconduct, any worker whose employment is terminated is entitled, under section 34 of the draft Labour Code, to one month's notice in the case of specialised or skilled labourers, two months' notice in the case of supervisory staff and three months' notice in the case of intermediate-level and senior executive staff, or to payment of compensation equal to the remuneration he would have received during such a period of notice. He is further entitled to two hours off per day with pay, which may be accumulated, to seek other employment.

Paragraph 8. At the time of the termination of the contract of employment the employer must remit to the worker a certificate specifying exclusively the dates of his engagement and termination and the nature of the post or successive posts he held, together with their dates; nothing unfavourable to the worker may be inserted in this certificate (section 24 of the draft Labour Code).

Paragraph 9. Under the terms of section 35 of the draft Labour Code, a worker engaged for a period of indefinite duration is entitled to a severance allowance in the event of collective or individual termination of employment if he has been actually working for the undertaking for not less than one year.

Workers whose employment has been terminated are given priority for assignment to other work or engagement by another undertaking.

Paragraphs 12 and 13. The workers' assembly must be consulted about any fundamental change affecting the situation of the workers and about any major structural alterations to the unit or undertaking (sections 36 and 37 of Ordinance No. 71-74 of 1971).

Paragraphs 14 to 16. Under the terms of section 32 of the draft Labour Code, any undertaking, body or establishment which reduces its activities to such an extent as to require a retrenchment of the work force must inform the labour inspector so that an inquiry may be carried out. Before taking a decision it is compulsory for the labour inspectorate to consult the workers' representatives.

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Once the authorisation of the labour inspectorate has been obtained, the employer, undertaking, body or establishment, in agreement with the workers' representatives, must observe the following order for the dismissal of employees: (1) the least skilled workers; (2) the workers with the shortest length of service; (3) the workers with the fewest dependants.

Workers whose employment has been terminated are given priority of re-engagement by the undertaking, body or establishment or one of its units.

Paragraph 17. The public employment services are fully utilised to find alternative employment for workers discharged on account of a reduction of the work force.

ARGENTINA

National Constitution.

Commercial Code.

Act No. 20163, replacing by a new text subsection 3 of section 157 of the Commercial Code (Boletín Oficial, 23 Feb. 1973).

Act No. 11729, for the amendment of sections 154 to 160 of the Commercial Code (Boletín Oficial, 25 Sept. 1934; L.S. 1934 - Arg. 3).

Act No. 14455 of 8 August 1958, respecting industrial associations of employees (Boletín Oficial, 24 Sept. 1958; L.S. 1958 - Arg. 1).

Act No. 18345 respecting the organisation of and the procedure for the National Labour Courts (Boletín Oficial, 24 Sept. 1969).

Decree No. 33302 of 20 December 1945 (Boletín Oficial, 31 Dec. 1945).

Legislative Decree No. 17391, for the repeal of sections 1 and 2 of Act No. 15785 and Act No. 16881 respecting contracts of employment and the fixing of new maximum rates of compensation for length of service (Boletín Oficial, 18 August 1967).

Paragraph 2 of the Recommendation. The relevant provisions in the Argentine legislation provide as follows:

- Legislative Decree No. 20163, section 1, which replaces subsection 3 of section 157 of the Commercial Code by the following text: "The employer shall pay to the employee, whether notice is given or not, compensation which shall not be less than one month's average salary for each year of service ... Where employment is terminated on account of a ... justified reduction in or lack of work, the employer shall pay to the employee compensation which shall not be less than one-half of his monthly remuneration ..."

- Act No. 11729 (section 160 of the Commercial Code):

The following are deemed to be grounds for dismissing an employee without the employer's being under any obligation to pay him compensation for dismissal or for failure to give notice:

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- (1) the acts for which provision is made in section 154, and any act of fraud or breach of trust;
- (2) inability to discharge the duties and obligations undertaken by the employee;
- (3) business dealings on the employee's own account or for a third party without the permission of the employer if they affect the latter's interests.

- Section 154 of the Commercial Code: Employees performing duties relevant to commercial operations are liable to their employers for any prejudice which they may cause to the interests of their employers by fraud or by the commission of any fault in the exercise of their functions.

- Act No. 11729 (section 159 of the Commercial Code):

"Failure to observe the contract between an employer and his employee shall be deemed to be a wrongful act, provided that it is not based upon any offence committed by one party against the safety, honour or interests of the other party or of his family."

It is always permissible to discharge an employee; if there exists one of the grounds specified by law the employer is not bound to pay the compensation laid down in section 157 of the Commercial Code.

Paragraph 3 (a), (b) and (c). The same or similar reasons are deemed not to be valid reasons for terminating employment. See sections 39 (a) to (e), 40, 42 (c), (e), (g), (h) and (i), 45 and 47 of Act No. 14455.

Paragraph 3 (d). See articles 14, 15, 16 and 20 of the Constitution.

In addition, section 157 (3) of the Commercial Code provides that the suspension of work for more than three months, ordered by the employer, shall be deemed to be dismissal. The unjustifiable reduction of the salary or other form of remuneration, if not accepted by the employee, is tantamount to dismissal and entitles the employee to receive the compensation laid down in section 157.

Section 159 of the Code: An act by the employer which is pre-judicial to the employee entitles the latter to consider himself to have been dismissed without a valid reason.

Paragraphs 4 and 5. Section 20 of Legislative Decree No. 18345, respecting the organisation of and the procedure for the National Labour Courts, provides that the National Labour Courts shall be competent to judge cases arising out of individual disputes based on points of law, whoever the parties may be ... relating to claims or recriminations in respect of contracts of employment ..., and disputes between employees and employers with respect to a contract of employment, even where based on the provisions of the ordinary law applicable to such contracts.

Paragraph 6. The relevant provisions are section 157 of the Commercial Code (Act No. 11729) and section 45 of Act No. 14455.

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Paragraphs 7 and 8. Sections 157 (1) and (2) (a) and (b) and 158 of the Code.

Paragraph 9. Effect is not given to this Paragraph in any legal provision; however, a Bill is under consideration which provides for the introduction of unemployment insurance.

Paragraph 10. There is no legal provision dealing with this point.

Paragraph 11 (3) and (4). Reflected in section 159 of the Code, and in the case law relating to this section.

Paragraph 11 (5). An employee may not appeal to the labour courts against dismissal until the dismissal has become effective and is proved to have taken place.

In addition, where there is a possibility of dismissal in the future, the worker may state his case to the administrative authority (the Ministry of Labour).

Paragraph 11 (6). The definition or interpretation of "serious misconduct" and the determination of "reasonable time" are left to the discretion of the judges, without prejudice to the definitions of justifiable grounds for dismissal given in sections 154, 159 and 160 of the Commercial Code.

Paragraphs 12, 13 and 14. There are no provisions of this kind in the legislation of Argentina. Section 67 of Legislative Decree No. 33302/45 requires an employer to begin reducing his staff by the employees with the shortest length of service.

Paragraph 15. The legislation merely mentions in section 1 of Act No. 20163 the obligation to begin reducing staff by the employees with the shortest length of service.

Section 4 of Legislative Decree No. 17391 provides that salaried employees and wage earners covered by section 2 of that Legislative Decree who are dismissed on one of the grounds specified in section 157 (3) of the Commercial Code are entitled to payment of the compensation laid down in that section to meet each case. The workers governed by Act No. 17258 are exempted from this provision.

Paragraph 16. Consideration has not been given to the position of such workers, except as concerns the amount of compensation payable for dismissal (section 1 of Legislative Decree No. 20163).

Paragraph 17. The public employment service is indeed utilised.

Paragraphs 18, 19 and 20. The legislation of Argentina does not exclude from its scope any type or category of workers covered by this Recommendation (except where special staff regulations are applicable).

TERMINATION OF EMPLOYMENT

AUSTRALIA

<u>Commonwealth:</u>	Conciliation and Arbitration Act, 1904-1970; Social Services Act, 1947-1970;
<u>New South Wales:</u>	Industrial Arbitration Act, 1940, as amended;
<u>Victoria:</u>	Labour and Industry Act, 1958;
<u>Queensland:</u>	Industrial Conciliation and Arbitration Acts, 1961-1964; Factories and Shops Acts, 1960-1968;
<u>South Australia:</u>	Industrial Conciliation and Arbitration Act, 1972; Prohibition of Discrimination Act, 1966-1970;
<u>Western Australia:</u>	Industrial Arbitration Act, 1912-1968;
<u>Tasmania:</u>	Wages Boards Act 1920.

Paragraph 1 of the Recommendation. The provisions of the Recommendation are appropriate for action partly by the Australian Government and partly by state governments. Effect is given to most of the provisions of the Recommendation by a combination of legislation, industrial awards, determinations and agreements and customary law and practice.

Paragraph 2. The definition or interpretation of a valid reason for termination of employment is determined by the methods set out under Paragraph 1. The contract of employment is governed by British Common Law, which states that a contract with express or implied terms covers every employer-employee relationship; and also by the establishment of industrial tribunals by Australia and each of the six states, which make awards, determinations and agreements regulating the terms of employment of workers covered by them. The conditions to be fulfilled prior to termination of employment include a period of notice to be given either by the employer or the employee in the event of dismissal or resignation, or the payment of wages in lieu of notice by the employer. The general standard is one week's notice by either side, but this does not affect the employer's right to dismiss summarily for misconduct, malingering, inefficiency or neglect of duty.

Paragraph 3. Section 5 of the Conciliation and Arbitration Act safeguards an employee from being dismissed, injured in his employment, or prejudiced because of the reasons set out in subparagraphs (a), (b) and (c) of this Paragraph of the Recommendation, or from absenting himself without leave to participate in such activities if permission to do so was unreasonably withheld. Threats to injure or prejudice the employee for these reasons are also prohibited. The burden of proof as to motivation in such actions under this section lies on the employer.

The industrial arbitration laws of New South Wales (section 95), Queensland (section 101), South Australia (section 156) and Western Australia (section 135) contain similar provisions. Although there

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is no legislation of this sort in Victoria and Tasmania, many workers in these states are covered by federal awards and are thus protected by section 5 of the Conciliation and Arbitration Act.

With regard to subparagraph (d), Australia has ratified ILO Convention No. 111, and has established machinery for handling allegations of violations of this policy. The South Australian Prohibition of Discrimination Act provides in section 7 that an employer cannot dismiss an employee or injure him in his employment because of race, colour or national extraction.

Further remedies against unfair termination of employment exist which include an action at common law for wrongful dismissal, and provision in South Australia for the Industrial Court to order re-employment if dismissal was harsh, unjust or unreasonable. Also, some federal and state awards contain provisions for dealing with grievances and disputes, which are an added safeguard against unfair dismissal; and in 1970 the Australian Government, the Australian Council of Trade Unions and the National Employers' Policy Committee agreed on a set of principles on procedures for avoiding and settling disputes, which also tend to promote the end of avoiding unfair termination of employment.

Paragraph 4. The avenues of appeal against unjustifiable dismissal have been outlined above.

Paragraph 5. Where a right of appeal is given to an employee, the power to examine the reason for the termination would be implied.

Paragraph 6. In a common law appeal against wrongful termination, the court may award compensation or damages, but awards are usually limited to the amount of wages the employee would have received had he been given the correct period of notice. Under section 5 of the Conciliation and Arbitration Act, the Commonwealth Industrial Court may order reimbursement of wages lost and also reinstatement. There are similar provisions in New South Wales, Queensland and South Australia, but section 61 (2) (d) of the Western Australian Industrial Arbitration Act specifically prohibits the Industrial Commission giving a decision to require the employment or re-employment of a worker. The Tasmania Wages Board Act provision for preventing or settling industrial disputes may include disputes relating to engagement, dismissal or reinstatement, and may yield decisions requiring reinstatement.

Paragraph 7. A period of notice - usually equal to the period of employment, normally one week - is required, or compensation in its place. Time off without loss of pay during the period of notice in order to seek other employment is not common practice, although it sometimes occurs when workers are retrenched.

Paragraph 8. An employer is not obliged to give a character reference; if he does so at the request of a prospective new employer, there is a qualified privilege in an action for defamation. As a matter of normal business practice, an employee is entitled to or may receive on request a statement of service. In certain instances an employee is entitled by legislation to such a statement on request, as for example, under section 50 of the Queensland Factories and Shops Acts, 1960 to 1968. However, there is no obligation under the Act to issue a certificate which contains nothing unfavourable to the employee.

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Paragraph 9. Income protection for workers whose employment has been terminated is provided under the Social Services Act which provides for payment of unemployment and sickness benefits for temporary loss of regular earnings through unemployment, sickness or accident; as well as for those not qualified for these benefits who are unable to earn a sufficient livelihood for themselves and their dependants.

Paragraph 10. There is no law in Australia requiring employers to consult with workers' representatives, though decisions of industrial tribunals and guidelines issued by the National Labour Advisory Council have both stressed this point.

Paragraph 11. There is a right of summary dismissal for the grounds mentioned under Paragraph 2, with wages to the time of dismissal only. Both employers and workers can waive their rights to action if not taken within a reasonable period. Many employers give the worker an opportunity to state his case promptly, but this practice is not universal. The definitions of "serious misconduct" and "reasonable time" are left to the methods of implementation of the Recommendation described above.

Paragraph 12. The question of reductions in the work force, arising out of redundancy from whatever cause, has not been dealt with in Australian legislation, except in New South Wales and South Australia, although the Australian Government has introduced various training schemes which apply to redundant workers. Matters involving redundancy have usually been dealt with by private agreement or, in the few cases agreement has not been reached, by reference to the appropriate industrial tribunals. A continued high demand for labour, and new employment possibilities through technological innovation, have kept the problem minimal in Australia. Most measures dealing with the problem are by agreement, and have not been made public, but the industrial tribunals, including the Commonwealth Conciliation and Arbitration Commission, have contributed to the establishment of general principles for dealing with redundancy.

Paragraph 13. The industrial tribunals have often recommended that consultations with employees concerned and their unions take place as early as possible in cases involving redundancy. Recommendations have been made particularly in regard to redundancy resulting from technological change, by the Conciliation and Arbitration Commission and the National Labour Advisory Council, which include early consultation opportunities for retraining, curtailment of employment and aid in finding other employment. Three months' notice may be required in New South Wales and South Australia in cases resulting from technological change, but in general the notice provided for in private redundancy agreements depends on length of service. Consultation with workers' representatives is normal business practice, but is not required by legislation.

Severance payments are normally made in such cases, and the amount may depend upon length of service, the age of an employee if it may make it difficult to find other employment, and other factors.

Paragraphs 14 and 17. The policy of the Government is to encourage employers to advise the Commonwealth Employment Service of impending retrenchments at as early a date as possible so that

RECOMMENDATION No. 119

action may be taken to assist the workers concerned to find employment as quickly as possible. When volume justifies, workers may be registered with the employment service at the place of work; or alternatively, employers are encouraged to provide the address of the service in the "lay-off" pay envelopes.

Paragraph 15. The selection of workers to be affected by a reduction in the work force usually takes into account the criteria set down in this Paragraph.

Paragraph 16. Priority of re-engagement to workers whose employment has been terminated owing to a reduction of the work force is in line with normal practice in Australia. However, there are no legislative provisions giving effect to this principle.

In Western Australia it is proposed to amend the Industrial Arbitration Act to give the Western Australian Industrial Commission discretionary power to order the reinstatement of dismissed workers.

Norfolk Island

Due to Norfolk Island's small size, population and range of activities, there has been no need to apply measures of the kind contained in the Recommendation.

AUSTRIA

Act ABGB (as in the Ordinance appearing in BGBl 69/1916), sections 1158 and 1162.

Employees Act, BGBl 292/1921, sections 20 to 22, 25 and 27.

Agricultural and Forestry Undertakings Employees Act, BGBl 538/1923, sections 17 to 20, 24 and 26.

Industrial Code (as in the Act appearing in BGBl 22/1885), sections 77 and 82.

Domestic Servants and Salaried Household Staff Act, BGBl 235/1962, sections 13 and 14.

Caretakers' Employment Contract Act, BGBl 16/1970, sections 18 to 20.

Actors and Entertainers' Employment Contract Act, BGBl 441/1922, sections 12, 30, 37 and 38.

Journalists Act, StGBL 88/1920, sections 4 and 8.

Agricultural Labour Act, BGBl 140/1948, sections 26, 28, 29 and 75 e), and laws adopted thereunder by the provinces.

Employees engaged by Contract Act, BGBl 86/1948, sections 32 and 34.

An Act respecting the Protection of Mothers, BGBl 76/1957, sections 10 and 12.

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Placing of Invalids in Employment Act (1969, BGBl 22/1970), section 8.

Assistance to Victims Act, BGBl 183/1947, section 6.

Employment Security Act, BGBl 154/1956, sections 6 and 7.

Works Councils Act, BGBl 97/1947 (as in the Federal Act appearing in BGBl 319/1971, sections 18 and 25).

Young People's Guardianship Councils Act, BGBl 287/1972, section 9.

There are two ways in which an employer can terminate a contract of employment - by dismissal or summary dismissal for serious misconduct.

Collective agreements also contain provisions on the subject, e.g. in the case of employees of the federal theatres, social insurance agencies, Austrian funicular railways, and the Chambers of Labour.

All provisions apply to foreigners as well as to nationals.

A. Dismissal

This is usually done simply by terminating the worker's contract. No reasons need be given, but prior notice is required, the length being specified by law or collective agreement.

There are numerous provisions protecting certain kinds of worker against unrestricted use of this right of dismissal.

1. General Protection Against Dismissal

In undertakings subject to the Works Councils Act, an employer, if he wishes to dismiss anyone, must first get the council's consent. The council can oppose the move, provided it does so within three days of being informed, if it feels that the employee in question is being dismissed because of:

- (a) his trade union activities;
- (b) previous activities as member of the works council;
- (c) the fact that he is standing for a seat on the works council; or
- (d) his activities as member of the electoral college.

The works council may likewise oppose the dismissal of a wage earner who has more than six months' service in the undertaking, if it feels that his dismissal would entail special hardship for him and that the undertaking's position does not warrant such action.

The works council, or, in default, the wage earner himself, can appeal against the dismissal to the conciliation office. If the appeal is upheld, the termination of the contract remains without effect.

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2. Special Protection Against Dismissal

Subject to certain conditions, this covers the following classes:

- (a) women workers on maternity leave;
- (b) workers called to the colours;
- (c) invalids and victims of the struggle for a free and democratic Austria;
- (d) members of the works council of the undertaking, staff delegates and other persons bearing certain responsibilities by virtue of regulations concerning the social organisation of undertakings.

B. Summary Dismissal

This is done unilaterally by the employer, by means of a statement of intention which must be received by the person affected. It entails immediate termination of the contract of employment and is possible only if there is some good reason for it - normally, serious misconduct on the employee's part.

The employer loses his right of summary dismissal if he does not immediately exercise it on being apprised of the facts of the case. A worker who has been wrongly dismissed can claim compensation for absence of notice; such compensation is usually equivalent to the amount he would have earned had the employer postponed dismissal until the latest possible moment after the incident. This is not true for cases covered by general and special protection (see below), when unjustified summary dismissal is not legally valid and the employer-worker relationship is deemed to subsist.

1. General Protection Against Summary Dismissal

The Works Councils Act extends the general protection afforded against summary dismissal. A worker so dismissed may within a fortnight of his dismissal appeal to the labour tribunal to declare his dismissal invalid, provided the works council has opposed it and has, moreover, certified that the discussions begun with the employer so as to find out whether the person concerned was in fact dismissed as a way of getting round the provisions relating to means of opposing dismissal, have proved fruitless.

2. Special Protection Against Summary Dismissal

The right summarily to dismiss suffers considerable restriction in relation to workers eligible for special protection. Summary dismissal can only be decided on for very serious reasons indeed, as specified by law, and tends to be very rare. Furthermore, official consent must be obtained (the conciliation office decides whether the reasons adduced for such dismissal were valid or not).

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C. Time Off to Look for Another Job

Almost all the provisions relating to the right of dismissal lay down that the dismissed wage earner must, while the period of notice is running, be given time off to look for other work. The maximum allowed is specified, and during this time the wage earner concerned must continue to draw his earnings.

D. Certificate

When an employment relationship is terminated, the wage earner affected is entitled to be given a certificate showing the nature and duration of the employment relationship. The certificate must contain nothing which might make it difficult for him to find another job.

E. Guarantee of Earnings

The legal provisions governing unemployment benefits have already been brought to the ILO's notice in the reports on the effect given to the Unemployment Convention, 1919 (No. 2), namely, the 1958 Unemployment Insurance Act (BGBl 199), the Special Relief Act (BGBl 117, 1967) and the Provisional Assistance Act (BGBl 174, 1963), together with treaties entered into with other States with regard to unemployment insurance.

F. Staff Cuts

A works council can, in so far as it remains within its terms of reference, exercise certain rights of participation to prevent staff cuts, even though those rights were not directly bestowed on it to that end. These rights are set forth in the Works Councils Act, section 14 (2).

As part of its right to participate in the management of the undertaking, the works council can make suggestions and proposals to the owner with a view to increasing earnings and output in the general interests of society and in the special interests of the undertaking and its employees. The owner must provide the works council with information about the financial position of the concern, the volume and pattern of production, current orders, sales, and his proposals for increasing profits. He must likewise inform the council as early as possible of any plans for change, e.g. a slow-down or stoppage of production in the undertaking as a whole or in any part of it, the transfer of the undertaking or a part of it somewhere else, mergers, changes affecting the future of the undertaking, changes in its equipment and plant, changes in the way work is organised, or the introduction of new techniques. The works council is required to make proposals to eliminate, reduce, or attenuate any ill-effects such changes might entail for the staff. The owner must discuss such proposals with the council (which is under an obligation to make due allowance for economic necessities).

In the course of such discussions, therefore, the works council can raise the question of staff cuts which might or would be entailed by the owner's proposals and bargain about the action to be taken to prevent or attenuate the effects of such cuts.

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In concerns with more than five hundred wage earners, the works council may, if it finds its suggestions ignored and feels that the owner's economic policies run counter to the national interest, lodge a complaint with the provincial office of the Austrian Federation of Labour (provided the complaint has been adopted by a two-thirds majority), against the management's economic policy. This complaint is referred to the State Economic Commission attached to the Federal Ministry of Trade and Industry.

As regards the number of persons to be laid off, section 25 of the Works Councils Act gives the council the right to oppose dismissals if it feels that the social consequences are unjustified by the financial position of the undertaking and would entail special hardship.

It is essentially for the labour tribunals to enforce the rights of a wage earner should his employer unilaterally decide to dispense with his services.

Each tribunal is made up of a chairman and a number of assessors (employers and workers) appointed by him, having regard to the need for ensuring representation of the various sectors, and in accordance with proposals made by the organisations concerned. To hear a case, the tribunal appoints a panel, made up of the chairman and two assessors, one employer and one worker.

These tribunals decide how much shall be paid in compensation for absence of notice or unwarranted dismissal. They also decide whether notices of dismissal have been validly given, and whether or not an employment relationship must still be considered to exist.

A conciliation office differs from a labour tribunal in that it is an administrative body. The panels set up by conciliation offices consist of three members - a chairman and two assessors, one an employer, the other a worker. The members are appointed by the Federal Minister of Social Affairs, on proposals made by the representative organisations concerned.

In the instances covered by the special protection provided against dismissal and summary dismissal, it is for the conciliation office to give its consent when dismissal or summary dismissal has been decided on for reasons provided for by law. Termination of a contract is null and void if dismissal has not been asked for or granted. It can be declared valid by the labour tribunal. Furthermore, the conciliation office is entitled to consider complaints lodged against dismissal as part of the general protection for which the law provides.

The foregoing shows that the suggestions offered in the Recommendation are amply covered. The Organisation of Work Act, which in the form of a bill is already before the Officers of the National Council, provides for increased protection against dismissal which will implement the standards of the Recommendation to an even greater extent.

TERMINATION OF EMPLOYMENT

BANGLADESH

Road Transport Workers Ordinance, 30 June 1961 (LS 1961 - Pak. 1).

Industrial and Commercial Employment (Standing Orders) Ordinance, 1 Sept. 1965 (LS 1965 - Pak. 4).

Industrial Relations Ordinance, 1969, as amended in 1970 (LS 1969 - Pak. 2).

The employer who wants to terminate the employment of a worker must give him written notice of 90 days in case of monthly rated permanent workers, 45 days in case of other permanent workers, one month in case of monthly rated temporary workers, and 14 days in case of other temporary workers, provided that the employer may pay wages in lieu of notice (section 19 of the Industrial and Commercial Employment Ordinance, 1965).

The worker whose employment has been terminated is entitled to the payment of wages for his unavailed leave (section 5 of the Industrial and Commercial Employment Ordinance), to compensation by the employer at the rate of 14 days' wages for every completed year of service or any part thereof in excess of six months (section 19), and where he is a member of any provident fund, to the benefit of the provident fund (section 20).

At the time of termination, any worker (excluding casual and badli workers) is entitled to receive a certificate of service (section 21 of the Industrial and Commercial Employment Ordinance).

Under section 25 of the Industrial and Commercial Employment Ordinance, an officer of a registered trade union, whose employment is alleged to have been terminated because of his trade union activities, can seek redress thereof.

The provisions of this Ordinance apply to any worker employed in any shop, commercial or industrial establishment, including apprentices, whether the terms of employment are expressed or implied.

Section 7 of the Road Transport Workers Ordinance, 1961, provides that the services of a worker must not be terminated without sufficient cause nor unless and until one month's previous notice or one month's pay in lieu thereof has been given to him and he has been paid his wages for any period of leave admissible to him of which he did not avail himself while in service. It applies to workers employed on mobile duty and includes drivers, cleaners, conductors and checkers employed by or in a road transport service.

Under section 15 (d) of the Industrial Relations Ordinance, 1969, employers must not dismiss, discharge, remove from employment, or injure or threaten to injure a workman in respect of his employment because he is or wants to become, or seeks to persuade any other person to become, a member of a trade union, or participates in the promotion, formation or activities of a trade union.

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BELGIUM

- Act of 10 March 1900 on Contracts of Employment, amended:
(L.S. 1954 - Belg. 3; L.S. 1969 - Belg. 2).
- Act of 24 May 1921 guaranteeing Freedom of Association:
(L.S. 1921 - Belg. 2-3).
- Act of 20 September 1948 concerning the Organisation of the Economic Life of the Country: (L.S. 1948 - Belg. 8).
- Act of 10 June 1952 concerning the Occupational Safety and Health of Workers, amended: (L.S. 1967 - Belg. 1B).
- Royal Order of 20 July 1955 co-ordinating the Acts relating to Contracts of Employment, amended: (L.S. 1955 - Belg. 3; L.S. 1969 - Belg. 2).
- Act of 12 April 1965 concerning the Protection of Workers' Remuneration: (L.S. 1965 - Belg. 2).
- Acts of 28 June 1966 (L.S. 1966 - Belg. 1) and of 30 June 1967 concerning the Closure of Undertakings.
- Labour Act of 16 March 1971: (L.S. 1971 - Belg. 2).

The provisions appearing in the Recommendation are covered by legislation, regulations or collective labour agreements.

Paragraphs 2 and 3 of the Recommendation. In principle legislation on the hiring of labour does not require the head of an undertaking to justify the dismissal of workers in each case but his freedom to terminate a labour contract is limited by legal or contractual provisions concerning:

- (a) freedom of association in general; protection of workers' delegates within the works council, the occupational safety and health committee or the trade union delegation (Act of 20 Sept. 1948; Act of 10 June 1952; Act of 24 May 1921);
- (b) protection of workers before and after military service, during a certain period of sickness or accident (acts relating to labour contracts and employment contracts);
- (c) maternity protection: prohibition to terminate contracts during pregnancy or a period following birth and even after the end of post-natal rest (laws relating to contracts of employment and labour contracts; Act of 16 March 1971);
- (d) annulment of the resolutory clause of a contract in case of marriage and reaching pensionable age (acts relating to contracts of employment and labour contracts);
- (e) unjustified dismissal (provisions abolishing the discretionary power of the head of an undertaking to dismiss the worker with a notice of dismissal - act relating to labour contracts and employment contracts).

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Paragraphs 4 and 5. In case of unlawful termination the worker always has the right to appeal to a competent labour tribunal and if necessary to do so with the assistance of another person (delegate from a representative workers' or employees' organisation and bearing a written power of attorney). For certain categories of workers, in particular workers' delegates to the works council, the occupational safety and health committee or trade union delegation, dismissal is possible only with the observance of a prior procedure laid down by law or by a collective labour agreement (above-mentioned Acts of 20 Sept. 1948 and 10 June 1952; Collective Labour Agreement concluded with the National Labour Council of 24 May 1971 concerning the status of trade union delegations).

Paragraphs 6, 7, 8, 9, 10 and 11. In case of termination of contract, a period of notice or payment of a severance compensation are compulsory with respect to the majority of workers. There are moreover the following obligations:

- (a) paid leave to enable the worker to seek new employment during the period of notice;
- (b) the issue of a certificate which may not bear any unfavourable remarks;
- (c) protection of the dismissed worker's income;
- (d) observance of certain rules in the case of dismissal for a grave offence on the part of the worker;
- (e) prohibition to dismiss without notice if a reasonable amount of time has elapsed since the offence was committed; (laws concerning labour contracts and contracts of employment, Act of 12 April 1965; Royal Order concerning employment and unemployment).

Paragraphs 12-17. Belgian social practice, moreover, tends definitely to oppose in a special manner the harmful consequences for workers of massive and simultaneous dismissals. The purpose of the Acts of 28 June 1966 and 30 June 1967 concerning compensation to workers in case of closure of undertakings, is to establish methods of prior information by the authorities of the organisations and workers concerned and to find new employment for these workers; they provide that workers who satisfy certain conditions shall receive a dismissal compensation to be added to the holidays compensation resulting from termination of their contract of employment and guarantee that all workers shall receive the remunerations and advantages which the head of an undertaking who has failed to carry out his obligations owes them.

Moreover, collective agreements rendered compulsory by Royal Order, provide for special advantages to workers dismissed as a result of staff reductions following insufficient work due to economic causes and include a possible priority for the redeployment of staff.

A very important collective labour agreement was concluded by the National Labour Council on 8 March 1972; it applies to undertakings which have a works council. This collective agreement lays down the general criteria to be followed in case of dismissal and re-employment so that works councils should take a closer part in

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deciding on the order of carrying out dismissals due to reduction of employment because of economic or technical circumstances.

In view of the provisions of Paragraph 20 of the Recommendation, the Belgian Government considers that it may be taken that it is already applied in Belgium.

Migrant Workers

Migrant workers benefit from the same guarantees with respect to dismissal as national workers.

BRAZIL

Legislative Decree No. 5452, to approve the Consolidation of Labour Laws, Part IV (L.S. 1943 - Braz. 1).

Constitution.

Part IV of the Consolidation of Labour Laws (sections 442-510) lays down standards to ensure continuity in employment as far as possible. It sets forth the conditions under which it is permissible to terminate the employment relationship and lists the causes deemed to be lawful. None of the reasons which, according to the Recommendation, should not constitute valid reasons for dismissal is on this list.

The Consolidation of Labour Laws also regulates collective contracts of employment, and has instituted a system of labour courts which, since the Constitution of 1946, have been the judicial bodies responsible for settling and ruling on disputes arising in connection with employment relationships. The principle of compensation in proportion to length of service in the event of unjustifiable dismissal and that of appeal to a body empowered to examine the reasons given for dismissal are implemented both in the provisions governing individual contracts of employment and in those dealing with the functioning of the labour judicial procedure and the competence of the bodies responsible for handling the various stages in this procedure, whose decisions are executory and accompanied by the same guarantees as the decisions of the ordinary courts.

Workers whose rights have been infringed normally have two years in which to file an appeal with the labour courts.

An employer who cancels a contract of employment without lawful cause must (a) reinstate the dismissed worker if he is a stable employee - i.e. if he has been employed in the same undertaking for ten years or more - or, if he is unable to return to work owing to his incompatibility with his employer, to pay him compensation equal to two months' remuneration for each year of service with the undertaking; (b) pay the worker compensation if he is not a stable employee. The Constitution guarantees to workers "security of tenure, with compensation for every worker who is dismissed, or a guarantee fund offering equivalent benefits" (article 165 - XIII). This means that, instead of the general system, which assures him of security of tenure after ten years' service (that is to say, he

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can be dismissed only for serious misconduct, established by an administrative inquiry carried out under the labour judicial procedure, the worker may opt for the Length-of-Service Guarantee Fund scheme. Under this scheme the employer deposits each month in an escrow account opened in the name of the employee a sum equal to 8 per cent of the remuneration he pays him. This money produces interest and is revalorised to keep pace with inflation, and in the event of termination of the employment relationship without just cause the worker is entitled to the money deposited in his name by his employer (he may also dispose of it in certain circumstances to meet urgent needs).

Where, in the event of an employment relationship being terminated, there is no disagreement between the employee and the employer, and where the employee has more than a year's service, the document putting an end to the contract of employment is valid only if it is signed by both parties and approved, in the presence of the authorities of the Ministry of Labour and Social Welfare, by the trade union for the occupation concerned, by the labour court and by an organ of the State Counsel Department, or, in the absence of the latter, by the district justice of the peace.

No provision is made as yet in the legislation for cases of reduction of the work force in undertakings. When cases of this kind have occurred the public authorities have endeavoured to help the persons affected and to remedy the situations thus created. Even in agriculture, where this practice is more commonplace, there are no really serious problems, as the resultant unemployment is not permanent but at worst temporary, between two harvests.

The competent authorities are considering the possibility of preparing a new Labour Code which would implement some of the suggestions in the Recommendation.

It is the responsibility of the Union - i.e. the Federal Government - to legislate on labour matters. The laws for the protection of labour are adopted by the National Congress.

BULGARIA

Constitution of 16 May 1971 (*D'rzhaven Vestnik*, 18 May 1971, No. 39), articles 13, 32, 35, 40, 41, 52 and 54.

Labour Code (*Izvestiya*, No. 91, 13 November 1951; LS 1951 - Bul. 2), sections 29, 31, 33, 36, 65, 93, 130, 133, 136, 140 and 143 (a) and (b).

Instruction respecting the procedure for terminating the employment of, or changing the terms of the contract of employment of, wage and salary earners who are members of conciliation boards or trade union officials (*Izvestiya*, No. 63, 8 August 1958).

Ordinance respecting the indemnities and benefits payable in the event of the dismissal of wage and salary earners (*Izvestiya*, No. 29, 11 April 1958; LS 1958 - Bul. 5).

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Ordinance respecting the examination of labour disputes (Izvestiya, No. 17, 28 February 1958; LS 1958 - Bul. 2).

Resolution No. 3 of the Council of Ministers dated 20 January 1967 (D'rzhaven Vestnik, No. 8, 1967).

The right to work is proclaimed by the Constitution to be one of the fundamental rights of citizens, and is surrounded by material and political as well as legal guarantees. The material guarantees derive from the Socialist concept of ownership and the Socialist method of production, which are such as to ensure the necessary conditions for putting an end to unemployment through the development of the forces of production and to economic crises and imbalances in the economy through the application of the principle of planning. The political guarantees are afforded by the Socialist State as the organisation to which all the workers belong. The trade union organisations for the masses of the workers constitute a major political guarantee. The legal guarantees are furnished by the legislation in force.

Paragraphs 2 and 3 of the Recommendation. Employment may be terminated only for one of the reasons specified by law: total or partial liquidation of the undertaking, establishment or organisation; reduction of staff; suspension of work for more than 30 days; refusal of the wage or salary earner to be transferred to another undertaking, establishment or organisation or to another locality in cases where the unit is itself moved; incompetence of the wage or salary earner to do the work assigned to him; reinstatement of a wrongfully discharged wage or salary earner who formerly did the work in question; eligibility of the wage or salary earner for a pension (completion of service), on condition that he has reached 55 years of age (or 50 in the case of a woman) (section 31 of the Labour Code).

No woman wage or salary earner who is more than four months pregnant or who is on maternity leave, or whose child has not reached the age of eight months, or whose husband is performing his military service, may be dismissed, nor may the terms of her contract of employment be changed, save for gross misconduct or in the event of the closing down of the undertaking, when the permission of the competent labour inspectorate must be obtained in each individual case (section 35 of the Labour Code).

The organising of wage and salary earners on an occupational basis is unrestricted (section 2 (1) of the Labour Code), in pursuance of the general principle of freedom of association proclaimed by article 52 of the Constitution. In consequence, union membership or participation in union activities may not constitute a reason for dismissal, but even carries the advantage of greater protection. Wage or salary earners who are members of conciliation boards or trade union officials whose names appear on a list prepared by the trade union may not be dismissed without notice, nor may the terms of their contracts of employment be changed, while they are occupying these posts, or even for six months after their release from such functions, save with the consent of the central directorate of the trade union concerned (section 38 of the Labour Code). Furthermore, wage and salary earners must be released from work for the full time necessary for their attendance at trade union congresses, assemblies and conferences (section 65 (b) of the Labour Code, administered by an Ordinance (Izvestiya, No. 40 of 11 May 1952)).

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No privilege or restriction of rights based on nationality, origin, religion, sex, race, education, social status or financial situation is permissible (article 35 (1) and (2) of the Constitution). Aliens are therefore allowed to work, except in certain specific posts reserved for nationals under the Labour Code.

Paragraphs 4, 5 and 6. Legal and, where explicitly provided for, administrative machinery exists for supervision of termination of employment. This machinery operates in accordance with the procedure for the examination of labour disputes (sections 133, 136, 140, 143 (a) and (b) of the Labour Code). Where a wage or salary earner is wrongfully dismissed the competent body orders the revocation of the dismissal order and the reinstatement of the worker in his post, in addition to which he is entitled to payment of compensation in respect of the period during which he was unemployed because of this dismissal, up to an amount equal to not more than two months' remuneration (section 93 of the Labour Code). The fact that the undertaking or its responsible agents are held liable serves as a guarantee that the worker will in fact be reinstated; in the event of his wrongfully being refused admission to his job they are jointly liable for the payment of his remuneration from the date of the refusal and until he is effectively admitted to his job (section 93 (2) of the Labour Code); in the event of failure to comply with a decision in favour of reinstatement which has become enforceable the official responsible is held penally and administratively liable and may be punished by being assigned to re-education work or by being ordered to pay a fine of up to 300 levas, as well as receiving a public reprimand (section 172 of the new Penal Code; sections 172 to 174 of the Labour Code).

Paragraph 7. Every wage or salary earner whose employment is to be terminated is entitled to notice. The length of the period of notice is 30 days in the case of highly trained wage or salary earners and 15 days in the case of other workers (section 30 of the Labour Code). The dismissal may take place before the expiry of the period of notice on condition that the worker is paid compensation corresponding to the remainder of the period of notice (section 32 of the Labour Code).

A wage or salary earner who has been given notice of dismissal is entitled to one hour of paid leave per day of the period of notice (section 66 (b) of the Labour Code).

Paragraph 8. The work book kept by the management of the undertaking may not mention either punishments or facts unfavourable to the wage or salary earner, but does give particulars of changes in employment and states the grounds for terminating employment, and the worker is handed the text of the law applicable to him in the event of his employment being terminated (Ordinance, Izvestiya, 31 March 1953, points 5, 6, 7 and 10).

Paragraph 9. A wage or salary earner with not less than five years' service is entitled to compensation equal to one month's remuneration if his employment is terminated for reasons of sickness or retirement (old age or completion of service). Provision is also made for the payment of cash relief to persons temporarily unemployed if they have been dismissed for reasons other than misconduct on their part (Ordinance, No. 803 of 30 December 1964, D'rzhaven Vestnik, No. 1, 5 January 1965).

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Paragraph 11. In case of dismissal for a valid reason connected with the conduct of the wage or salary earner, proved misconduct on his part or misconduct which there are serious reasons to believe he has committed, notice need not be given. The misconduct need not necessarily relate to the performance of his duties, as dismissal without notice is authorised where the worker has been detained by the authorities for more than two months (section 33 (d) of the Labour Code).

Paragraphs 12 to 17. In case of reduction of the work force, the legislation guarantees to both wage and salary earners conditions more favourable than those laid down in the Recommendation.

Any reduction of the work force is conditional, first and foremost, upon an actual cut in the personnel budget as a result of administrative action taken by the highest public authorities.

It is the rule of the most highly qualified and the most highly productive which must be applied to the selection of workers to be given priority to remain on the staff. If this rule is not observed any worker affected is entitled to ask to be reinstated. Capacity and occupational qualifications being equal, priority is given to certain categories of persons on the basis of their family circumstances: the number of dependants, the fact that a wage or salary earner is continuing his studies at evening classes or through correspondence courses, authorship of inventions, etc.

Resolution No. 3 of the Council of Ministers dated 20 January 1967 provides for a special procedure for the placement of workers whose posts have been abolished. Under this procedure certain bodies, ministries, government departments, economic associations and undertakings are required to engage workers made redundant because of a reduction of the work force or to help them to find employment, making the necessary arrangements for them to be engaged by other undertakings, with due regard to their occupation and qualifications (point 2 (I) of the Resolution).

The Labour and Wages Committee (now the Ministry of Labour and Social Affairs) and its local agencies are responsible for arranging for the vocational guidance and rehabilitation and the placement of persons whom it has not been possible to place in other employment by the means referred to above (point 2 (II) and (III) of the Resolution of 20 January 1967), by organising courses and establishing special schools or other types of vocational training facilities. During these courses, which may not last for more than six months, the participants are entitled to receive in full the wage or salary due to them in accordance with the scale. Once they have thus acquired a new occupational skill they are placed in employment with undertakings and organisations.

In addition, heads of undertakings who need additional workers are required to inform the local authorities of the Ministry of Labour one month before these new posts come into existence, specifying the occupations and skills involved, the role of the public and economic authorities consisting in aiding workers affected by a reduction of the work force to acquire vocational training and to be assigned to a type of work for which they are entitled to priority.

The trade union committees discuss cases of dismissal with the management; they draw up a plan for the transfer of workers and

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draft proposals for submission to the local labour authorities with a view to the engagement of workers for suitable posts in other undertakings in the same district (point 6 of the Resolution of 20 January 1967).

These guarantees are far more favourable than those offered by the Recommendation, which does not provide for genuine protection of workers against wrongful dismissal nor make any recommendation, for instance, concerning the participation of trade unions or other bodies representing the staff of undertakings in the taking of decisions with respect to termination of employment, but leaves it to the national legislation to find solutions to these problems.

BURMA

In case of termination of employment, legislative or administrative provisions and practice provide for the equality of rights of citizens irrespective of race, social origin, culture, birth, religion or sex, the constitution of arbitration courts for private and co-operative enterprises, the manner in which disputes arising in state enterprises are solved, the notice, compensation and employment certificate to be given in connection with termination of service.

BYELORUSSIAN SSR

Constitution of the Byelorussian SSR.

Act No. 2 - VIII to approve fundamental principles governing the labour legislation of the USSR and the Union Republics (L.S. 1970 - USSR 1).

Labour Code of the Byelorussian SSR.

The guarantees provided for the workers by the labour legislation in force are significantly higher than those set out in the Recommendation.

Paragraph 2 of the Recommendation. The labour legislation sets out a full list of the reasons which would justify the management in terminating a contract of employment concluded for an indefinite period, or a fixed-term contract before the latter expires. Under section 17 of the Act approving the fundamental principles governing the labour legislation and section 33 of the Labour Code, these reasons are the following: (a) closure of the undertaking, organisation or establishment, or reduction in its labour force; (b) unfitness of the worker or employee for his work or duties, because of inadequate skills or for health reasons; (c) worker's or employee's negligence in respect of the duties for which he is responsible under his contract of employment or under works rules, provided that he has already been the subject of disciplinary or public sanctions; (d) absence from work without good reason; (e) failure to appear at work for more than four consecutive months because of temporary incapacity (excluding leave for

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pregnancy and motherhood) (workers and employees incapacitated by occupational injury or disease maintain their right to reinstatement until their recovery or until their invalidity has been officially recognised); (f) reinstatement, in accordance with the procedure provided by law, of a worker or employee who has previously performed the same duties.

The manager may not dismiss a worker or employee during a period of temporary incapacity or while that worker or employee is on leave.

A major guarantee for the workers' rights is the fact that the management may only denounce a contract of employment with the prior consent of the works or local trade union committee. Should this provision not be observed, the dismissal is considered null and void, and the dismissed worker may claim to be reinstated in his previous job (section 18 of the Fundamental Principles of Labour Legislation and section 35 of the Labour Code).

Paragraph 3. A contract of employment may not be denounced for the reasons set out in Paragraph 3 of the Recommendation. Sections 97 and 98 of the Constitution forbid discrimination because of sex, race and nationality.

Dismissal of trade union activists must follow the ordinary procedure for dismissal and is moreover subject to the agreement of the higher trade union organisation (section 99 of the Fundamental Principles of Labour Legislation Act, and section 238 of the Labour Code).

Paragraph 4. Workers dismissed at the initiative of the management may appeal against dismissal to the district (or urban) people's court within one month from the date they received notice of dismissal (sections 89 and 90 of the Fundamental Principles of Labour Legislation; and sections 214 and 215 of the Labour Code).

Paragraphs 5 and 6. In case of dismissal without legal basis or without following the established dismissal procedure, the worker must be reinstated in his previous job (section 91 of the Fundamental Principles of Labour Legislation; section 217 of the Labour Code).

A worker wrongfully dismissed and then reinstated is entitled, by decision of the courts, to receive the average earnings he would have received during the time he did not work, but not for longer than three months (section 92 of the Fundamental Principles of Labour Legislation; section 218 of the Labour Code). A court decision on reinstatement takes effect immediately.

Where the management delays the implementation of the court's decision or ruling, the worker concerned is paid the average earnings for the period during which implementation is delayed until the decision is complied with (section 220 of the Labour Code).

Paragraph 7. The general rule, when the management cancels a contract of employment, is that a severance allowance has to be paid to the worker. This severance allowance amounts to a fortnight's average earnings (section 19 of the Fundamental Principles of Labour Legislation; section 36 of the Labour Code).

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Paragraph 8. On his last day of employment, the worker whose employment has been terminated receives his employment book, which is the basic document referring to his employment. It gives information about the worker and his job, and any incentives or rewards he receives for his achievements in the service of the undertaking, organisation or establishment. Proceedings taken against him are not recorded (section 39 of the Labour Code).

The worker is entitled to receive, on request, a certificate stating the work he performed in the establishment, organisation or undertaking, setting out his speciality, skills and duties, duration of employment and the wages earned (section 40 of the Labour Code).

Paragraphs 9 and 10. Every able-bodied person is effectively guaranteed work in accordance with his special skills and qualifications. Since there is no unemployment, there is no unemployment insurance. Workers dismissed at the initiative of the employer are paid a severance allowance.

Paragraph 11. In case of dismissal for systematic failure to perform his duties or for absence without good reasons, the severance allowance is not paid (section 19 of the Fundamental Principles of Labour Legislation Act; section 36 of the Labour Code).

The management is entitled to cancel a contract of employment not later than one month after he has received notification of the agreement of the works or local trade union committee, or after the day on which the offence was known, in case of systematic negligence of duties or absence from work without good reason (section 35 of the Labour Code).

Every worker is entitled to appeal to any government or public organisation, where he disagrees with the management's decision to dismiss him, independently of the month allowed him to appeal to the people's court. The court may decide to extend the time limit when it has not been observed because of valid reasons (section 90 of the Fundamental Principles of Labour Legislation Act; section 215 of the Labour Code).

Paragraphs 12 to 14. The planned organisation of the national economy entails a planned distribution of manpower. Five-year and one-year plans estimate the labour requirements of the various branches of industry in the various districts and in undertakings. The trade unions participate directly in the production of these plans.

These plans, as well as the "Social Development Plans", which are usually drawn up for a five-year period by the management and the local factory committee, provide for the foreseen changes in manpower requirements in individual undertakings. Taking account of the volume of activities and of technological change, these "Social Development Plans" provide for changes in the skills and qualifications in the staff or for action to be taken to ensure the training and retraining of workers.

The management gives the local factory committee due notice of any reduction of the work force and indicates how many workers will be affected.

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Dismissal of a worker in connection with reduction of the work force is permissible only if he cannot, with his consent, be given another job (section 17, last paragraph of the Fundamental Principles of Labour Legislation Act; section 33 of the Labour Code). It cannot take place without the consent of the local factory committee.

Paragraph 15. In the event of reduction of the work force, section 34 of the Labour Code provides that certain categories of workers enjoy priority for retention of employment: (a) highest qualified and productive workers; (b) married workers maintaining two or more family dependants; (c) workers whose family does not include any other worker drawing wages; (d) workers having a long uninterrupted seniority in the undertaking, organisation or establishment; (e) workers who have suffered occupational injury or disease in the undertaking, organisation or establishment; (f) war invalids and next of kin of members of the armed services and partisans killed in action or reported missing in the defence of the USSR or in carrying out other war service duties; (g) women workers whose husbands have been called up for military service; (h) workers who have improved their skills without interrupting their employment, by attending medium or higher specialised training establishments.

Paragraphs 16 and 17. Since there is no unemployment, all the dismissed workers are guaranteed other work immediately. Hence there is no problem of re-engagement of workers whose employment has been terminated owing to a reduction of the work force.

Persons looking for a job may approach directly the undertakings, organisations or establishments, or the specialised official agencies dealing with recruitment and distribution of labour.

Paragraphs 18 to 20. These provisions apply to all branches of economic activity and to all categories of workers, including public servants. Individual exceptions can be made for workers engaged for a specified period of time or a specified task, and for workers serving a period of probation.

CAMEROON

Order No. 4253 of 23 June 1956.

Labour Code, Law No. 67-LF-6 of 12 June 1967 (Title III, Chapter I, Part III) (L.S. 1967 - Cam. 1).

Order No. 008/MTLS/DEGRE of 17 June 1968 (L.S. 1968 - Cam. 1).

The termination of employment is governed by the above-mentioned provisions.

Enforcement of the legislation and regulations respecting the termination of employment is entrusted to the Inspectorate of Labour in accordance with Chapter I of Title VII of the Labour Code.

All possible measures have been taken to give effect to the provisions of the Recommendation.

TERMINATION OF EMPLOYMENT

CANADA

Federal Legislation

Canada Labour Code, R.S.C., 1970, c.L-1; as amended by R.S.C. 1970 (1st Supp.), c.22; R.S.C. 1970 (2nd Supp.), c.17; S.C. 1972, c.18.

Canada Labour Standards Regulations.

Unemployment Insurance Act.

Provincial Legislation

Alberta

Alberta Labour Act R.S.A. c.196; as amended by S.A. 1972, cc.2, 35 and 58.

Individual's Rights Protection Act, S.A. 1972 c.2.

British Columbia

Human Rights Act, S.B.C. 1969, c.10.

Labour Relations Act, R.S.B.C. 1960, c.205; as amended by S.B.C. 1961, c.31; 1963, c.20; 1968, c.26; 1970, c.16; and 1972, Bill 5.

Manitoba

Employment Standards Act, R.S.M. 1970, c.E110; as amended by S.M. 1970, c.48; 1971, c.82; and 1972, c.52.

Human Rights Act, S.M. 1970, c.104; as amended by 1972, Bill 110.

Labour Relations Act, S.M. 1972, c.45.

New Brunswick

Human Rights Code, S.N.B. 1971, c.8.

Industrial Relations Act, S.N.B. 1971, c.9; as amended by 1972, c.37.

Newfoundland

Employment (Notice of Termination) Act, S.N. 1969, c.35; as amended by 1971, c.37.

Labour Relations Act, R.S.N. 1952, c.258; as amended by S.N. 1959, c.1; 1960, c.58; 1963, c.82; 1966, c.39; 1967, c.12; and 1968, c.71.

Newfoundland Human Rights Code, S.N. 1969, c.75.

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Nova Scotia

Human Rights Act, S.N.S. 1969, c.11; as amended by 1970, c.85; 1971, c.69 and 1972, c.65.

Labour Standards Code S.N.S. 1972, c.10.

Trade Union Act, S.N.S. 1972, c.19.

Regulations pursuant to Labour Standards Code.

Ontario

Employment Standards Act R.S.O. 1970, c.147; as amended by S.O. 1971, c.50; 1972, Bills 27 and 200.

Labour Relations Act, R.S.O. 1970, c.232.

Ontario Human Rights Code, R.S.O. 1970, c.318; as amended by S.O. 1971, c.50; and 1972, Bill 199.

General Regulation pursuant to the Employment Standards Act R.R.O. 1970, Reg. 244; as amended by O. Reg. 91/71; O. Reg. 7/72; and O. Reg. 369/72.

Termination of Employment Regulation pursuant to the Employment Standards Act, R.R.O. 1970, Reg. 25.

Prince Edward Island

Human Rights Code, S.P.E.I. 1968, c.24.

Prince Edward Island Labour Act S.P.E.I. 1971, c.35; as amended by 1972, c.33.

Quebec

Labour Code R.S.Q. 1964, c.141; as amended by S.Q. 1965, cc.14 and 50; 1968, cc.19 and 45; 1969, cc.14, 20, 26, 47 and 48; 1970, cc.9 and 33; 1971, c.44; and 1972, Bill 71.

Employment Discrimination Act, R.S.Q. 1964, c.142.

Construction Industry Labour Relations Act, S.Q. 1968, c.45; as amended by 1969, c.51; 1970, c.35; 1971, c.46; and 1972, Bills 15 and 58.

Civil Code, articles 1667 - 1670.

Code of Civil Procedure, article 650.

Saskatchewan

Fair Employment Practices Act R.S.S. 1965, c.293; as amended by S.S. 1972, c.43.

TERMINATION OF EMPLOYMENT

Labour Standards Act S.S. 1969, c.24; as amended by 1971, c.4; and 1972, c.59.

Saskatchewan Human Rights Commission Act S.S. 1972, c.108.

Trade Union Act S.S. 1972, Bill 105; as amended by 1972, Bill 134.

Northwest Territories

Fair Practices Ordinance.

Labour Standards Ordinance.

Canada Labour Code, Part V (Industrial Relations)

Yukon Territory

Fair Practices Ordinance.

Labour Standards Ordinance.

Canada Labour Code, Part V (Industrial Relations)

The subject matter of this Recommendation is divided between federal and provincial jurisdiction.

Paragraph 2 of the Recommendation. Industrial relations legislation generally affirms the right of an employer to discharge an employee for just cause. This right is subject to restrictions contained in industrial relations and human rights legislation, requirements to give proper notice in jurisdictions that have such legislation or under common law, collective agreements, other contractual obligations and customs.

Paragraph 3. All jurisdictions in Canada have human rights legislation which prohibits discrimination in employment, including dismissal, on the grounds of race, national origin, colour or religion. Discrimination on the grounds of sex is forbidden in all jurisdictions but the federal, Prince Edward Island and the two territories. Marital status is a prohibited ground in Alberta and Ontario; age in Alberta (40 - 65), British Columbia (45 - 65), Newfoundland (45 - 65) and Ontario (40 - 65); social origin in Newfoundland and Quebec; and political opinion in Newfoundland. The legislation forbids dismissal because of filing a complaint or participating in proceedings in all jurisdictions but Quebec. The industrial relations legislation of all jurisdictions contains unfair labour practices provisions prohibiting dismissal and other forms of discrimination because of union membership, organising or office. Complainants and persons participating in proceedings under the Acts are protected against reprisal. Termination of employment is a matter subject to collective bargaining, and agreements usually contain rules concerning dismissal and layoff.

Paragraphs 4 to 6. An employee dismissed contrary to human rights legislation may make a complaint to a Human Rights Commission in Alberta, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan; to the Minimum Wage Commission in Quebec; to an official of the Department of Labour in the federal jurisdiction,

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British Columbia and Newfoundland; and to the Minister of Labour and Manpower in Prince Edward Island. In all jurisdictions but Manitoba, the first stage is an attempt at informal conciliation. If the matter is not settled, a formal hearing follows, with the right to be represented by counsel, in front of an ad hoc investigating body or a permanent Commission or the Minister. Except in Quebec, where the matter is again not settled, the legislation authorises the Commission, the Minister or the ad hoc body to issue an order requiring compliance. In most jurisdictions, the legislation specifically authorises reinstatement, and/or compensation. Instead of making a complaint, resort may be had to the courts. A complaint of a violation of the unfair practices provisions is usually made to a labour relations board, or in Newfoundland to the Minister and in Quebec to the chief investigation commissioner. The Acts provide for an investigation, after which the responsible body may order reinstatement or compensation. Industrial relations legislation requires the binding settlement of disputes during the life of a collective agreement, with arbitration as the usual final step. Collective agreements contain grievance procedures, under which dismissals may be appealed. The arbitrator has the right to order reinstatement or compensation for wrongful dismissal, subject to the provisions of the agreement. In other cases, a dismissed employee may sue for breach of contract in the courts.

Paragraph 7. Under labour standards legislation, an employer must give notice of individual termination in the federal jurisdiction, Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan. In all these jurisdictions (except Manitoba) pay in lieu of notice may be substituted. The length of the notice period is one week in Prince Edward Island and Saskatchewan and two weeks in the federal jurisdiction. In Manitoba and Newfoundland it is a pay period, with reasonable notice required where the employee is paid less often than monthly. In Ontario and Nova Scotia, the period varies with the length of employment from one to eight weeks' notice. In Quebec the notice period depends on the hiring period: by week: one week; by month: two weeks; by year: one month. In 1970, 49 per cent of major collective agreements contained individual notice provisions. There are no legislative provisions in Canada requiring time off in order to seek employment, or certificates of employment.

Paragraph 9. In the federal jurisdiction, employees with five years' service or more are entitled to severance pay, the amount varying with the length of employment up to forty days' wages. Dismissed employees in all jurisdictions are entitled to unemployment insurance. Also, severance pay is provided for under many collective agreements; in 1970, the percentage of unionised employees covered varied from jurisdiction to jurisdiction from about one-half in the federal jurisdiction to none in Prince Edward Island.

Paragraph 11. Most jurisdictions that have legislation requiring individual notice of termination exempt cases of serious misconduct. The Acts do not define what constitutes just cause or wilful misconduct, disobedience or neglect of duty not condoned by the employer. This is a question to be decided by the appropriate authorities upon complaint of failure to give appropriate notice. Collective bargaining agreements also outline such matters or leave them to the discretion of the arbitrator.

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Paragraphs 12 to 17. The federal jurisdiction, Manitoba, Nova Scotia, Ontario and Quebec require notice of collective dismissal to the union (or employees where there is no union) and public authorities. Notice is required where a minimum number of workers is being dismissed within four weeks or, in Quebec, within two months. Except in the federal jurisdiction and Quebec, pay in lieu of notice may be substituted. The notice period varies from 8 to 16 weeks according to the number of employees involved in the reduction of the work force. In the federal jurisdiction, Manitoba and Ontario, co-operation is required with public authorities to re-establish the employees in employment. In Quebec the Minister may require the establishment of a representative committee on reclassification; with the consent of the Minister, the parties may establish a fund to assist employees. The reduction of the work force is subject to collective bargaining. In 1968, 28 per cent of agreements made provision for notice of collective dismissals.

The federal jurisdiction, Manitoba and Saskatchewan require an employer to give notice to the union of technological change that would affect the terms and conditions of employment of a substantial number of employees. Before introducing the change, the employer must bargain over its effects. In the federal jurisdiction, a union must obtain the consent of the labour relations board before an agreement may be reopened. These provisions are intended to encourage the inclusion of technological change provisions in collective agreements.

Paragraph 18. The human rights legislation applies to most employers and employees in each jurisdiction, with minor exceptions. The unfair labour practices provisions apply to all unionised employees and to employees in non-union establishments involved in union activity. The individual notice of termination legislation generally excludes persons engaged for a fixed term or a fixed task or on probation (usually three months). The federal legislation excludes superintendents, managers and members of professions. Farming is excluded in Manitoba, Prince Edward Island and Saskatchewan and construction in Nova Scotia and Ontario. The Quebec provisions apply only to domestics, servants, journeymen and labourers, i.e. unskilled workers. Other exclusions found in some jurisdictions are: a different custom or practice or the provisions of a collective agreement, short-term layoffs, a contract that becomes impossible of performance or is frustrated by an unforeseeable event, and a refusal of alternative employment. Nova Scotia and Prince Edward Island also exclude shortage of work. The reduction of the work force provisions generally do not apply to seasonal or irregular employment, short-term layoffs, strikes and lockouts, or the construction industry. Nova Scotia excludes dismissals for shortage of work. Public servants in the various jurisdictions are either subject to the general legislation or come under special legislation, particularly for collective bargaining. Dismissal of public servants, except at very senior levels, is subject to clear-cut rules which provide for notice.

Migrant workers: there is no distinction between migrant and Canadian workers.

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CENTRAL AFRICAN REPUBLIC

Labour Code, Act No. 61/221 of 2 June 1961.

Paragraphs 1, 2 and 3 of the Recommendation. Any unjustified breach of contract may give rise to damages. In particular, dismissals without justification, dismissals based on a worker's opinion or trade union activity, his membership or non-membership of a given trade union, are unjustified. Employment contracts in force at the time at which there is a change in the juridical situation of an employer remain in force and may not be terminated without a legitimate reason, without proper notice or, in the case of a worker's delegate, without the authorisation of a labour and social laws inspector. During the period of military service or compulsory military training, during sickness duly certified by an approved doctor and the duration of which is limited to six months but may be extended until the worker is replaced, the labour contract is suspended. Contemplated dismissal of a staff representative must be submitted to the decision of a labour and social laws inspector.

Paragraphs 4, 5 and 6. A worker who considers that he has been unjustly dismissed, may, with the assistance of a trade union representative, request the labour and social laws inspector to settle the difference out of court. If there is no conciliation procedure or the procedure has failed, an action is brought before the labour court, and the court may request that the worker be reinstated with restitution of unpaid salary or may fix damages if it decides that the dismissal was unjustified (articles 180 to 207 of Act No. 61/221).

Paragraph 7. A worker who is to be dismissed is entitled to a notice or payment of compensation corresponding to the remuneration and advantages of every kind he would have received during that period; the period in question is eight days if he is paid by the hour, by the day or fortnightly and one month if he is paid every month (article 45 of Act No. 61/221). During the period of notice he will, moreover, be entitled to one free day every week which he may take when he chooses either as one whole day or by the hour, with full pay (article 44 of Act No. 61/221).

Paragraph 8. A dismissed worker may require a certificate to be issued to him indicating solely his date of entry into and cessation of employment, as well as the nature and dates of various employments he has held; failure to comply entails payment of damages.

Paragraph 11. The period of notice as well as the payment of a dismissal compensation, depending on seniority of service, do not apply in the case of serious misconduct.

Paragraphs 12 to 17. The practice takes into account the provisions of the Recommendation in case of a reduction of staff. Closure of the undertaking does not dispense the employer from respecting the rules established concerning dismissal, bankruptcy and judicial liquidation not being considered as cases of force majeure.

Paragraph 18. The above guarantees do not apply to workers engaged for a fixed period or a given job (article 46 of the Act) or workers engaged on probation (article 38 of the Act) or civil servants.

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CHILE

Labour Code.

Decree 98 (Official Gazette, 10 February 1945).

Act No. 16,455 on termination of a contract of employment (Official Gazette, 6 April 1966).

Decree 464 (Official Gazette, 13 February 1967).

Official Circular No. 23 (28 March 1972) by the Inspection Service, Department of Labour.

Paragraph 2 of the Recommendation. An employer may only terminate a contract of employment for good and sufficient reasons. Section 2 of Act No. 16,455 specifically describes cases in which such reasons may be deemed to exist.

In the exceptional cases mentioned in section 3 of Act No. 16,455, an employer does not have to adduce reasons.

Paragraphs 4 and 5. Should the worker feel that he has been wrongfully dismissed, he is entitled under section 5 of the Act to lodge an appeal with the courts within thirty working days from the date of cessation of employment. During the hearing, the plaintiff can appear personally in court.

Paragraph 6. The purpose of an appeal is to reinstate the worker in his former job, but if it is unsuccessful, he is entitled to compensation, as the judge may decide. It cannot be less than one month's wages per year of employment.

Paragraph 7. An employer who avails himself of Act No. 16,455 (section 3) to put an end to a contract of employment, must give written notice to the worker concerned thirty days beforehand, or pay him the equivalent of thirty days' wages.

If the contract is terminated under section 2 (10 and 11) of the Act, he must give written notice both to the worker and to the labour inspection authorities.

Paragraph 8. Under section 16 of the Act, the employer must, if so requested by the dismissed worker, provide him with a certificate mentioning the dates on which he took up and left employment, and the kind of work done by him, and nothing else.

Paragraph 11 (3). As regards the period during which the employer is entitled to dismiss a worker for misconduct, a jurisprudence has been built up according to which the employer is not bound by any such period.

Paragraph 11 (4). The worker's right becomes null and void after the lapse of thirty working days.

Paragraph 11 (5). Section 2 of Act No. 16,455, and section 5 of Regulations 464 lay down that works regulations must provide for a procedure for the internal settlement of claims by the workers arising from the denunciation of their contracts.

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Paragraphs 12 to 17. Section 86 of the Labour Code and its Regulations, and Decree 98, do not provide for prior consultation with workers' representatives. They merely lay down that in the event of collective dismissals or cessation of operations, prior authorisation must be obtained from the Ministry of the Economy and the Ministry of Labour and Social Security.

Collective or other agreements, or arbitration awards, may include rules concerning workers' participation in these cases.

CONGO

Act No. 10-64 (25 June 1964), constituting the Labour Code (Official Gazette, 9 July 1964, No. 14 special, p. 547) (L.S. 1964 - Congo (Braz.) 1).

The Labour Code, section 37, lays down that a fixed-term employment contract cannot be unilaterally and prematurely terminated except in the circumstances provided for in that contract, or unless there has been serious misconduct. Should an employer prematurely denounce the contract without being able to adduce serious misconduct as a reason for so doing, the worker concerned is entitled to an indemnity.

Section 38 says that unless expressly otherwise provided, the employment of a worker on probation may cease at any time, should either of the parties so desire.

Section 39 provides that an indefinite contract can be terminated only if prior notice is given; the length of notice, and the circumstances, are points dealt with in collective agreements or, if not, by ministerial order.

The reasons for termination must be set forth in writing. Provision is made for a special procedure in the event of individual or collective dismissal caused by reorganisation or a falling-off in business. Section 40 allows the worker to take time off during the period of notice.

No prior notice need be given in the event of serious misconduct; when the latter has occurred, dismissal becomes final only after the worker has presented his case to the employer, which he must do within thirty days.

Section 42 provides that an indemnity shall be paid if there has been wrongful termination by the worker or wrongful or illegal termination by the employer.

Section 43 says that in certain circumstances the worker's next employer may have to share responsibility with that worker for damage suffered by the previous employer, if the worker has wrongfully broken his contract.

Section 45 lays down that any change in the position of the undertaking in the eyes of the law, or its disappearance, shall not justify failure by the employer to abide by the rules governing dismissal.

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Section 46 deals with certificates of employment.

The new section 174 provides for a special dismissal procedure applicable to the officers of a trade union within an undertaking.

CYPRUS

Termination of Employment Act, No. 24, 27 May 1957 (L.S. 1967 - Cyp. 2).

The Termination of Employment Law provides for minimum periods of notice for compensation paid to the employee in case of unjustifiable dismissal and for the establishment of a fund financed by employers for the payment of benefits to employees declared redundant.

The "Industrial Relations Code", which is still being discussed by the Government, the unions and the employers' organisations with a view to improving and replacing the Basic Agreement, would provide for compliance with international labour Conventions or Recommendations ratified or accepted by Cyprus.

Several provisions of the Recommendation (i.e. Paragraphs 13 to 16) are followed in practice and in many cases embodied in collective agreements.

The application of the above Law is supervised by the Labour Disputes Court, composed of a chairman, who must be a qualified lawyer, and two members, one representing the unions and the other employers' organisations.

Since 1967, representatives of the Government, unions and employers' organisations have submitted observations and suggestions to the tripartite Labour Advisory Board, as a result of which certain amendments were effected and additional regulations issued which render the Law more effective.

Migrant workers. Provided that the aliens are holders of valid employment permits, they enjoy exactly the same rights and safeguards as any local employee. A valid contract of employment must be shown before an employment permit is issued.

CZECHOSLOVAKIA

Labour Code (L.S. 1965 - Cz. 1) as amended by Act No. 153, 18 December 1969 (L.S. 1969 - Cz. 1) (sections 42-60).

Resolution respecting Works Committees of the Basic Units of the Revolutionary Trade Union Movement, as adopted by the IVth Trade Union Congress and amended and supplemented by the Resolution of the National Trade Union Conference held in May 1965.

Notification of the Federal Ministry of Labour and Social Affairs to issue regulations concerning termination of the employment relationship, placement and income security of employees in connection with organisational and rationalisation measures, No. 74, 1970.

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Paragraph 2 of the Recommendation. The employment relationship may be terminated at the initiative of the organisation, either by giving notice or without notice, only on the grounds enumerated by the Labour Code.

An organisation may give a worker notice only on the grounds mentioned in section 46 of the Labour Code. These grounds refer to the operational interest of the organisation, to the incapacity of the worker and his conduct. An organisation may give a worker notice for a breach of labour discipline or a reason justifying the termination of his employment relationship without notice, only within the month following the date on which it became aware of the reason for the notice, and in any event within one year from the date on which the reason arose (section 46, paragraphs 3 and 4).

The organisation must not terminate a worker's employment either with or without notice, unless the prior consent of the works committee has been obtained. Without such consent the termination of employment is not lawful (section 59, paragraph 1 of the Labour Code).

Paragraph 4. The worker who wants to have the illegality of his termination of employment confirmed by a court of law must institute proceedings within three months from the date on which the employment relationship is due to cease (section 64 of the Labour Code). He may be assisted by a person representing him or by a trade union organisation which member he is. In the proceedings he is given the opportunity to express himself about the case (sections 24, 26 and 101 of the Code of Civil Procedure, Act No. 99, 1963).

Paragraphs 5, 6 and 7. In case of unlawful termination of a worker's employment at the initiative of the organisation, either with or without notice, the employment relationship remains in force and the organisation is required to pay the worker compensation in lieu of wages, when he notifies the organisation of his will to continue to hold his job. This compensation is equal to his average earnings from the date on which he notifies the organisation of his will to the date on which the organisation allows him to start to work or on which the employment relationship is terminated in a lawful manner, but not for more than one month before the institution of proceedings.

Where the worker does not insist on continuation of the employment relationship, the relationship, unless there is a written agreement to the contrary, is deemed to have been terminated by agreement on the expiry of the period of notice if the relationship was unlawfully terminated by the giving of notice - on the date it is due to be terminated, if the relationship was unlawfully terminated without notice. In such case the worker is entitled to compensation in lieu of wages amounting to his average earnings for the period of notice.

Paragraph 7. The period of notice amounts to one, two or three months in accordance with the worker's age (section 45, paragraphs 2 and 3 of the Labour Code).

During the period of notice the worker is entitled to time off, which can amount to half a day every week without loss of pay, in order to seek other employment.

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Paragraph 8. On termination of his employment the worker is entitled to receive a certificate of employment, indicating, inter alia, its duration and the level of skill he has reached, and a testimonial concerning his activities in the organisation. Where he disagrees with the contents of the certificate or of the testimonial, he may apply to an arbitration body within three months (section 60 of the Labour Code), then to a court of law (section 211, paragraph 1 and section 212).

Paragraph 9. A dismissed worker who cannot enter employment is, under certain conditions, entitled to an allowance until he enters a new employment (section 4 of the Notification No. 74/1970).

Paragraphs 12 to 17. The organisation, in co-operation with the people's committee, must provide the worker with effective assistance in finding other suitable employment and subsequent placement so that the transition to his new job is effected smoothly and steps to provide him with the above-mentioned financial assistance have to be taken only in exceptional cases (section 2, paragraph 2 of the Notification No. 74/1970).

The organisation, acting in co-operation with the appropriate authorities of the trade unions, must notify at least four weeks in advance the workers to be released of the reasons for such action (section 2, paragraph 3 of the Notification).

The first workers to be released are those who can most easily be placed in and adapted to other jobs and account is particularly taken of workers' skills, then of age and family situation.

Migrant Workers

There is only a small number of aliens. The provisions of the Labour Code apply to them, unless otherwise provided by bilateral international treaties.

DEMOCRATIC YEMEN

Labour Ordinance, Cap. 84.

Law No. 1 of 1969 respecting the settlement of labour reduction disputes.

Section 9 of the Labour Ordinance provides for the termination of contracts of employment with or without notice.

Steps to be taken prior to termination of employment are usually outlined in collective agreements concluded between the employers' and employees' representatives. Such steps may include a warning period, letter of reprimand, specified temporary suspension, if the worker has committed a serious misconduct.

Section 5 (a) of Law No. 1 of 1969 in connection with the settlement of labour reduction disputes provides that, before taking any measures of reduction, the employer and the workers' representative must hold a joint meeting on the request of either of them with

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a view to reaching a settlement with regard to the measure which the employer intends to take. Under the provisions of the same law, the employers' and workers' organisations may be called upon to co-operate and intervene where no agreement is reached between employers and workers.

The selection of workers to be affected by a reduction of the work force must be made according to precise criteria, such as efficiency and experience of workers, age, length of service, special right to be retained in work in accordance with a particular law, type of contract (workers employed on a temporary basis may be discharged) (section 9 of Law No. 1 of 1969).

Section 10 of Law No. 1 of 1969 provides for the payment of adequate benefits.

DENMARK

The Merchant Shipping Act, No. 229 of 7 June 1952 (L.S. 1952 - Den. 1), last amended by the Act No. 151 of 10 May 1967.

The Master and Servant Act, No. 156 of 31 May 1961 (L.S. 1961 - Den. 2), amended by the Act No. 292 of 9 June 1971.

The Employers and Salaried Employees Act No. 413 of 30 August 1971 (L.S. 1971 - Den. 1).

The questions dealt with in the Recommendation are traditionally left to the two sides of industry; however, the above-mentioned Acts contain provisions on termination of employment, for the protection of the employee.

Dismissal has been covered by the provisions of the General Agreement, concluded between the two sides of industry. A very great number of agreements provide for the settlement by negotiation between the parties of disputes arising in case of dismissal. Failing agreement, disputes have mostly been settled by industrial arbitration.

In pursuance of the existing agreements, shop stewards cannot be dismissed without a serious reason and, in this connection, disputes are submitted to an industrial tribunal which has often awarded damages. These decisions are considered to have had a preventive effect.

The two sides of industry are negotiating a new General Agreement, the present draft of which provides that the right to dismiss individual persons shall be exercised without arbitrariness. A worker, who is 18 years of age or older and has been continually employed in the undertaking for at least one year, would be entitled to request information about the reasons for his dismissal; if the workers claimed that the dismissal was unreasonable and not founded on circumstances connected with the worker or the undertaking, a local discussion of the dismissal between representatives of the management and of the workers of the undertaking would be demanded, followed, in the absence of agreement and on request of the trade union or central management, by negotiations between the organisations

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concerned. If such negotiations were unsuccessful, the interested trade union or the central management would have the right within 15 days to refer the case to a permanent board consisting of 2 representatives elected by each of the central organisations from among the members of the Supreme Court. If the board should decide that the dismissal was unreasonable and not founded on circumstances relating to the worker or the undertaking, it would be empowered to order the payment by the employer of compensation to the dismissed worker, the amount of which would depend on the particulars of the case and on seniority, but could not exceed 26 weeks' wages.

EGYPT

Labour Code No. 91 of 5 April 1959 (I.S. 1959 - UAR. 1).

Order No. 96 of 1962, concerning disciplinary sanctions (I.S. 1962 - UAR. 1).

Paragraphs 2 and 3 of the Recommendation. A worker dismissed without justification is entitled to damages (article 74 of the Labour Code).

An employer who dismisses a worker by reason of the latter's trade union activity is liable to a fine (article 231 of the Labour Code). He may not terminate a contract of or retire a worker who has not reached the minimum age of 60. A worker charged with the crime of illegal strike or of provoking an illegal strike or any other crime committed at the place of work may be suspended until the competent authority has passed judgment on his case.

Paragraphs 4 and 5. A worker dismissed without valid reason may apply to the competent administrative authority for a stay of execution (article 75 of the Labour Code).

Paragraph 6. The tribunal may decide that the dismissed worker be reinstated in his job.

Paragraph 9. The employer is bound to pay a worker who has left his employment for any of the reasons set out in article 77 a termination of service compensation provided for under article 73 of the Labour Code without prejudice to any damages that may be granted by the tribunal (article 78 of the Labour Code). This termination of service compensation is also provided for a worker called upon to undergo his compulsory military service and a woman on the occasion of her marriage or the birth of her first child.

Cessation of an employment relationship as a result of the death of the worker, his disability or sickness takes place without prejudice to the provisions concerning compensation due in case of an occupational accident (article 81 of the Code).

Paragraph 10. In application of article 61 of the Labour Code, tripartite committees composed of a representative of the employer, a representative of the workers and of the manpower director or his agent examine all cases of disciplinary dismissal, in particular those covered by article 76, to give their opinion before the decision to dismiss becomes final (Order No. 96 of 1952).

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Paragraph 11. Legislation has defined the cases in which an employer may revoke a contract of employment without notice and without compensation or damages (article 76 of the Labour Code).

The Manpower Ministry sees to the application of the Labour Code but employers' and workers' organisations, apart from being present in tripartite committees, play their part by being party to collective labour agreements (article 89 of the Labour Code).

EL SALVADOR

Labour Code, Legislative Decree No. 15 (23 June 1972) (Official Gazette, No. 142, 31 July 1972).

Paragraph 2 of the Recommendation. Section 50 of the Labour Code sets forth the reasons for which (and only for which) an employment contract may be terminated without obligation for the employer; they relate, generally speaking, to the worker's conduct and aptitudes.

Section 369 of the Code gives the labour judge and other competent magistrates the right to deal with labour disputes, be they individual or collective.

Paragraph 3 (a). The Code, section 30 (4) and (5), expressly forbids employers from encroaching on the workers' freedom to belong to a trade union. It forbids them from exerting pressure, whether direct or indirect, from exercising discrimination for reasons of trade union membership or activities, and from taking reprisals against trade unionist workers. Section 29 (6) provides that the employer shall, if the trade union leaders so request through their organisation, give them the time off they need to go about their trade union duties. Section 204 recognises membership of a trade union as a right, while section 205 forbids pressure being put on anybody to join a union or withdraw from one. It is illegal under this section to prevent anybody from taking part in the creation of a union, to do anything designed to prevent the creation or winding-up of a union, to subject a union to the employer's control, to grant different treatment to workers because of trade union membership, to take reprisals against them, and to impede the exercise of their right of free association.

Paragraph 3 (b). Section 50 of the Code lists the circumstances in which an employer may, without incurring any obligation, dismiss a worker. But it does not mention, as a reason for dismissal, the requesting, exercising or having exercised a mandate as workers' representative. Besides which, section 248 prohibits any dismissal, switch of job, or imposition of less favourable working conditions on workers during elections, during their term of office as trade union representatives, and during the year following that term of office, unless for a good and sufficient reason formally confirmed in advance by the competent magistrates.

Paragraph 3 (c). These reasons do not justify dismissal (Code, section 50). Section 47 of the Organic Law of the Ministry of Labour and Social Affairs prohibits employers or their representatives from dismissing a worker for having provided the labour inspection authorities with information or lodged a complaint with them.

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Paragraph 3 (d). Section 182 (1) of the Constitution prescribes equal pay for equal work, independently of sex, race, creed or nationality. Sections 11 and 13 of the Labour Code grant foreigners the same freedom of labour as is enjoyed by the natives of El Salvador, subject only to the law, and provide that nobody can prevent anybody from working without a decision by the competent authorities.

Paragraph 7. Section 59 of the Code provides that a worker holding a fixed-term contract which is wrongfully terminated before it expires shall be entitled to an indemnity. Section 26 lays down that seven days' notice shall be given or compensation equivalent to seven days' wages, when a worker on piece work lasting more than fifteen days is laid off.

Paragraph 8. Section 60 of the Code lays down that a certificate shall be issued to a worker dismissed. According to the law, this certificate must say nothing unfavourable to the worker.

Paragraph 11 (3) and (4). Under the Code, section 612, a worker dismissed for serious misconduct must appeal within sixty days.

Paragraph 11 (5). The Director-General of Labour may be asked to intervene and mediate under Chapter II, Part II, sections 14 to 20, of the Organic Law of the Ministry of Labour.

FINLAND

Unemployment Insurance Act, No. 125, 23 March 1934 (L.S. 1934 - Fin. 3).

Seafarers Act, No. 341, 30 June 1955 (L.S. 1955 - Fin. 2).

Severance Pay Act, No. 169, 6 March 1970 (L.S. 1970 - Fin. 8).

Contracts of Employment Act, No. 320, 30 April 1970 (L.S. 1970 - Fin. 2).

Effect is given to the Recommendation through legislation (mainly through the Contracts of Employment Act - 320/70) and through practice (General Agreement on Dismissal Protection, dated 22 February 1966; Shop Steward Agreement, dated 2 April 1969).

Paragraphs 2 and 3 of the Recommendation. An employer must not give notice to a worker of termination of his employment, except for specified serious grounds. Worker's illness, insofar as it has not caused a substantial and permanent reduction of working capacity; worker's participation in a strike or other labour dispute; worker's political, religious or other views or his participation in public activities or the activities of any association or union; temporary reduction in the workload; pregnancy or maternity leave of a woman worker, shall in no event be deemed to constitute such serious grounds (section 37 of the Contracts of Employment Act, 320/70).

The contract of a shop steward must not be subject to termination, except with the consent of the majority of the workers represented by him, or when his job ceases to exist and no alternative work corresponding to his qualifications can be found for him.

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(Section 53, paragraph 2 of the Contracts of Employment Act.) The chief shop steward may not be dismissed, unless the operations of the undertaking are interrupted completely (Shop Steward Agreement between the Central Federation of Finnish Employers and the Finnish Trade Union Federation, 2 April 1969, section 4, paragraph 4).

The employer must treat his workers impartially, without discrimination in respect of origin, religion, sex, age, political or trade union activity (section 17, paragraph 3 of the Contracts of Employment Act).

Paragraphs 4, 5 and 6. The definition or interpretation of a valid reason is submitted to a magistrate's court for decision. If the employer has dismissed the worker without just cause, the worker is entitled to continue to draw his wages for a term not exceeding the term of notice (section 27, paragraphs 1 and 3 of the Contracts of Employment Act).

The interpretation or disagreement in respect of the Agreements on Dismissal Protection or on Shop Stewards, is submitted to the labour court, unless the worker's service has lasted for less than nine months.

In addition, an employer who contravenes these rules shall be liable to a fine.

Paragraph 7. Contracts of employment made for an unspecified period may be terminated after the expiry of a certain term of notice, unless so agreed or stipulated by law (section 37 of the Contracts of Employment Law). This term of notice may be fixed by agreement to comprise any time up to six months. Where no term of notice has been expressly stipulated, the period of notice corresponds to the pay period, but does not comprise less than fourteen days. Where the parties have agreed that the contract may be terminated irrespective of a term of notice, the employment relationship must not be terminated unless otherwise agreed, by giving notice before the end of the working day or shift period (section 38 of the same Law). The worker is entitled to fourteen days' notice of termination in case of change in ownership (the new employer may give such notice only within two weeks of the date of transfer), death or bankruptcy of the employer (sections 40 and 41 of the Contracts of Employment Act).

Paragraph 8. The employer must issue to the worker, at his request, a certificate stating the time during which he was employed and the nature of his work (section 47 of the Contracts of Employment Act).

Paragraph 9. A certain form of income protection is provided for employees whose employment has been terminated, by an unemployment fund which is entitled to receive support from the State (National Unemployment Funds Act, 125/34). Any wage earner between 15 and 60 years may become a member of an unemployment fund (section 4 of the said Act). The latter may grant daily, rent, clothing or travelling benefits to employees who have been members at least for six months immediately preceding and have paid contributions for at least twenty-six weeks during that period (sections 13 and 14 of the same Act).

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Where the unemployed worker is not a member of any unemployment fund, or where he has already received the maximum amount of the allowances, he may obtain unemployment compensation through labour authorities as provided for by the Employment Act (320/70). This unemployment compensation may be granted as long as unemployment continues.

The provisions of the Pensions Act (395/61) apply to the worker who retires on pension on termination of the employment relationship.

A special severance pay is paid in certain cases and particularly to older workers, who experience greater difficulties in finding new employment (Severance Pay Act 169/70).

Paragraph 10. The employers must consult with workers' representatives before a final decision on individual cases of termination of employment.

Paragraph 11. Employment may be terminated if serious grounds exist for so doing, irrespective of the agreed work period or term of notice (section 43, paragraph 1 of the Contracts of Employment Act 320/70). Unless the circumstances make the case appear in a different light, the employer may rescind the contract, particularly if the worker misleads him in any important respect at the conclusion of the contract, jeopardises safety at work through his negligence, comes to work in a state of intoxication or uses intoxicants at the work place, grossly insults or assaults him or a member of his family, his representative or any of his fellow workers, is guilty of a serious breach of the provisions respecting business and trade secrets or competing activities, is permanently disabled or fails to fulfil his obligations, wilfully or through gross negligence, and persists in such conduct in spite of being warned (section 43, paragraph 2 of the Contracts of Employment Act).

The right to dismiss lapses one week after the cause for rescission has arisen or after it has come to the knowledge of the employer. The employer's right to dismiss may be limited by agreement (section 44 of the Contracts of Employment Act).

In case of disagreement regarding dismissal, the Agreement on Dismissal Protection, dated 22 February 1966, and the Shop Steward Agreement, dated 2 April 1963, provide for settlement through the general channels of negotiation.

Paragraphs 12 to 17. In case of reduction of the work force, legislation and practice do not yet comply fully with the requirements of the Recommendation.

Economic and productive reasons constitute adequate grounds to dismiss or lay off.

It may be agreed in the course of an employment relationship that the performance of work and the payment of remuneration be suspended, while in all other respects the employment relationship is maintained (section 30 of the Contracts of Employment Act). In case of temporary reduction in the work load, the employer must not give notice but must try to arrange for alternative work. If this is impossible, the worker may be laid off for not more than seventy-five days (section 37 of the Contracts of Employment Act).

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The right to lay off workers may be extended by agreement.

Conditions and terms of notice for laying off are the same as for the termination of employment (section 30 of the Contracts of Employment Act).

The Agreement on Dismissal Protection requires that the employer notify the local trade union and labour authority of the reduction one month in advance, if possible (sections 5 and 6).

In practice, efforts are made to ensure that workers' length of service and social conditions are taken into consideration. Likewise priority of re-engagement is given, as far as possible, to "old" workers when the operation of the undertaking allows the engagement of additional personnel.

The Contracts of Employment Act does not apply to public service contracts or contracts relating to the performance of official duties. The Domestic Servants Act (1/49) and the Seamen's Act (341/55) contain special provisions on termination of employment.

A proposal of a special workers' dismissal protection law, which would have better corresponded to the ILO Recommendation than the present practice, was submitted in 1972 but later withdrawn. Workers' organisations have suggested that a new proposal should be prepared.

FRANCE

Labour Code.¹

Ordinance No. 45-280 dated 22 February 1945, as amended (L.S. 1966 - Fr. 1).

Ordinance No. 45-1030 dated 24 May 1945, on supervision of employment (L.S. 1945 - Fr. 7).

Decree dated 23 August 1945.

Act No. 46-730 dated 16 April 1946, to fix the status of employees' delegates in undertakings (L.S. 1946 - Fr. 7).

Act No. 58-158 dated 19 February 1958 (section 23, Book 1 of the Labour Code) (L.S. 1958 - Fr. 1).

Act No. 63-1240 dated 18 December 1963, amended, respecting the National Employment Fund (L.S. 1967 - Fr. 1D).

Ordinance No. 67-578 dated 13 July 1967, to establish a National Employment Agency (L.S. 1967 - Fr. 1A).

¹ Act No. 73-680 (13 July 1973), amending the Labour Code with respect to termination of an indefinite employment contract (Official Gazette, 18 July 1973) has been adopted since the Government made its report.

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Decree dated 25 August 1967, amended on 17 August 1971.

Act No. 68-1179 dated 27 December 1968, respecting the right of association in undertakings (L.S. 1968 - Fr. 1A).

The whole of the Recommendation is applied, by virtue of laws or regulations, custom, collective agreements or decisions by the courts.

Paragraph 2 of the Recommendation. The employer does not have to inform a wage earner of the reasons for the latter's dismissal. However, an appeal for damages may be made to the conciliation board for breach of contract, if the employer has acted frivolously or with malice aforethought. In which case, he will have to explain himself to the tribunal, but does not have to adduce proof (decision taken by the Social Affairs Chamber of the Supreme Court of Appeal). The factors to be borne in mind by the tribunal in deciding on compensation are listed in paragraph 7 of section 23 of the Labour Code, Book I.

Paragraph 3. An employer must not take account of trade union membership or trade union activity, especially when considering disciplinary action or dismissal (section 1 (a) of the Labour Code, Book III). This is a rule which for many years has been backed up by jurisprudence, and failure to observe it entails criminal proceedings. Special protection is given to staff delegates and members of works councils. To dismiss them, the employer must first obtain the consent of the works council; should it disagree, the labour inspector's consent must first be obtained (section 16 of the Act dated 16 April 1946, section 22 of the Ordinance dated 22 February 1945). No staff delegate may be dismissed unless the labour inspector has first given his consent (Act dated 27 December 1968, section 13). Under certain collective agreements, there is a special procedure for the settlement, by a joint committee, of disputes relating to the right of association.

The preamble to the Constitution affirms, and jurisprudence confirms, the principle that all citizens, independently of origin, race, sex or religion, are equal before the law.

Paragraph 4. Most collective agreements provide that a dispute must first be considered by a joint committee; however, this does not prevent the matter from being referred to the Conciliation Board, which is alone competent to settle differences arising between employers and employees in connection with labour contracts (Book IV of the Labour Code, section 1, and Decree No. 58-1292 dated 22 December 1958, section 81). The worker may have himself represented either by a representative of the trade union organisations, or by a wage earner in the same branch of activity, or by a lawyer.

Paragraphs 5 and 6. The Conciliation Board to which a dismissed worker has made representations is perfectly free to take a decision. Should the worker not be reinstated, and should the employer have abused his right of dismissal, it may order the payment of damages (Book I of the Labour Code, section 23 (7)).

Paragraph 7. A dismissed worker is entitled to prior notice; its length is laid down by law and collective agreement; otherwise, it is dictated by custom. A month's notice must be given for the

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dismissal of a worker with at least six months' continuous employment (Act dated 19 February 1958, included in Book I, section 23 of the Labour Code). It must be accompanied by a special severance grant, and may be extended to two months for the dismissal of workers who have been with the same employer for two years without interruption (Ordinance No. 67-581, dated 13 July 1967). Persons suffering from at least 60 per cent disability, together with the seriously handicapped, are entitled to twice the normal notice, up to a maximum of two months (Act No. 60-1434, dated 27 December 1960, to harmonise the application of the Acts dated 23 November 1957 on resettlement of handicapped workers, and 26 April 1924, as amended, on the compulsory employment of disabled ex-servicemen).

Collective agreements usually include clauses prescribing a longer period of notice, especially in the case of senior white-collar staff.

In most occupations and in most areas, workers are given a couple of hours off a day, for which they are normally paid, either by custom or by collective agreement.

Paragraph 8. Under the Labour Code (section 24, Book I), the worker has to be supplied with a certificate showing the dates on which he took up and left his job, the kind of job or jobs he has held, and between what dates - and nothing else. Failure to abide by this rule leaves the employer open to a claim for damages, according to the jurisprudence.

Paragraph 9. Apart from a severance grant, the minimum rate being the equivalent of ten hours per year of employment for workers paid by the hour and one-twentieth of a month per year for those paid by the month (see Ordinance No. 67-581 and Decree No. 67-582 dated 13 July 1967), unless custom or collective agreement are more favourable, workers who lose their jobs enjoy some earnings protection. They can claim a public assistance grant from the Departmental Employment and Manpower Offices (Decree dated 25 September 1967, amended on 17 August 1971), together with unemployment allowances. These latter are paid to workers employed in private enterprise (except agriculture and domestic service) by the ASSEDICs (Associations for Employment in Industry and Trade), under a national inter-occupational scheme for the payment of special allowances to unemployed workers in industry and commerce created by an agreement dated 31 December 1958 (adopted by Order dated 12 May 1959), and to workers in the public sector by the authorities concerned (Decree dated 16 December 1968).

Workers who lose their jobs and happen to be over 60 enjoy special earnings protection. After a waiting period, they can, if they have had at least fifteen years' wage-earning employment, claim an allowance equivalent to 70 per cent of their wage (by an agreement entered into on 27 March 1972 between the CNPF, the Confederation of Small and Medium-Sized Undertakings, and the wage-earners' trade union organisations).

Paragraph 10. A number of collective agreements lay down that before any dismissal, either the appropriate disciplinary council must be consulted (as provided for by the national collective agreement for banking), or that the person concerned, assisted by a staff delegate, must be convened (as is the case under the collective agreement for the textile industry).

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Paragraph 11. Serious misconduct by the person concerned can deprive him of the right to prior notice and dismissal allowance (Ordinance No. 67-581, dated 13 July 1967).

If the employer fails within a reasonable lapse of time to punish a case of misconduct which has come to his notice, the courts have taken the line that he has tacitly abandoned his right to take such action (Cass. Soc. 4 October 1967).

A wage earner may start proceedings for breach of contract or non-payment of dismissal allowance, provided he does so within thirty years (five years for failure to provide the statutory prior notice).

The tribunals are empowered to assess the seriousness of the misconduct as well as the facts themselves.

Paragraphs 12, 13 and 15. If financial considerations are thought to dictate a cut in staff, the works council must first be consulted. It gives its views on the operation contemplated and how it is to be performed, and submits them to the labour inspector (Ordinance No. 45-280 dated 22 February 1945; inter-occupational national agreement dated 10 February 1969, extended by Order dated 11 April 1972).

In the event of collective dismissals, the dismissal of staff delegates must first be given special consideration by the labour inspector, who will have to make sure that such delegates have not been included because of their activities as delegates.

In industrial and commercial establishments, individual dismissals are subject to prior authorisation from the labour inspector (Ordinance dated 24 May 1945, section 9; Decree dated 23 August 1945, section 5, and Order dated 6 October 1945). Should the inspector fail to reply within three to seven days, he is assumed to have given his authorisation.

Paragraph 15. Usually, collective agreements lay down rules governing collective dismissals. If there is no collective agreement, the order in which dismissals are to proceed is determined by the works regulations provided for in section 22 (a) of the Labour Code (Book I) (cf. section 10 of the Ordinance dated 24 May 1945).

Paragraph 16. Priority in the re-employment of workers dismissed because of staff reductions is provided for in certain collective agreements and joint agreements only (for instance, by the national inter-occupational agreement dated 16 February 1969 rendered obligatory by the Order dated 11 April 1972 in undertakings whose activities are represented in the signatory employers' associations).

Paragraph 17. The National Employment Fund (FNE), created by the Act dated 18 December 1963, and entirely financed by the State, can enter into agreements with enterprises dismissing staff (because of modernisation, decentralisation, transformation, etc.), to ensure a guaranteed wage for the workers by offering those over the age of 60 a special allowance in the form of a pre-retirement pension; it represents 75 to 90 per cent of their previous wage. It can also enter into agreements to offer wage earners, who have been dismissed and then been taken on at a lower level, a temporary, graded allowance. The FNE also tries to find other employment for dismissed workers by promoting vocational training and retraining.

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The National Employment Agency, set up by Ordinance No. 67-578 (13 July 1967) receives vacancy notices. These notices must be brought to the attention of the Agency's local offices by the undertakings concerned (national inter-occupational agreement dated 20 February 1969).

Paragraph 18. These rules do not apply to workers recruited for a definite period or on probation.

Paragraph 20. Some workers are subject to special statutes (SNGF, EDF-GDF, for instance), but their position is at least as favourable as that of workers employed in private enterprise and, like the latter workers, they can appeal to conciliation boards.

A Bill reforming the right to dismiss is at present under consideration. Its aims will be: to require the employer to convene any worker he intends to dismiss, and to take note of any representations he may make (the worker in question may be assisted by somebody from the same undertaking); to reveal the reasons for dismissal to the worker concerned on receipt of a request in writing; to ensure that the reason adduced is a sound and legitimate one; and to discard the traditional rule, whereby onus of proof lies on the applicant.

GABON

Act No. 88/61 of 4 January 1962 establishing the Labour Code (I.S. 1962 - Gab. 1).

Order No. 51/PR of 23 September 1964 (I.S. 1964 - Gab. 1).

The provisions of the Recommendation are fully applied by virtue of Act No. 88/61 of 4 January 1962.

Paragraphs 2, 3 and 6 of the Recommendation. All unjustified breaches of contract may give rise to damages. Dismissal without a valid reason or based on the worker's opinions or trade union activities or his membership or non-membership of a particular trade union are included among the unjustified dismissals. Such damages are in addition to any compensation for failure to give notice and to any compensation on dismissal provided for in the contract or collective agreement (article 40, Act of 4 January 1962).

Paragraphs 4 and 5. Settlement of individual disputes arising out of the labour contract may take place through the intervention of Labour Tribunals (article 176) or through a prior conciliation procedure heard by a Labour Inspector (article 184), which would become compulsory with the adoption of a draft Bill. The dismissed worker may start an action for unjustified dismissal to be heard by the Labour Inspector or a Labour Tribunal within six months following his dismissal.

Paragraph 7. During the period of notice the dismissed worker is entitled to one day off a week with full pay, to be taken when he so wishes either as a whole day or split into hours (article 37 of the Labour Code).

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Paragraph 8. He may require his employer to deliver on pain of damages, a certificate stating exclusively the dates of entry into and departure from employment, the nature and dates of the jobs successively held and his occupational category (article 49 of the Labour Code).

Paragraph 9. There is no unemployment insurance.

Paragraph 11. A dismissed worker loses his right to a notice and to a dismissal compensation in cases of serious misconduct on his part.

Paragraphs 12 to 17. In case of reduction in staff due to the slowing down of activity or reorganisation of the undertaking, the workers' delegates give their opinion concerning the conditions of dismissal contemplated by the employer (article 165 of the Labour Code, subparagraph 5).

Reference should, moreover, be made to the provisions of Order 51/PR of 23 September 1964 which are similar to those of the Recommendation.

FEDERAL REPUBLIC OF GERMANY

Protection against Dismissal Act of 25 August 1969 (L.S. 1969 - Ger. F.R. 3), as amended by the Works Constitution Act of 15 January 1972 (L.S. 1972 - Ger. F.R. 1; Bundesgesetzbl. I, 13).

Act of 9 July 1926 respecting the dismissal of salaried employees (L.S. 1926 - Ger. 7; Reichsgesetzbl. 399).

Civil Code (sections 620, 622, 626, 629, 630).

Commercial Code (section 73).

Industrial Code (section 113).

Labour Courts Act of 3 September 1953 (L.S. 1953 - Ger. F.R. 2; Bundesgesetzbl. I, 1267, as amended by the Act of 26 May 1972 Bundesgesetzbl. I, 841).

Paragraph 2 (1) and (2) of the Recommendation. Subject to certain conditions (undertakings employing more than 5 persons, workers over 18 years of age, 6 months' length of service) workers enjoy extensive protection against dismissal, which must be based on reasons connected with the conduct of the employee or on urgent operating requirements of the undertaking, and which may moreover be revoked in certain circumstances.

A special procedure calling for the intervention of the works council on behalf of the worker must be followed in the event of dismissal by the employer.

Paragraph 3 (a). Every person employed by an undertaking must be treated in a manner consistent with the principles of law and equity and may not be discriminated against on account of his membership of a trade union or his union activities.

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Paragraph 3 (b). Special protection against dismissal and against any form of discrimination is guaranteed to workers' representatives in undertakings.

Paragraph 3 (c). There is no special legislative provision on this point.

Paragraph 3 (d). Any dismissal on the ground of race, colour, sex, marital status, religion, political opinion, national extraction or social origin is declared to be null and void.

Paragraph 4. A worker who considers that his employment has been unjustifiably terminated has the opportunity to appeal against this measure, under certain conditions, to a labour court.

Paragraph 5. The labour court is empowered to render a decision as to the validity of the dismissal.

Paragraph 6. If the labour court rules the dismissal to be without effect, the employment relationship is maintained unless the worker or the employer requests otherwise, in which case the employer must be ordered to pay the worker compensation.

Paragraph 7 (1). A period of notice, the length of which varies according to the category of worker, must be observed in case of dismissal.

Paragraph 7 (2). A worker whose fixed-term contract is due to expire or whose employment is to be terminated is entitled to time off with pay to seek other employment.

Paragraph 8 (1). The worker may insist on being given an employment certificate in writing referring to the employment relationship and its duration; at his request, the certificate may also refer to his conduct and the manner in which he has performed his work.

Paragraph 8 (2). The statements made must be true and must be substantiated by factual evidence if they are unfavourable to the worker. He can avoid such information being given in the certificate by requesting a simple certificate which makes no comment upon his conduct and performance.

Paragraph 9. Provisions to ensure a certain amount of protection for the income of workers whose employment has been terminated are embodied in the legislation.

Paragraph 10. Before any worker may be dismissed the works council must be consulted.

Paragraph 11 (1) and (2). The employment relationship may be terminated without notice only for a serious reason.

Paragraph 11 (3). Dismissal for serious misconduct may not take place more than two weeks after the employer becomes aware of the facts which decide him to dismiss the worker.

Paragraph 11 (4). A worker dismissed for serious misconduct has three weeks as from the date of notification of his dismissal in which to bring an action in court, unless the dismissal is contra

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bonos mores or is already without effect for reasons other than the fact that it is socially unwarranted.

Paragraph 11 (5). The employer must inform the worker in writing, at the latter's request, of the reason for his dismissal for serious misconduct. Prior to the dismissal the works council must express its views to the employer, after having heard the worker concerned, where appropriate.

Paragraph 13 (1) and (2). Employers must consult the works council when reductions in the work force are contemplated.

Paragraph 13 (3). In the event of disagreement between the employer and the works council over the proposed reduction in the work force, one of the parties may request mediation by the Chairman of the Employment Office for the Land and/or appeal to the conciliation committee, which shall decide the matter.

Paragraph 14. The Employment Office for the Land must be notified of all dismissals or downgradings of workers expected to take place within the next twelve months on account of modifications to the undertaking.

Paragraph 15. The criteria on which the selection of workers for dismissal should be based may be specified in directives which must be approved by the works council, or by the conciliation committee in the event of disagreement.

Paragraph 17. The guidance, placement and technical advisory services of the Federal Employment Office are at the disposal of workers whose employment has been or is to be terminated.

Paragraph 18 (a). The provisions respecting protection against dismissal are not applicable to contracts concluded for a specified period of time or for a specified task.

Paragraph 18 (b). Nor are they applicable to workers serving a probation period of less than six months.

Paragraph 18 (c). These provisions are likewise inapplicable:

- to workers engaged on a casual basis for a period not exceeding six months;
- to undertakings in the private sector employing not more than five permanent employees;
- to religious communities, charitable institutions and educational institutions;
- to enterprises directly and essentially devoted to political, trade union, professional, charitable, educational, scientific or artistic purposes.

In Answer to Point III of the Report Form

Paragraph 3 (c). It does not appear to be either desirable or necessary to have a specific regulation providing for special

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protection in cases - infrequent in practice - of workers filing complaints against their employers, in view of the general scope of Paragraph 2 (1) of the Recommendation.

Paragraphs 4 and 11 (4). If there is an important reason for invalidating a dismissal it cannot be disregarded because the worker has brought his action late.

Paragraph 8 (2). The principle of good faith, which forms the basis for all labour law, would be profoundly undermined if in a certificate the truth were to be distorted due to the omission of an unfavourable comment.

Paragraph 18 (b) and (c). Protection against dismissal should be afforded only if the employment relationship has lasted for six months.

The provisions concerning protection against dismissal are not applicable to undertakings or government departments normally employing not more than five employees in order to take account of the special circumstances of small establishments.

These provisions are likewise inapplicable to workers under 18 years of age; this provision is based on the idea that normally a worker does not complete his vocational training before reaching the age of 18 years and that he does not therefore fully qualify as a worker until he has reached that age.

The provisions of the Recommendation are applicable to migrant workers; however, an employer may find himself obliged to discharge a migrant worker because his residence or work permit has not been extended.

GHANA

Industrial Relations Act, No. 299, 23 June 1965, as amended (L.S. 1965 - Ghana 2).

Labour Decree, N.L.C.D. No. 157, 10 April 1967 (L.S. 1967 - Ghana 1).

The provisions of this Recommendation are applied by law (Part II, sub-part IV of the Labour Decree, 1967, and section 26 of the Industrial Relations Act, 1965) and collective agreements.

The courts have jurisdiction to determine cases in which a person is not satisfied with the grounds on which his employment has been terminated. Where the ground for termination is adjudged invalid the employer is either ordered to reinstate the worker or pay him compensation for loss of employment. Part IV of the Labour Decree adequately covers this.

The Labour Decree also sets out remedies for a worker whose employment has been unjustifiably terminated and also provides that in every case of termination of employment which takes place for reasons other than those of disciplinary nature the worker is entitled under paragraph 33 of the Decree to notice of such termination or payment

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of wages in lieu of notice. Part III of the Labour Decree makes further provisions relating to severance pay and indemnity in the event of loss of employment not arising from the fault of the worker.

A good number of collective agreements contain provisions on redundancy (providing for notice and payment of indemnity) and on giving notice on termination of service.

GREECE

Act No. 2112 of 11 March 1920 (L.S. 1920 - Gr. 3-4) and Royal Decree No. 16 of 18 July 1920, as amended by Act No. 3198 of 20 April 1955 (L.S. 1955 - Gr. 1).

Civil Code (L.O. No. 2250 of 1940).

Legislative Decree No. 2656 of 17 October 1953 (L.S. 1953 - Gr. 4).

Legislative Decree No. 2961 of 10 August 1954 (L.S. 1954 - Gr. 2), as amended by Act No. 3464 of 30 December 1955 (L.S. 1955 - Gr. 3).

L.O. No. 99 of 1967 as amended and supplemented by L.O. No. 173 of 1967.

Paragraph 2 of the Recommendation. Under the terms of Act No. 2112 and Royal Decree No. 16 of 1920 (as amended by Act No. 3198 of 1955), employers are free to terminate any contract of employment of indefinite duration without being required to give a valid reason. However, this right is restricted by the provisions of section 281 of the Civil Code respecting the misuse of rights.

Paragraph 4. Except in the case of collective dismissals, a worker who feels that he has been wrongfully dismissed is entitled to appeal against his dismissal to the ordinary courts on the ground that his employer has misused a right vested in him.

Paragraph 7. The employer is required to give his employee - if he is a salaried employee - a reasonable period of notice of the termination of his employment, the length of which varies according to the length of service (Act No. 3198 of 1955).

During the period of notice the employee is entitled under section 677 of the Civil Code to ask for the necessary time off to seek other employment.

Paragraph 8. As concerns the delivery of a certificate, both salaried employees and wage earners are fully protected by law (section 2 of Act No. 2112 of 1920 and section 4 of Royal Decree No. 16 of 1920).

Paragraph 9. Any person performing work under a contract of employment of definite or indefinite duration, and insured with a social insurance institution against sickness, is entitled, if he loses his job and cannot find other employment, even though able and willing to work, to an unemployment allowance for from 2 to 5 months, depending upon the number of days worked during the 14 months

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preceding his dismissal. To be eligible for the initial payment he must have worked for at least eighty days per year during the three years preceding the granting of the allowance (Legislative Decree No. 2961 of 1954, as amended and supplemented by Act No. 3464 of 1955).

Paragraphs 12 to 17. Under the terms of L.O. No. 99 of 1967, as amended and supplemented by L.O. No. 173 of 1967, collective dismissals must take place under state supervision. A dismissal is deemed to be collective where it is carried out by an undertaking employing more than fifty persons and where the number of workers dismissed exceeds a percentage fixed at half-yearly intervals by Order of the Minister of the National Economy in the light of the state of the employment market and varying from 2 to 10 per cent. The Minister of the National Economy issues an order approving or refusing to approve each collective dismissal carried out by an employer after consultation of the Supreme Labour Council, on which the employers and workers are represented.

Whether a dismissal is collective or individual, the workers concerned are entitled to payment of the statutory compensation.

An employer who re-engages a worker is not bound to pay him a wage equivalent to his former wage, since the former contract of employment has been terminated, a new employment relationship is entered into and agreement is reached afresh as to the wage payable in this respect. It goes without saying that where the wage is fixed by an instrument with the force of law (collective agreement, arbitration award, etc.) no problem arises in the event of the re-engagement of a dismissed employee as he will be entitled to the wage fixed, regard being had to the length of his service.

Under the terms of Legislative Decree No. 2656 of 1953 (section 5 (5)) concerning the supervision of the employment market, the Minister of the National Economy is empowered to determine by order, the order of priority for the placement of workers, which is done through employment offices, preference for recruitment being given - regard being had to the state of the employment market - to workers dismissed owing to a reduction of the work force, when the undertaking again engages workers.

As concerns the selection of workers to be affected by a reduction of the work force, the only criteria are those evolved in practice, such as the worker's family circumstances, his age, the length of his service, etc. The workers concerned are entitled to appeal to the courts on the ground that their employer has misused a right vested in him (section 281 of the Civil Code).

GUATEMALA

Labour Code (El Guatemalteco, 16 June 1961 - L.S. 1961 - Gua. 1).

Public Service Act, Decree No. 1748 (10 May 1968) (El Guatemalteco, 23 May 1968).

TERMINATION OF EMPLOYMENT

The Labour Code defines the circumstances in which a worker may be dismissed by his employer and those in which he can take the initiative in terminating his contract of employment (sections 76 to 87).

Section 82 provides for compensation equivalent to one month's wage per year of employment in the event of wrongful dismissal.

A worker can appeal against his employer to the courts (which can force the employer to pay this compensation, if no compromise has been reached).

In the event of dismissal, the compensation provided for by the law must be paid in full. But the judgments rendered by the labour courts and official conciliation bodies show a tendency to accept compromises between employers and workers on the payment of minor sums, of the order of half the compensation actually due.

Enforcement of the rules governing dismissal is the responsibility of the labour administration authorities (Labour Relations Department, and in certain circumstances, by delegation of authority, a technical adviser) and of the labour and social security authorities (labour magistrates, labour tribunals, arbitration and conciliation boards). The Labour Code lays down a procedure for giving employers and workers a say in arbitration and conciliation.

IV. Scope

By virtue of the Labour Code, section 14, the legislation applies to all existing or future undertakings, and to all persons, without distinction of sex or nationality. International agreements and conventions alone are excluded from this general provision, in so far as they contain clauses more favourable to the workers concerned. Hence the rules relating to cessation of employment apply to foreigners working in Guatemala.

A special committee of Congress is at present considering a reform of the Labour Code. The Federation of Federal Workers has submitted a draft for its consideration, dealing with the problem of a dismissal compensation.

It would be well to adopt an additional Recommendation dealing specifically with civil servants and officials, for the references to them in the existing instrument are very brief.

GUINEA

Under the terms of Ordinance No. 048/PR6 of October 1959, and of the collective agreements of 1956 application of which was confirmed by an Ordinance dated 1958, any worker dismissed for one of the reasons enumerated in Paragraph 3 of the Recommendation may bring an action for arbitrary dismissal before the labour court in the case of the private sector and before the court dealing with contentious administrative matters in the case of a state-run undertaking or government department.

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The provisions of Paragraphs 12 to 20 of the Recommendation are in conformity with the spirit of the legislation in force.

GUYANA

Labour Ordinance, Chapter 103.

The provisions of the Recommendation are implemented by means of legislation (section 17 of the Labour Ordinance), collective bargaining agreements between employers and unions and mutual agreements between employers and workers.

Every contract of service may be terminated at any time by mutual consent of the parties, or for good and sufficient cause or by fourteen days' notice (if there is no agreement to the contrary) (section 17 of the Labour Ordinance). The question of compensation arises in cases where no just cause exists, where the prescribed notice is not given, or where the termination of employment is a result of retrenchment.

Labour legislation is enforced by the Ministry of Labour and Social Security, but the Ministry is not empowered to determine conclusively section 17 of the Labour Ordinance, and in practice employees are advised to seek redress in the courts of law, where the Ministry of Labour and Social Security cannot determine issues arising out of section 17.

In practice collective agreements between employers and unions contain provisions on conditions for termination of employees' services and on compensation, usually under termination severance pay and retrenchment clauses. In addition, a Disciplinary Code is appended to their agreements so that the question of dismissal for cause could be determined. Mutual agreements between employers and employees on the question of notice for the termination of employment vary from no notice to three months' notice.

Steps are presently being taken to have severance pay legislation enacted.

HAITI

Labour Code of 6 October 1961 (L.S. 1961 - Hai. 1).

Chapters II and III of the Labour Code contain provisions concerning the suspension and termination of individual contracts of employment.

The General Directorate of Labour and Manpower - the technical and administrative department of the Office of the Secretary of State for Social Affairs - is responsible for supervising the application of the provisions respecting the termination of employment. The Conciliation and Arbitration Service and the General Labour Inspection Service assume direct responsibility.

TERMINATION OF EMPLOYMENT

HUNGARY

Act No. II (8 October 1967) to promulgate a Labour Code (L.S. 1967 - Hun. 2A); Decree for the Application of Act No. II, No. 34 (8 October 1967) (L.S. 1967 - Hun. 2B).

Paragraph 2 of the Recommendation. The undertaking (like the worker) can at any time put an end to an indefinite contract of employment, provided notice is given (Labour Code, section 26 (1)). When a worker is dismissed, written notice must be given, clearly explaining why such action is being taken (Labour Code, section 26 (2)).

An undertaking must have very substantial reasons indeed for dismissing a very senior worker, whose conduct is exemplary and whose work is of a standard higher than the average. Nor may it dismiss a worker doing his military service and unable to resume work before his period of service comes to an end, without allowing a certain time to elapse (this period is prescribed by law). The same applies to expectant and recently confined mothers (Labour Code, section 26 (4)). This ban on dismissal may be extended to other kinds of worker.

Certain kinds of worker enjoy an even greater degree of protection: (a) workers with four or more dependants; (b) workers within five years of retirement; (c) single women and widows with children up to the age of eighteen (Decree applying the Labour Code, section 27 (1)).

Paragraph 3. Trade union rights are recognised by the Constitution. Under the Labour Code, section 16, the consent of the next highest trade union body is needed before an elected trade union official is dismissed.

A worker lodging an appeal must not, by law, suffer prejudice as a result.

Paragraphs 4 and 5. A worker is entitled to appeal against dismissal to the labour arbitration tribunal (Labour Code, section 29).

Paragraph 6. Should an undertaking have dismissed a worker illegally, he must be reinstated as though his employment had never ceased (Labour Code, section 31 (1)).

Paragraph 7. The notice to be given to the worker varies between fifteen days and six months. How much notice is to be given is specified by collective agreement; it varies with seniority and the kind of work done (Labour Code, section 27).

While the worker is under notice, he must be given some time off, paid for at his average wage rate. How much time off is to be given is laid down by collective agreement; during it, he is able to look for another job (Labour Code, section 27 (2)).

Paragraph 8. On leaving his undertaking, the worker must be handed his work book, the certificates prescribed by the regulations, his wages and any other allowances. The work book shows, besides the dates on which he took up and left employment, and a description

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of the kind of work he did, the words "employer-worker relations ceased" and nothing else (Decree No. 12/1967/X20 by the Ministry of Labour on Indications given in Work Books).

Paragraph 9. A worker dismissed, unless he has been out of work for more than five years, continues to enjoy social insurance benefits.

Paragraphs 10 to 11. Summary dismissal can be pronounced only as a disciplinary measure.

Paragraphs 12 to 17. Settlement of employment questions not covered by collective agreement requires the consent of the works trade union body (Labour Code, section 13 (2)).

ICELAND

Act No. 80 of 1938 on Trade Unions and Labour Disputes, Act No. 16 of 1958 on Length of Notice for Termination of Employment, and several collective agreements between employers' and employees' organisations cover most matters provided for in the Recommendation.

INDIA

Industrial Disputes Act, 1947, as amended in 1965 (L.S. 1965 - Ind. 1) and in 1971 (Gazette, Extraordinary II (1), 9 December 1971).

Industrial Employment (Standing Orders) Act, 1946 (L.S. 1946 - Ind. 2).

Under section 25 F of the Industrial Disputes Act, no workman employed in any industry in continuous service for not less than one year, may be retrenched unless he has been given by his employer one month's notice in writing indicating the reason for retrenchment and the notice period has expired or the worker has been paid wages in lieu thereof, provided that these provisions do not apply if the retrenchment is under an agreement which specifies a date for termination of service. This section provides also for the payment of retrenchment compensation equal to fifteen days' average wages for every completed year of service or any part thereof in excess of six months. The workman whose employment is to be terminated is entitled to such notice and compensation even in the case of closure of the undertaking, unless the closure is due to unavoidable circumstances in which case the compensation shall not exceed his average pay for three months (section 25 F F F of the Industrial Disputes Act).

The selection of workmen to be retrenched, in the absence of any agreement between the employer and the workman, is made according to the principle of "last in, first out". Where a departure is made from this general principle, the employer must record the reasons for such a departure.

TERMINATION OF EMPLOYMENT

Under section 25 H of the Industrial Disputes Act, retrenched workmen are given preference of re-employment when the employer engages workers at a later date without time limit for such preference being specified.

Similar provisions regarding retrenchment are contained in the U.P. Industrial Disputes Act, 1947.

The Model Standing Orders prescribed in the rules framed under the Industrial Employment (Standing Orders) Act provide that every permanent workman is entitled to receive at the time of his dismissal, discharge or retirement, a service certificate. However, it is not stipulated that nothing unfavourable to the worker should be inserted in such certificate. They also provide for a period of notice or payment of wages in lieu thereof. However, in case of misconduct, the workman may be dismissed without notice or compensation in lieu thereof. The acts and omissions defined in the Model Standing Orders as constituting misconduct are the following: (a) wilful insubordination or disobedience to any lawful and reasonable order of a superior; (b) theft, fraud or dishonesty in connection with the employer's business or property; (c) wilful damage to or loss of employer's goods or property; (d) taking or giving bribes or any illegal gratification; (e) habitual absence without leave or absence without leave for more than ten days; (f) habitual late attendance; (g) habitual breach of any law applicable to the establishment; (h) riotous or disorderly behaviour during working hours or any act subversive of discipline; (i) habitual negligence or neglect of work; (j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent of the wages in a month; (k) striking or inciting others to strike in contravention of the provisions of any law.

No order of dismissal for serious misconduct can be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the charges against him.

Under the Industrial Disputes Act dismissal or discharge of workers during the pendency of a dispute before any Tribunal is prohibited unless the authority before whom the proceedings are pending permits it expressly.

Under the Industrial Disputes Act, a dispute regarding discharge or dismissal of a workman may be raised as an industrial dispute and settled by conciliation. If conciliation fails, the dispute may be referred for arbitration with the consent of the parties, or for adjudication. Under section 11 A of the Act, the Labour Court or Tribunal is empowered to set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions as it thinks fit, or give other relief including award of lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require, provided that it must rely only on the materials on record and must not take any fresh evidence in relation to the matter.

Reasons listed in Paragraph 3 of the Recommendation are generally not accepted as valid reasons for termination of employment. Under the Employers' Service Regulations of Air India, however, air hostesses are required to retire from service on marriage or on attaining the age of thirty years. Similar limitations apply also in the case of employees of the Indian Airlines.

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Under the Beedi and Cigar Workers (Conditions of Employment) Act 1946, services of an employee may not be dispensed with except for a reasonable cause, and without giving at least one month's notice or wages in lieu thereof. An employee who is discharged or dismissed is entitled to appeal before the appellate authority, which may dismiss the appeal or direct reinstatement with or without wages, or direct payment of compensation without reinstatement, or grant such other relief as it deems fit in the circumstances of the case.

The Shops and Commercial Establishment Acts of most states prohibit dismissal of an employee, except under certain circumstances, unless he is given one month's notice (Bihar, Kerala, Madhya Pradesh, Mysore, Orissa, Punjab, Tamil Nadu, West Bengal, Delhi, Jammu and Kashmir) or fourteen days' notice (Bombay) or wages in lieu of notice. Entitlement to such notice is dependent upon continuous employment for at least three months in Bombay, Madhya Pradesh and Delhi, and six months in Jammu and Kashmir. Some of the state Acts give an employee who is discharged or dismissed the right to appeal before an appellate authority while in other states the provisions of the Industrial Disputes Act can be invoked for this purpose.

The Bombay Industrial Relations Act, 1946, requires industrial establishments covered by the Act to frame standing orders on the lines of the Model Standing Orders prescribed by the Act, containing provisions designed to ensure that before a worker is dismissed for misconduct, he is given full opportunity to defend himself.

The Bombay Industrial Relations Act, 1946, and the Madhya Pradesh Industrial Relations Act, 1960, provide for appeal against termination of employment to labour courts, which are empowered to order reinstatement of the employee under certain circumstances.

Under section 9 A of the Industrial Disputes Act an employer who intends to effect any rationalisation or improvement of plant or technique which is likely to lead to retrenchment of workmen or any reduction of the work force, must give notice to the workman likely to be affected by such change, at least twenty-one days in advance.

The Indian Labour Conference at its 15th Session held at New Delhi in July 1957 recommended that rationalisation should be effected in such a manner that no retrenchment or loss of earnings of existing employees takes place. As a result of such rationalisation, there is an equitable sharing of the benefits of rationalisation and there is a proper assessment of work load made by experts mutually agreed upon and also suitable improvement in working conditions. Subject to these conditions, the conference recommended a procedure for rationalisation which provides for information regarding the change, the reduction in the number of jobs to take place, consultation with workers and unions and, in case of differences between the parties, adjudication and arbitration to take place.

Where an employer intends to close an undertaking in which fifty or more workers are employed or were employed on an average per working day in the preceding twelve months, the Industrial Disputes Act provides that he must give at least sixty days' notice to the appropriate government stating clearly the reasons for the intended closure. Contravention of this provision is punishable with imprisonment up to six months or a fine or both.

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Under Rule 76 of the Industrial Disputes (Central) Rules 1957, as amended in September 1972, an employer who wants to retrench a workman who has been in continuous service for not less than one year must notify the Central Government, the Regional Labour Commission (Central), the Assistant Labour Commission (Central) and the employment exchange concerned with such retrenchment.

There are ten project employment exchanges located at the project sites which cater to the requirements of the projects concerned and redeployment of surplus personnel. A special cell located in the Directorate-General of Employment and Training of the Central Ministry of Labour and Rehabilitation co-ordinates the work of these project exchanges. The cell is also concerned with providing people rendered surplus from river valley projects etc., with alternative employment under various central government undertakings.

While as yet there is no scheme of unemployment insurance, the Payment of Gratuity Act enacted in 1972 provides for the payment of gratuity to workers whose employment has been terminated after 5 years of continuous service, at the rate of 15 days' wages for every completed year of service or part thereof in excess of 6 months, subject to a maximum of 20 months' wages. The gratuity may be partly or wholly forfeited only when the termination of employment is as a result of misconduct.

Federal states. Under the Constitution, labour is a concurrent subject and both the Central and State Governments are empowered to take legislative and administrative action in respect of the matters dealt with in the Recommendation.

INDONESIA

Act No. 22 of 8 April 1957, respecting the Settlement of Labour Disputes (L.S. 1957 - Indo. 1).

Act No. 12, 1963.

The provisions of the Recommendation are covered by national legislation and practice.

The employer has to discuss his intention of termination of employment with the workers' organisation concerned or with the worker himself, in case he is not a member of any workers' organisation (section 2 of the Act No. 12, 1963).

Under the Act respecting the Settlement of Labour Disputes, a tripartite body, consisting of representatives of the Government, employers' and workers' groups, is responsible for the settlement of labour disputes.

IRAN

Labour Act of 17 March 1959 (L.S. 1959 - Iran 1).

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Termination of employment is governed by the provisions of sections 33 and 34 of the Labour Act. Under the terms of section 33, either party may terminate a contract of employment of indefinite duration by giving 15 days' notice. An employer who dismisses a worker is required to pay him, on the termination of the contract, compensation equal to 15 days' wages at the most recent rate in respect of each year of service if the worker has been employed by him for a year or more, whether continuously or not.

Any worker dismissed after serving an employer for at least 3 consecutive months or 6 non-consecutive months is entitled to appeal against this decision within 15 days of his dismissal to the authorities specified in the chapter of the Act governing the settlement of labour disputes. These authorities may, having due regard for the worker's length of service, rate of pay, age, number of dependants and circumstances, award him an additional amount by way of compensation not exceeding 3 years' wages, the employer having the option of paying this compensation or reinstating the worker and paying him the wages outstanding.

The structure and functioning of the works councils and arbitration boards are defined in Chapter IX of the Labour Act.

Workers' representatives elected in accordance with section 44 of the Labour Act, and the secretary and members of the executive of the workers' union, may not be dismissed, nor may changes be made in their work so as to prevent them from carrying out their functions, without the prior consent in writing of the Ministry of Labour. The same applies to candidates for office as workers' representatives during election periods.

IRAQ

Labour Code, Law No. 151 of 16 July 1970 (Al-Waqayi'u al-Iraqiya 10 August 1970, No. 1906; L.S. 1970 - Iraq 1).

The Labour Code contains provisions guaranteeing the proper enforcement of the provisions respecting termination of employment and reduction of the work force.

These provisions have been laid down to cover different categories of workers (in particular, the staff of ministries and official bodies, employees in the public sector and employees in the private sector). Employers and workers are represented alongside representatives of the Ministry of Labour and Social Affairs on employment termination boards whose task it is to investigate thoroughly all applications for termination of an employment contract, and to give a ruling as to the validity of the reasons given for the termination and the circumstances in which it takes place. Their decisions are taken either unanimously, in which case they are final, or by a majority vote, in which case an appeal lies against them to the competent labour court, under the terms of section 43 (c) and (d) of the Labour Code.

An employer is entitled to end the service of an employee without referring the matter to the board in one of the cases specified in section 34 of the Labour Code.

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Section 21 (f) of the Labour Code provides that employers must respect the trade union officials concerned and allow them to carry out their tasks, providing them with all the necessary facilities for this purpose, and permit any worker discharging trade union functions to perform his trade union duties during working hours without loss of wages. Furthermore, the employer must submit an application for termination of the employment of a worker discharging trade union functions to the employment termination board, which is empowered to examine the reasons given in support of the application for termination of the contract, together with any substantiating evidence; if it finds that the application is not well founded it will reject it; if it finds that the allegations made against the worker are not serious and that it should be possible to conciliate the parties, it endeavours to find an amicable settlement; if it is unable to do so it refers the matter to the competent labour court; finally, if it finds that the application is well founded it orders that the employment relationship be terminated.

The Code provides for the facilitation of inspections and investigations by making it compulsory for employers to answer all questions put by the inspection committees; the latter have the right to interview the workers concerned separately in order to ascertain the veracity of the facts and to occupy premises specially set aside for them (section 141 of the Code).

One of the fundamental principles of the Labour Code states that work is a natural right which must be made available to every citizen who is able to work, subject to the same conditions and equal opportunities for all without discrimination on the grounds of sex, origin, language or religion (section 1 (a) of the Code).

The decision of the employment termination board is final and without appeal if adopted unanimously; however, if it is adopted by a majority vote any party objecting to it may appeal to the labour court in pursuance of subsections (c) and (d) of section 43 of the Labour Code. Moreover, if an employer terminates a contract of employment without referring the matter to the board, the worker may appeal to the labour court under section 151 of the Labour Code, in which case the court may order the worker's reinstatement on the ground that the employer has failed to observe the procedure laid down in the Labour Code. The decisions of the court are enforceable by all legal means (section 148 and subsections (d) and (e) of section 155 of the Labour Code).

Any employer who dismisses a worker unlawfully and without a valid reason or who intentionally makes a false declaration in order to dismiss a worker is liable to the penalties prescribed in section 246 of the Labour Code. Furthermore, any employer who fails to comply with an enforceable award of an employment termination board is liable to one of the penalties prescribed in section 248 of the Labour Code.

If the employment termination board finds that an application for termination of employment is well founded, and upholds it, the employer is entitled to terminate the contract after at least one month has elapsed since the date of depositing the application with the board; however, if the employer wishes to terminate the contract before such period has elapsed, after the board has granted his application, he must pay the worker concerned his outstanding

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wages for the remainder of the month still to run, in accordance with the provisions of clause (c) of section 42 of the Labour Code.

The Labour Code does not refer to the possibility of allowing the worker time off without loss of pay during the period of notice in order to seek other employment; nevertheless, it is customary for such time off to be granted.

The employer is required to issue to the worker, upon termination of his employment, a certificate indicating the dates on which he started and finished his employment, the kind of work he was doing and the amount of wages, compensation and bonuses received by him, under the terms of clause (e) of section 21 of the Labour Code. It should be noted that the clause in question makes no mention of the insertion of particulars unfavourable to the worker, which is tantamount to prohibiting the employer or the worker from making such insertions.

The Labour Code does not refer to the granting of a severance allowance upon termination of employment but this matter is dealt with in Law No. 39 of 1971 (as amended), respecting the retirement and social security of workers. Workers who are not at present covered by the social security scheme are protected by the provisions of section 100 of the repealed Labour Code - Law No. 1 of 1958 - as concerns the granting of an allowance upon completion of service in certain specific cases.

An employer is not entitled to terminate the contract of any worker without referring the matter to the employment termination board established in pursuance of sections 36, 37 and 38 of the Labour Code on which the employers and the workers are represented.

A worker who is dismissed for serious misconduct (in the cases specified in clauses (a), (c), (d), (f), (g), (h) and (i) of section 34 of the Labour Code) forfeits his entitlement to notice, compensation in lieu thereof or any other form of benefit. As a general rule it is for the competent courts to determine whether there has been serious misconduct in accordance with the procedure laid down by law. During the proceedings and pleadings the worker may answer the charge made against him either directly or through his legal representative; in addition the worker's trade union has the right to represent him, such right being restricted only by the worker's own wishes, as laid down in subsections (b), (c) and (d) of section 212 of the Labour Code.

The Labour Code does not lay down a specific time limit for the exercise of the right to dismiss a worker for serious misconduct; this is a matter to be dealt with in accordance with the provisions of the Code of Criminal Procedure, the Criminal Code and section 263 of the Labour Code.

As concerns the right of a worker to appeal against dismissal on the ground of serious misconduct, section 261 of the Labour Code stipulates that applications for workers' rights and benefits of any nature whatsoever shall not be entertained three years after the date on which they became claimable. However, this prescriptive period does not affect rights, benefits or compensation which are the subject of a court order; this being so, if a court of law rules that there is proved to have been serious misconduct the worker is entitled to appeal against this ruling within the statutory time limit laid down by the Code of Criminal Procedure (Law No. 83 of 1969).

TERMINATION OF EMPLOYMENT

The Minister of Labour and Social Affairs takes appropriate measures before giving its consent to a reduction of the work force (specially qualified inspectors study the circumstances of the undertaking or project, its economic and financial position, the reasons given for the proposed reduction, the working out of arrangements to safeguard the rights of the workers employed therein, the extent to which it is possible to agree upon a reduction of the daily working hours or the number of days worked per week without reducing the number of employees and any other matters which require study in each particular case), in accordance with section 26 of the Labour Code.

No reduction in the work force of public establishments (run by official or quasi-official bodies) or of private undertakings may be made without the consent of the Minister of Labour and Social Affairs. In the case of undertakings and projects in the public sector, no reduction may take place without the approval of the workers' representatives on the board of directors of the undertaking; in this connection the Minister instructs ministry officials to make a study, jointly with a representative of the General Federation of Trade Unions, of the conditions under which the project is operating and all matters relevant to the reduction of the work force, in pursuance of clause (f) of section 26 of the Labour Code.

The board responsible for examining the application gives consideration to possibilities for reducing overtime and for training and redeployment. The selection of workers to be affected by retrenchment is a matter for the employment termination boards, which take such measures as are necessary and specify the manner in which the dismissal is to proceed, having regard to the needs of the undertaking or project and those of the workers to be made redundant.

Measures for the reduction of the work force and any other measures connected therewith are always taken under the supervision of the competent public authorities.

Since measures for the reduction of the work force have to be approved by the Minister of Labour and Social Affairs in the case of public establishments (official or quasi-official) and private undertakings, and by the workers' representatives on the board of directors in the case of undertakings in the public sector, under the terms of clause (f) of section 26 of the Labour Code, such measures cannot be taken until a thorough study has been made of all aspects of the problem (economic and financial) and of their repercussions on the labour force in the branch of activity or region concerned or in the country as a whole.

The selection of workers to be affected by the reduction is made by the employment termination boards, which take all relevant factors into account and take pains to ensure the continuity of the work and to safeguard the interests of the workers and of the undertaking or project. In determining the factors to be taken into account and the importance to be attached to them they take into consideration the circumstances both of the undertaking and of the workers.

Termination of employment on account of a reduction of the work force, carried out in accordance with the provisions of clause (f) of section 26 of the Labour Code, generally takes place after an agreement has been signed by all the parties concerned (workers and

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employers) under the supervision of the competent authorities. Provision is made in such agreements for everything connected with the rights of the workers, their re-engagement as soon as the causes for the reduction of the work force have been eliminated, their remuneration, the length of time the reduction will last (if this can be specified), etc.

The managements of official or semi-official establishments and of undertakings in the public sector (but not the private sector) are bound to assist workers affected by a reduction of the work force to find suitable employment; they do so in collaboration with the competent employment office, to which reference is made in Chapter XV, Division 2, of the Labour Code; such workers are entitled to priority for the purpose of placement under section 31 of the Labour Code.

The Labour Code applies to all categories of workers in all branches of the economy, under the terms of section 7 of the Code, except where there is a legal provision to the contrary (as in the case of judges, magistrates, members of the armed forces or civil servants).

Where special regulations governing the employment relationship afford to workers rights more favourable than those afforded by the Labour Code, the more favourable provisions are applicable, under the terms of section 8 of the Labour Code.

IRELAND

The Redundancy Payments Acts, No. 21 of 1967 (I.S. 1967 - Ire. 1), No. 20 of 1971 (I.S. 1971 - Ire. 1) and No. 11 of 1973.

The Industrial Relations Act, No. 14 of 1969 (I.S. 1969 - Ire. 1).

The Minimum Notice and Terms of Employment Act, 1973.

National practice is broadly in conformity with the principles of the Recommendation.

The principle that workers should not be dismissed without a valid reason and that they should be given notice of termination of employment, is widely accepted. In many undertakings internal machinery exists for dealing with disputes involving the dismissal of workers. In this regard, the workers' interests are protected by their trade unions, which may refer disputes for investigation by the labour court. A worker who is to be dismissed as redundant is entitled to at least two weeks' notice, provided he has at least two years' continuous service with the one employer (Redundancy Payments Acts, 1967, 1971 and 1973). Under the Industrial Relations Act, 1969, rights commissioners have been appointed for the purpose of investigating trade disputes referred to them by a party to the dispute.

The Minister of Labour is responsible for the administration of the Acts referred to above. The Redundancy Appeals Tribunal, established under the Redundancy Payments Acts, and dealing with disputes arising under those Acts and under the Minimum Notice and

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Terms of Employment Act, consists of a chairman and 3 vice-chairmen with legal qualifications, and 24 ordinary members, 12 representing workers and 12 representing employers.

The Minimum Notice and Terms of Employment Act, 1973, will come into force in September 1973. In the case of an employer who wishes to terminate the contract of an employee who has been in his service for a continuous period of 13 weeks at least, the Act will require that employer to give that employee a minimum period of notice, the length of which will depend on the length of the service.

Legislation to allow women to remain in the civil service after marriage is proposed.

Public servants being generally not entitled to appeal to a neutral body in the event of dismissal from employment, are excluded from the scope of the Recommendation (Paragraph 18 (d)). Notwithstanding this, they and civilian workers employed by the defence forces enjoy very favourable conditions in relation to security of employment and these conditions in their entirety are considered to be at least as favourable as the totality of those provided in the Recommendation.

Migrant Workers

There is no distinction between national and foreign workers. In 1972, a Committee of Independent Experts found that the position of alien workers was satisfactory and in no way less favourable than the position of corresponding national workers and that Ireland was fulfilling her obligations under Article 12 of the European Social Charter (right of migrant workers and their families to protection and assistance).

ITALY

Act No. 604, 15 July 1966, on individual dismissals (L.S. 1966 - It. 1).

Act No. 300, 20 May 1970, concerning the protection of workers' freedom and dignity, trade union freedom and freedom of action within the workplace (L.S. 1970 - It. 2).

Act No. 1115, 5 November 1968.

The Recommendation is implemented by recently enacted legislation and by collective agreements on individual dismissals (the Interconfederal Agreement on Individual Dismissals, concluded at Rome on 29 April 1965) and on collective dismissals.

Paragraph 2 of the Recommendation. In case of an employment relationship of indefinite duration, the worker may be dismissed only for just cause or valid reasons (Act on Individual Dismissals, No. 604, 15 July 1966).

Paragraph 3. Under section 15 of Act No. 300, 20 May 1970, any agreement or action designed to obtain the dismissal of a worker,

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connected to his trade union activities or his participation in a strike, is null and void. This clause likewise applies to agreements or actions connected with political or religious discrimination.

The dismissal of a female worker is illegal from the start of her pregnancy until the end of the period during which she is forbidden to work, and she may not be dismissed before her child is one year old (Act No. 1204, 30 December 1971, respecting the protection of working mothers). Her dismissal because of marriage is also illegal (Act No. 3, 9 January 1963).

Paragraphs 4 and 5. Under section 2 of Act No. 604 of 1966, the employer must give written notice of dismissal. The worker may request the reasons for dismissal within eight days. They must be communicated to the worker within five days of his request. If this clause is not observed, notice of dismissal will be null and void.

Section 6 of this Act provides for appeal against dismissal within sixty days. Provision is made for an attempt at conciliation by the employment office. The parties may be assisted by the occupational associations to which they belong or have given a mandate.

Paragraph 6. Should it be found that there was no just cause or valid reason for dismissal, the worker is entitled to get his job back, as well as to compensation for the injury inflicted.

Under section 18 of Act No. 300 of 1970, the worker must be reinstated in his employment and the employer is no longer free to rid himself of his obligations by the payment of compensation. In addition, an indemnity of not less than 5 months' wages is payable to the worker. The employer is obliged to pay the wages of the worker from the date on which the judgment was rendered until that of the worker's reinstatement. This section applies to all autonomous undertakings employing more than 15 workers, to agricultural undertakings with more than 5 workers, to industrial and commercial undertakings collectively employing more than 15 workers, and to agricultural undertakings employing 5 workers in a given area.

Paragraph 7. The employer must give the worker written notice of his dismissal (section 2 of Act No. 604 of 1966).

Paragraphs 12 to 17. Provisions relating to collective dismissals are found in the Interconfederal Agreement on Dismissal due to Reduction of Personnel, concluded at Rome on 5 May 1965, and in the agreements relating to the creation and working of works committees in industry, the most recent of which being the Interconfederal Agreement concerning the Establishment and Functioning of Works Committees concluded on 18 April 1966, and in many collective agreements in specific branches of activity which lay down in what circumstances workers may be dismissed and implicitly guarantee some stability of employment.

In October 1968, the confederations implemented section 4 of the Interconfederal Agreement on Dismissal due to Reduction of Personnel, in respect of the additional payment of an unemployment grant. This protocol has been embodied in Part IV of Act No. 1115, 5 November 1968, adapted by Act No. 464, 8 August 1972, to cover local crises or crises arising in certain occupations or branches of industry.

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Paragraph 18. The provisions of the Act on individual dismissals apply to all employers, public and private, without distinction, the only exceptions being made for workers on probation and for managers.

Section 4 of this Act, concerning dismissal due to the worker's political or religious creed, to his belonging to a trade union or to the part he has taken in trade union activities, and section 9 of the same Act, concerning the payment of the seniority allowance, apply to all workers, but the other provisions do not apply to employers having less than 35 workers or to workers legally entitled to an old-age pension or more than 65 years old.

JAMAICA

Masters and Servants Law, Cap. 240, 1940.

There are no legislative or administrative provisions covering all the matters dealt with in the Recommendation. However, in practice, some of them are carried into effect.

Termination of employment is at present regulated by the Masters and Servants Law, which provides, inter alia, for the giving of fifteen days' notice, or compensation in lieu thereof. Where an employer terminates the employment of a worker without the requisite notice or without mutual consent or for "cause", he is required to pay the worker one month's wages.

The Resident Magistrate's Courts Department is entrusted with the supervision of the application of the Masters and Servants Law.

It is intended to replace the Masters and Servants Law by a Bill entitled "Termination of Employment", which is still in draft form, and would give effect to most of the provisions of the Recommendation not yet covered by national legislation or practice.

JAPAN

Labour Standards Law, No. 49, 5 April 1947 (L.S. 1947 - Jap. 3).

Employment Security Law, No. 141, 30 November 1947 (L.S. 1947 - Jap. 4), as amended in 1949 (L.S. 1949 - Jap. 2).

Unemployment Insurance Law, No. 146, 1 December 1947 (L.S. 1947 - Jap. 1 B), as amended in 1949 (L.S. 1949 - Jap. 1), and in 1950 (L.S. 1950 - Jap. 1).

Public Corporation and National Enterprise Labour Relations Law, No. 257, 20 December 1948.

Trade Union Law, No. 174, 1 June 1949.

Local Public Enterprise Labour Relations Law, No. 289, 31 July 1952.

Employment Measures Law, No. 132, 21 July 1966.

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Paragraph 2 of the Recommendation. The Labour Standards Law, which applies to all enterprises, except those employing only persons living with the employer as family members or domestic employees and certain national public employees does not provide for a valid reason for termination of employment to take place, but for the drawing up by employers having ten or more workers of the Rule of Employment on matters pertaining to termination of employment (section 89). Many judgments have held that there must be a rational reason for dismissal and that dismissal without such rational reason must not be allowed. Many collective agreements also stipulate the standards of termination of employment.

Under the National Public Service Law, No. 120 of 1947, which applies to the national public employees in the regular service, an employee may be dismissed only where he becomes supernumerary or in case of unfitness for his government position because of insufficient qualifications, suppression of his post due to an amendment or abrogation of the law concerning the official organisation, or serious misconduct. Even in these cases, dismissal is effected in the light of the need to maintain efficiency in the public service, to secure proper administration of public affairs and maintenance of order (sections 78 and 82 of the National Public Service Law). The Local Public Service Law, No. 261 of 1950, which applies to the local public employees in the regular service, contains similar provisions (sections 27 (2) and (3); 28 (1) and (4) and 29 (1)). Sections 39 and 40 of the Mariners Law, No. 100 of 1947 provide for cases where a mariner's contract of engagement may be terminated.

Paragraph 3. Under section 7 (1) and (4) of the Trade Union Law, which applies to all workers except public employees to a certain extent and employees of the public corporations, dismissal of a worker or discrimination against a worker, on grounds of union membership or participation in union activities, or for his having filed a complaint with the Labour Relations Commission that the employer has violated the provisions of this section, for his having presented evidence or having made testimony at the investigation or hearing conducted by the Labour Relations Commission in regard to such complaint or request or at the adjustment of labour disputes provided for in the Labour Relations Adjustment Law, is prohibited as an unfair labour practice.

Similar provisions apply to national or local public employees (sections 86, 90 (1) and (3) and 108 (7) of the National Public Service Law, sections 49 (2) and 56 and of the Local Public Service Law).

Under section 104 of the Labour Standards Law, workers whose conditions of work are less favourable than those provided for in this Law, are entitled to complain to the labour standards inspector and the employer must not dismiss them for that reason. Section 112 of the Mariners Law provides also that dismissal or disadvantageous treatment of a mariner for his having lodged a complaint in respect of a fact which is in violation of the said Law with the mariners' labour inspector or the Mariners' Labour Relations Commission, is prohibited.

Discrimination against a worker on grounds of nationality, creed and social status is prohibited (section 3 of the Labour Standards Law). Although there is no express provision prohibiting dismissal on grounds of race, colour, sex, marital status and religion,

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there are instances where dismissal on such grounds was nullified by courts. Under section 27 of the National Public Service Law and section 13 of the Local Public Service Law, discrimination on grounds of race, religion, faith, sex, social status, family origin or political opinions or affiliation is also prohibited.

Paragraphs 4 to 6. In case of dismissal in violation of the provisions of section 7 of the Trade Union Law, the worker concerned may file a complaint for relief, in principle within one year, to a court of law or to the Labour Relations Commission, if he is covered by the Trade Union Law, or the Local Public Enterprises Labour Relations Law, or to the Public Corporation and National Enterprises Labour Relations Commission (KOROI) if he is covered by the Public Corporation and National Enterprise Labour Relations Law. These bodies may make an investigation or have a hearing of the case and issue a necessary order, which usually states, where dismissal was made in violation of the provisions of section 7 of the Trade Union Law, that the worker must be reinstated with payment of unpaid wages.

The court of law is also empowered to judge validity of the dismissal and order payment of unpaid wages.

National public employees who feel that they have been illegally or unduly dismissed are entitled to file an objection within a fixed period, with the National Personnel Authority, a neutral organ. Its decision is not subject to review by any other administrative organ, except a court of law, and in case of cancellation or revision of dismissal, it has a retroactive effect and action is to be taken to restore the employee's rights including reimbursement of lost wages, as if there had been no dismissal (sections 3, 89 and 92 of the National Public Service Law). The remedial organ for employees covered by the Local Public Service Law is the Personnel Commission or the Equity Commission (sections 49-2 (1) and 50 (3) of the Local Public Service Law).

A grievance procedure has been provided for mariners in a collective agreement concluded between the association of shipowners engaged in coastal or foreign shipping or in fishing and the All Japan Seamen's Union.

Paragraph 7. Under section 20 of the Labour Standards Law, a worker whose employment is to be terminated is, in principle, entitled to at least 30 days' notice or compensation in lieu thereof. In case of a national public employee, advance notice is not required, but a retirement allowance amounting to thirty days' (or more) average wages is provided for. The shipowner who wants to rescind the contract of engagement of a mariner, must give him not less than twenty-four hours' written notice (section 42 of the Mariners' Law). If the contract has been terminated for certain prescribed reasons, he must pay the mariner an employment allowance or a discharge allowance (section 45; section 46 of the same law).

Paragraph 8. The worker whose employment has been terminated is entitled to receive without delay, on request, at the time of the retirement, a certificate stating the period of employment, the type of work, the wages and the position in the enterprise. The employer must not insert in such certificate what the worker does not require nor send any communication concerning nationality, creed, social

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status or the union activity of the worker, in order to impede his employment nor tack any secret sign on the certificate (section 22 of the Labour Standards Law).

Section 51 of the Mariners' Law provides for a certificate to be granted by the master to the mariner who demands it.

Paragraph 9. Retirement allowance is usually provided for workers whose employment has been terminated, in accordance with their length of service and the reason for retirement.

Under the Unemployment Insurance System (consisting of general unemployment insurance system and day labourers unemployment insurance system), administered by the Government, unemployment insurance benefits are granted to insured workers where they are out of employment, with a view to protecting their livelihood.

Under the mutual aid system, national and local public employees, whose employment has been terminated, are provided with retirement allowance and retirement benefit (in the form of a pension or a lump sum).

The payment of unemployment insurance benefit to unemployed mariners is provided for in section 33 2 of the Mariners' Insurance Law.

Many collective agreements provide for retirement allowance.

Paragraph 10. Some collective agreements or rules of employment provide for consultation with workers' representatives to take place before a decision is taken on individual cases of termination of employment.

Paragraph 11. In case of dismissal for reasons for which the worker is responsible, the employer is not required to give advance notice (section 20 of the Labour Standards Law). The same provisions apply to the mariner dismissed on the grounds provided for in section 40 (1 to 5) of the Mariners' Law.

Many collective agreements stipulate that in case of discharge, retirement allowance may be reduced or cancelled.

Disciplinary dismissal is one of the disciplinary sanctions applied against workers who committed any misconduct and the prevailing judgment in courts is that it is a sanction for the most serious misconduct.

Some collective agreements provide that the worker shall be given an opportunity to state his case before a decision of disciplinary dismissal is taken.

Among the kinds of disciplinary sanctions for misconduct a decision to dismiss a national public employee is taken where it is unavoidable for maintaining order in the public service since the degree of the misconduct is serious. There is no particular legal time limit for the exercise of the right of discipline. The person who takes disciplinary actions must, at the time of such actions, give employees a written explanatory statement setting forth the reasons for action in detail.

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Paragraphs 12 to 16. When a reduction of the work force is contemplated, consultation with workers' representatives is generally provided for in collective bargaining. Labour-management machinery is established in many undertakings and prior consultation usually takes place on that question in such machinery.

As regards national public employees, the Government cannot voluntarily reduce the scale of the organisation or the personnel strength which are decided by the Act.

Paragraph 17. Under the Employment Security Law, administrative agencies establish free employment exchange services to help place promptly in suitable jobs applicants seeking work and provide job applicants with necessary vocational guidance. Under the Employment Measures Law, these agencies take measures such as granting of vocational reconversion benefits and promotion of the employment of middle-aged, elderly and physically handicapped persons.

Migrant workers enjoy, in principle, the same safeguards as national workers. The Unemployment Insurance System does not apply to foreign workers who are covered by an unemployment insurance system in their own country.

KENYA

Industrial Relations Charter (1962).

Employment Act (Cap. 226).

Trade Disputes Act 1965 (L.S. 1965 - Ken. 1), as amended by Act No. 22 of 1971 (Gazette Supp., Acts, 10 August 1971).

The provisions dealt with in Paragraphs 1 to 11 of the Recommendation are being observed through the operation of voluntary agreements.

Voluntary agreements including the Industrial Relations Charter (1962), the Trade Disputes (Amendment) Bill, and the Employment Act (Cap. 226) (which also provides for the establishment and the regulation of the operations of public employment exchanges) regulate matters concerning redundancy and re-employment.

A Bill to amend the Employment Act, which is at present being drafted, will cover provisions of Paragraph 8 of the Recommendation.

KHMER REPUBLIC

Labour Code

The Labour Code at present in force was based to a large extent on the terms of the Recommendation, the provisions of articles 70, 71, 75, 78, 79, 80, 87, 89, 91, 273, 283 of the Code having incorporated them into the national legislation.

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KUWAIT

Labour Act (Public Sector) (1960) No. 18.

Labour Act (Private Sector) (1964) No. 38.

Although there are no specific provisions concerning this, in fact no worker may be dismissed except for a good and sufficient reason having to do with the worker's behaviour or skills, or else dictated by the necessities of the job.

Under the Labour Act (Private Sector), section 78, an employer who dismisses an employee because of the latter's membership or non-membership of a trade union, or because of his trade union activities, is liable to punishment. Moreover, freedom of association was guaranteed by ratification, on 13 June 1961, of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Dismissal based on race, colour, sex or religion is unknown in Kuwait; besides which, the country is bound by the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Under section 53 of the Labour Act (Private Sector) (1964), notice of dismissal must not be less than fifteen days (if the worker is paid by the month) or seven days for other workers. This notice may be replaced by payment of an indemnity equivalent to the wage for the statutory period of notice. The employer has to pay compensation if the employer-worker relations ceased through the fault of the employer, and took place without any shortcoming or negligence on the part of the worker, as specified in section 55.

Section 60 of the Labour Act (1964) lays down that the employer shall provide the worker with a certificate showing the kind of work he did and for how long, and showing the most recent wage drawn by him.

The separation allowance awarded to a worker is calculated as described in section 54 of the Labour Act (Private Sector). The allowance is given so that the worker concerned may have enough to live on until such time as he has found another job.

If guilty of a serious misdemeanour, as explained in sections 37 (Public Sector) and 55 (Private Sector) of the Labour Acts, a dismissed worker is entitled to neither prior notice nor compensation. This is the case if something done by him has been gravely prejudicial to the employer; if he has been guilty of repeatedly infringing the employer's instructions; if he has been away for no good reason for more than seven days in succession; if he has been condemned for an offence contrary to honour, integrity or morality; if he has committed assault and battery against his fellow workers or employer, in connection with his work or during it; if he has neglected his duties; if he has revealed his employer's trade secrets; if he has been guilty of gross indecency within his place of work; if his probationary period has shown him to be incapable; and if he has had recourse to fraud to get himself taken on.

Representatives of employers' associations and workers' unions sit in the Higher Labour Advisory Council, creation of which was

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provided for in section 92 of the Labour Act (1964) and set up by virtue of Ministerial Decree No. 965. Seats are also held by representatives of the ministries concerned. This body is called upon to advise on changes to be made in the law and to study all questions relating to workers and labour generally. The Ministry is at present considering a change in the workings of this Council, so that the parties may be more intensively consulted.

The studies undertaken with an eye to changing the Labour Act are now drawing to their close. The new version will comprise all those clauses in the Recommendation not yet expressly covered by the relevant legislation.

Migrant workers. these enjoy the protection offered by the Labour Code against arbitrary dismissal in any shape or form, and can exercise all those rights which are provided for by law, should their employment cease.

LEBANON

Labour Code, Act of 23 September 1946, section 13, Part I, Chapter 5 (sections 50 to 60), and sections 74 and 75 (L.S. 1946 - Leb. 1).

In the private sector, an employer may terminate a contract of employment at any time without being required to state the reasons for dismissal, but he must give notice and pay the worker compensation in proportion to his length of service (sections 13, 50 to 60, 74 and 75 of the Labour Code). The Code of Obligations and Contracts (Act of 9 March 1932) contains similar provisions applicable to persons excluded from the scope of the Labour Code (section 643). In principle the application of these provisions is ensured through the workers' right to appeal in the event of a dispute either to the labour courts in individual cases or to an arbitration board in the case of a collective dispute. The labour courts and the arbitration boards always comprise among their members one or more representatives of the employers and of the workers, selected and appointed after consultation of their respective organisations.

In the public sector, under the provisions respecting the termination of the employment both of government officials (Legislative Decree No. 112 of 12 June 1959, Chapter 13, sections 63 to 73) and of employees of autonomous public establishments and of municipal authorities (special statutes and regulations), their service may be ended in the event of their (a) death; (b) resignation; (c) retirement or attainment of the age limit; (d) dismissal as a disciplinary measure. Any disputes that may arise are referred to the administrative tribunals, except in the case of dismissal as a disciplinary measure, in respect of which the disciplinary boards alone are competent.

The provisions applicable to the public sector are coming to be more and more widely applied in the private sector, and particularly in large undertakings, through collective agreements and internal rules. The draft of a new Labour Code, now before Parliament for a second reading, embodies those provisions of the Recommendation which, although generally applied in practice, are

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not specifically laid down in the legislation at present, and especially those of Paragraphs 3 (a), (b) and (c) and 8. Provision is also made for possible reductions of the work force. It leaves it to the authorities to specify by decree the conditions under which such reductions may be made, indicating the matters to be covered by such a decree, such as the length of the period of notice, the procedure for informing the employees, the criteria for the selection of workers and the method of calculating compensation.

LIBERIA

Labour Practices Law.

Section 1508 of the Labour Practices Law, paragraphs 1 to 6 provides for the dismissal of employees.

Section I, Chapter I of Part I - Title 19-A of the Labour Practices Law, as amended in 1972, provides for appeal cases of wrongful dismissal and other related matters. Under section 9, the Board of General Appeals is empowered, where a wrongful dismissal is alleged, to order reinstatement or payment of reasonable compensation to the aggrieved employee in lieu thereof, at the employer's right of election.

It is intended to take measures to give effect to the other provisions of the Recommendation not yet covered by national laws and practice, collective bargaining agreements, works rules, arbitration awards and court decisions.

Migrant Workers

The above-mentioned legislation applies to all residents, both citizens and non-citizens. Foreign workers fully enjoy the same safeguards as provided for in the Recommendation.

LIBYAN ARAB REPUBLIC

Labour Code (58-2970) (1 May 1970) (L.S. 1970 - Liby. 1).

An employer may terminate an indefinite employment contract by giving the worker concerned written notice thirty days in advance (if the said worker is paid by the month) and fifteen days in advance (for all other workers). During the period of notice, he must give the worker at least two hours off a day, during actual working hours, to look for another job. If the proper notice is not given, the employer must pay compensation equivalent to what the worker would have earned during the statutory period of notice (Labour Code, section 46). The employer cannot terminate a worker's contract while the worker is on annual or sick leave (Labour Code, section 45).

Under the Labour Code, section 47, whenever a contract for seasonal or similar work, or a fixed-term contract, expires, or

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whenever an indefinite contract is terminated by the employer, the worker affected is entitled to a separation grant equivalent to half-a-month's wages per year of service for the first five years, and to one month's wages for each year thereafter.

Should a worker's contract be terminated for no good reason, he is entitled to an indemnity assessed by the tribunal in the light of the kind of work done, the prejudice suffered, length of service and custom, after inquiring into the circumstances in which termination took place (Labour Code, section 49).

A worker's contract cannot be terminated by the employer unless either notice is given or compensation paid, except in certain circumstances listed in the Labour Code, section 51, i.e. when: (a) the worker obtained his job by false pretences; (b) he had been on probation; (c) an act of commission or omission for which he was responsible has caused serious loss to the employer; (d) he had been away without good reason for more than twenty days during any one year, or for more than ten successive days (provided the employer has warned him after an absence of ten days in the first case and five days in the second); (e) has failed to meet the basic obligations deriving from his contract of employment; (f) has divulged trade secrets; (g) has been condemned, on appeal, for a crime or offence contrary to honour, integrity or decency; (h) has been discovered in a state of manifest intoxication during working hours; (i) has been guilty of assault and battery against the employer, the manager, one of his superiors or a fellow worker during his work or in connection therewith.

LUXEMBOURG

Act of 24 June 1970 to lay down regulations concerning contracts for the hire of the services of wage earners.

Co-ordinated text, dated 12 November 1971, of the Acts laying down statutory regulations governing the hire of the services of private employees.

Paragraph 2 of the Recommendation. The law deems to be wrongful the unilateral termination of a contract of employment by an employer on unlawful grounds or in such manner as to constitute an economically and socially abnormal act. It entitles a dismissed worker, within fifteen clear days of notice being given of the termination of his contract, to request his employer to state the reasons for his dismissal. The employer is required to inform the worker in writing of the reasons for his dismissal within eight days of such a request being made.

Paragraph 3. The law specifies that participation by a worker in a lawful strike does not constitute a serious reason entitling his employer to dismiss him.

Paragraphs 4, 5 and 6. A worker who considers that he has been dismissed without a valid reason may file a suit for damages within three months of being given notice of dismissal or of being informed by his employer of the reason for such dismissal.

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In assessing damages, the law recommends judges to take into account usage, the nature and length of the worker's service and, in general, the legitimate interests of both worker and employer.

Paragraph 7. For the termination of a contract for the hire of services to be lawful the employer must give the worker notice by registered letter, the period of notice varying with the length of service of the worker. A worker with less than five years' service is entitled to four weeks' notice if he is a wage earner or two months' notice if he is a salaried employee. Any employer who fails to observe this rule is legally bound to pay the dismissed worker compensation equivalent to the remuneration for the period of notice not given.

During the period of notice the dismissed worker may ask for time off on full pay in order to seek other employment provided that he registers as a seeker of employment with the National Employment Office. This time off may not exceed eight hours for a wage earner or six working days for a salaried employee.

Paragraph 9. A dismissed wage earner is entitled to severance pay, the amount of which depends upon the number of years of service; it must be equal to one month's wages after five years' service, two months' wages after ten years and three months' wages after fifteen years. In undertakings employing fewer than twenty wage earners the employer may choose between payment of this statutory severance allowance and the granting of a longer period of notice.

A dismissed salaried employee is also entitled to a severance allowance, unless he is in a position to claim a pension other than an anticipatory old-age pension. This allowance must be equal to one month's salary after five years' service, two months' salary after ten years, three months' salary after fifteen years, six months' salary after twenty years, nine months' salary after twenty-five years and twelve months' salary after thirty years.

Paragraph 10. The legislation concerning staff representatives requires the employer to inform the staff representatives of the reasons for dismissing a worker.

Paragraph 11. Where justified on serious grounds pertaining to acts or misconduct on the part of the worker (or the employer), the contract may be terminated without a period of notice and without court proceedings. The injured party is entitled to damages.

Notice of immediate termination of the contract must be given by registered letter within three days.

It is left to the sole discretion of the judges to determine the seriousness of the acts or misconduct which motivated the immediate termination of the contract of employment. However, in the event of the dismissal of a wage earner for serious misconduct, the Act of 24 June 1970 recommends that they should take into account not only his level of education, his past work record, his social circumstances and any other factors which might affect his liability but also the consequences of his dismissal.

Paragraphs 12 to 17. In the event of a collective dismissal - i.e. the simultaneous dismissal of more than ten workers within the space of thirty days - the period of notice is fixed at six weeks,

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the Minister of Labour being empowered either to extend this period to eight weeks or to reduce it to the statutory period of notice. It is compulsory for the competent staff representatives to be informed well in advance of any plans for a collective dismissal. Nevertheless, the general statutory provisions governing the termination of employment remain applicable.

MADAGASCAR

The Labour Code, Ordinance No. 60-119 (1 October 1960).

Paragraph 2 of the Recommendation. A fixed-term contract cannot be brought prematurely to an end by one party only, except in the circumstances provided for in the contract, or in the event of serious misconduct (Labour Code, sections 20 and 30). An indefinite contract of employment can be unilaterally terminated provided due notice is given. Whenever "due notice" is not defined by collective agreement, it is determined by an order of the Minister of Labour and Social Legislation, who first consults the National Labour Council (Labour Code, section 27). Collective agreements have to include clauses dealing with the circumstances in which workers may be dismissed (Labour Code, section 13).

Paragraphs 3 to 6. Wrongful termination may give rise to an action for damages. Dismissals made without good reason, i.e., for reasons which have nothing to do with a man's work, or supported by clearly irrelevant considerations, dismissals not in accordance with the rules of discipline as laid down in works regulations, and dismissals prompted by the worker's opinions and trade union activities, or by his membership or non-membership of a particular union, are considered wrongful (Labour Code, section 31).

Some kinds of worker enjoy special protection against dismissal. A woman may not be dismissed during a maternity leave (Labour Code, section 77). Staff delegates (and former staff delegates, for a period of six months after leaving office), and candidates for duty as staff delegates (from publication of the list of candidates and for three months thereafter) can only be dismissed if authorisation is first obtained from the labour inspector (Labour Code, section 110).

Individual disputes can be referred to the labour tribunals set up by the courts (Labour Code, section 118), or to the labour inspector for an out-of-court settlement; in the latter case, the matter is submitted to the labour tribunal if an out-of-court settlement proves impossible (Labour Code, section 120).

A dismissal is ruled as wrongful by the competent judicial authorities after an inquiry into the relevant circumstances. The judgment must expressly mention the alleged reason for dismissal. Damages are assessed in the light of the prejudice suffered, but are independent of the compensation for failure to give notice, and of any severance payment provided for by the contract or by collective agreement (Labour Code, section 31).

Paragraph 7. A worker dismissed is entitled to prior notice or to compensation in lieu. This compensation is equivalent to the sum of the wages he would have drawn, and any other benefits he might have had, during the period of notice (Labour Code, section 29).

While the notice is running, he is entitled to one day off a week (taken all together or hour by hour) at full wages, so as to look for another job (Labour Code, section 28).

Paragraph 8. At the time of his dismissal, a worker may ask that his employer provide him (failure to do so being penalised by the payment of damages) with a certificate merely indicating the dates on which he took up and left employment, the kind of work done, and the dates between which he has held successive jobs (Labour Code, section 39).

Paragraph 9. Unemployment insurance does not exist. But, by virtue of the Social Security Code, section 133 (4), a dismissed worker is entitled to family allowances for six months.

Paragraph 11. In the event of serious misconduct, no notice of dismissal need be given (although the courts are free to decide how serious the misconduct was) (Labour Code, section 29). The concept of "serious misconduct" is interpreted strictly by them.

Paragraphs 12 to 14. Paragraphs 12, 13 and 14 of the Recommendation are covered by Decree No. 64-495 (18 November 1964), Chapter III. According to sections 100 and 101 "bis" of the Labour Code, the labour inspector or sub-prefect are available to the parties.

Paragraphs 15 and 16. Collective agreements lay down rules to govern the choice of workers to be laid off in the event of staff reductions, and priority in re-engagement. The rules applied are based on: (a) competence; (b) family responsibilities; and (c) seniority.

Paragraph 17. Decree No. 64-495 (18 November 1964), setting up a National Employment Service, provides for the creation of employment offices.

Paragraph 18. Our legislation, which seems broader in scope, provides for none of the exclusions mentioned in Paragraph 18.

MAIAMI

Employment Act, 17 March 1964 (L.S. 1964 - Ny. 1).

The conditions and manner in which a contract of employment may be terminated, where no agreement is expressed respecting its duration, are laid down under section 10 of the Employment Act (Cap. 55:02 of the Laws). Cases of summary dismissals of employees are governed by section 11 of the Act. Some employers have also concluded collective agreements with workers' organisations providing for procedures dealing with cases of termination of employment.

The provisions set out in Part II of the Recommendation are given due consideration when dealing with and before a decision is taken in all cases of termination of employment, whether discharges or summary dismissals. In all known cases, no employee has been discharged or dismissed on account of his trade union membership, race, colour, sex, marital status, religion, etc.

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When a reduction of the work force is contemplated, collective agreements have provided that proper consultations with workers' representatives should take place. In all cases, appropriate actions are taken to minimise the effects of any contemplated reduction of the work force, namely restriction on overtime, training and retraining, transfers, etc.

MALAYSIA

Employment Ordinance, No. 38, 27 June 1955 (L.S. 1955 - Mal. 2).

Industrial Relations Act, No. 35, 20 July 1967 (L.S. 1967 - Mal. 1A).

The worker who feels that he has been dismissed without just cause or excuse is entitled to make representation to the Minister of Labour and Manpower. The Minister and the Industrial Court are empowered, if they find that the worker has been dismissed without just cause or excuse, to order reinstatement with payment of unpaid wages, or payment of compensation (Industrial Relations Act, 1967).

The Employment Ordinance, 1955, sets out the method of termination of employment of workers who come within the scope of the Ordinance. It provides for termination, either by written notice, payment of wages in lieu thereof, or in accordance with the contract of service. For other workers termination of employment may be effected in accordance with individual contracts of service or collective agreements.

When a reduction of the work force is contemplated, consultation with workers' representatives takes place, either in accordance with general practice, collective agreements or joint voluntary arrangements. Consultation generally covers questions which include measures to minimise the reduction of the work force, placement of workers in alternative employment, selection of workers to be retrenched according to established criteria, priority of re-engagement, and payment of retrenchment benefits if not provided in collective agreements.

The provisions of this Recommendation set an ideal standard which is difficult to implement completely in a developing country. However these provisions are kept in mind with a view to studying the extent to which they can be further implemented in the future.

Federal states: The provisions of the Recommendation are regarded as matters for action by the Federal Government.

MALI

Labour Code, Act No. 62-67/AN-RM, of 9 August 1962 (L.S. 1962 - Mali 1).

The legislative provisions covering the matters dealt with in the Recommendation are contained mainly in the Labour Code and in collective agreements.

RECOMMENDATION No. 119

Paragraph 2 of the Recommendation. Where a contract is broken by the employer without written notice of dismissal, indicating the grounds therefor, being given, or if there are no grounds for dismissal, the labour court carries out an inquiry into the causes and circumstances in order to determine whether or not the dismissal is wrongful (sections 40 and 42 of the Labour Code).

Paragraph 3. Section 42 of the Labour Code specifies that the breaking of a contract is wrongful where the dismissal is on account of the worker's opinions, trade union activity or membership or non-membership of a particular trade union. This is not an exhaustive list and dismissals on account of race, colour, sex, the fact of a worker's having lodged a complaint with the Labour Inspectorate, etc. are also considered by the courts to be unlawful.

Moreover, the Labour Inspectorate has powers to examine the grounds for a dismissal since any employer wishing to dismiss a worker who has been given a contract of employment for more than three months (other than domestic employees) must make an application to the Regional Labour Inspector (section 38 of the Labour Code). The application, which must be dated and signed, must specify the grounds for the dismissal and the proposed date on which it is to take place. The labour inspector can and must refuse authorisation for the dismissal if the grounds given are not valid. He must give his reply within ten days.

Paragraphs 4 to 6. If a worker considers that he has been unfairly dismissed, he may bring the matter before the labour court, which is composed of a judge, an employer assessor and a worker assessor (section 247 of the Labour Code), and claim damages. The court considers the alleged grounds for the dismissal and carries out an inquiry (section 42 of the Labour Code). The amount of damages is decided in the light of all the factors determining the extent of the prejudice, particularly the worker's length of service and age.

Paragraph 7. Except in the case of serious misconduct, the worker's contract of employment may not be terminated without notice, the length of which is determined by section 39 of the Labour Code and by collective agreements. Failure to give notice renders the employer liable to pay compensation to the worker (section 40 of the Code). During the period of notice the worker is entitled to one day off per week (taken as a whole or in separate hours) to seek alternative employment (section 40 of the Labour Code).

Paragraph 8. Section 50 of the Labour Code provides that the employer must issue a certificate containing the information referred to in the Recommendation.

Paragraph 9. Except where there has been serious misconduct, workers are entitled to severance pay (section 43 of the Labour Code).

Paragraphs 10 and 11. The labour courts determine, in the final analysis, whether there has been serious misconduct. According to jurisprudence, this may be defined as exceptional misconduct liable seriously to disrupt the smooth running of the undertaking. Even in such cases the dismissal of a worker must be authorised by the Labour Inspectorate and compensation in respect of entitlement to holidays with pay must still be paid.

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Paragraphs 12 to 17. Dismissals because of redundancy or slackening of the activity of the undertaking must be made in each occupational category in accordance with the general rules on dismissal, taking into account the occupational skill, length of service and family circumstances of the workers (section 41 of the Labour Code) and in accordance with the terms of collective agreements. The latter provide for workers who are unemployed because of redundancy to be given priority in re-employment for a period of one year in the same category of employment. After the one-year period the worker is still entitled to the same priority for a further year but subject to an occupational test.

Migrant Workers

Migrant workers enjoy the same rights as national workers, since the provisions of the Labour Code apply fully and without exception to all workers regardless of their sex or nationality (section 2 of the Labour Code).

MALTA

Conditions of Employment (Regulation) Act, 22 March 1952 (L.S. 1952 - Malta 1).

National Insurance Act, 1956.

Under the Conditions of Employment Act, 1952, termination of employment may not take place, except in cases of redundancy, unless there is a good and sufficient cause for such termination.

Adequate notice of termination or compensation in lieu thereof is prescribed in cases of termination on grounds of redundancy, in which case the worker is entitled to re-employment, within one year from the date of his termination, if the post he formerly occupied is again available.

An employer may not set up as a good and sufficient cause for dismissal that the employee is a member of a trade union.

Most other provisions of the Recommendation are adequately covered under the same law.

Unemployed workers are entitled to unemployment benefit or assistance under the National Insurance Act (or National Assistance Act), 1956.

Cases of unjust termination of employment are taken up on behalf of the aggrieved party by adequate administrative arrangements. In cases where such termination may lead to a trade dispute, trade unions may also take up such issues under the Conciliation and Arbitration Act, 1948.

The Department of Labour and Emigration is entrusted with the supervision of the application of legislation and regulations relating to termination of employment. Good relations exist between workers' and employers' organisations and the Department, which can rely on the co-operation of these organisations if the need arises.

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MAURITANIA

Labour Code (Act No. 63,023 of 23 January 1963), Book I, Part II, Chapters III, IV and V; Book II, Part I, Chapter IV (L.S. 1963 - Mau. 1).

The provisions of the laws and regulations, and those - more favourable - of collective agreements, deem to be wrongful any dismissal for which a valid reason is not given connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, i.e. as in cases of reduction of activity or bankruptcy. From the judicial standpoint, it is the labour courts and the various courts of appeal which are responsible for enforcing the law.

Workers may arrange to be assisted, at the conciliation stage before the labour inspectors and in the courts, by a person of their choice who is generally a member of their union. The judge who presides over the labour court is assisted by employer assessors and worker assessors in equal numbers. In addition the workers' and employers' organisations play their part in the enforcement of the laws and regulations through being empowered to bring matters at any time to the attention either of the Labour Department or of the courts, and through collective bargaining.

MAURITIUS

Termination of Contracts of Service Ordinance, No. 33, 1963, as amended by Ordinances No. 42, 1965 and No. 40, 1966 and Act No. 33, 1971.

Employment and Labour Ordinance, Cap. 214, sections 7 and 120 A, as amended by the Act No. 54, 13 December 1968 (L.S. 1968 - Maur. 3).

Paragraph 2 of the Recommendation. In any case of termination of employment referred to the Ministry of Labour or the Industrial Court, these bodies must have regard to the principle that termination of employment should only take place where there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service (section 7 (3) of the Termination of Contracts of Service Ordinance).

Paragraph 3. Section 6 (1) of the same Ordinance provides that the reasons set out in this Paragraph of the Recommendation do not constitute good and sufficient causes for the summary dismissal of a worker.

Paragraph 4. The worker who feels that his employment has been unjustifiably terminated is entitled to refer his case, with the assistance of a representative of his trade union if he so wishes, to the Ministry of Labour and Social Security, and to file a complaint before the Industrial Court if his case has not been settled satisfactorily by the Ministry of Labour (section 7(2) of the Termination of Contracts of Service Ordinance).

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Paragraph 5. The provisions of Paragraph 5 of the Recommendation are dealt with in section 7, subsection (4) of the same Ordinance.

Paragraph 6. The Magistrate of the Industrial Court is empowered, if he finds that the termination of employment was unjustified, to order that the dismissed worker must be paid severance allowance, in addition to unpaid wages and compensation in lieu of notice (section 7 (5) of the Termination of Contracts of Service Ordinance).

Paragraph 7. A worker whose employment is to be terminated must be given a prescribed period of notice. Wages may be paid in lieu thereof (section 7 of the Employment and Labour Ordinance).

During the period of notice, the worker is granted time off, without loss of pay, in order to seek other employment.

Paragraph 8. The provisions of Paragraph 8 of the Recommendation are dealt with in section 120 A of the Employment and Labour Ordinance, and in the Employment and Labour (Termination of Employment Certificate) Regulations, 1972.

Paragraph 9. Under section 9 of the Termination of Contracts of Service Ordinance, the employer is required to pay a severance allowance when he terminates the employment of a worker who has been in his continuous service for one year or more. The amount of the severance allowance to be paid per year of service is determined under section 11.

Under section 13 of the same Ordinance, failure to pay severance allowance constitutes an offence.

Paragraph 11. In case of dismissal for serious misconduct, the employer is not liable to pay the worker severance allowance. The employer may only dismiss the worker where he cannot in good faith be expected to take any other course and such dismissal must take place within seven days after the employer has become aware of the serious misconduct (section 6 (2) of the Termination of Contracts of Service Ordinance).

The worker's opportunity to state his case against a decision of dismissal for serious misconduct is dealt with in section 7 (1) of the Termination of Contracts of Service Ordinance.

Paragraphs 12 to 14. Section 8 of the Termination of Contracts of Service Ordinance provides for reduction of the work force.

An employer who intends to reduce his work force must notify the Minister of Labour and Social Security who shall refer the matter, for adjudication, to a board set up under the Ordinance. Representatives of both employers' and workers' organisations are appointed on the board. The board's decisions are final and binding on the employer and the employee.

Paragraph 18. The Termination of Contracts of Service Ordinance applies to all employers and workers in any industry and to statutory and corporate bodies and their workers (section 2 of the Ordinance).

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MEXICO

Federal Labour Act taking effect on 1 May 1970 (Official Gazette, 1 April 1970) (L.S. 1969 - Mex. 1).

Social Security Act (Official Gazette, 12 March 1973).

Paragraph 2 of the Recommendation. Section 47 of the Federal Labour Act lists the reasons which may be adduced to dismiss an employee without any obligation on the employer. Section 53, Part IV, mentions, as one of these reasons: "physical or mental incapacity, or manifest inability such that the worker cannot do the work assigned to him".

Section 434 lists the economic grounds for termination of contract. When dismissal is based on such grounds, the employer must obtain the authorisation of the Conciliation and Arbitration Board.

The Act defines what are to be considered as good and sufficient reasons. The labour tribunals are empowered to do the requisite interpretation.

Paragraph 3. Among the reasons not considered as adequate grounds for termination of contract are those listed in subparagraphs (a), (b), (c) and (d). See section 133 (a) and section 358, 1, 395, 132 (X and XXI) and (d), section 3 (2) of the Federal Act.

Paragraph 4. A worker unjustly dismissed can appeal to the labour courts. He has two months in which to do so (Federal Act, section 518).

Paragraph 5. Section 523 (IX and X) empowers the labour courts (local conciliation and arbitration boards and the Federal Board) to apply the labour legislation in the areas throughout which their jurisdiction extends. Sections 604 and 621 go into even greater detail in describing the authority possessed by the said courts in settling employer-worker disputes.

Paragraph 6. The conciliation and arbitration boards, if so requested by a worker, can require that he be reinstated or that he be offered compensation equivalent to three months' wages. In either case, the worker will be entitled to payment of the wages due from the date of dismissal to that on which the verdict was rendered by the court (Federal Act, section 48).

Paragraph 7. When termination of an employer-employee relationship is equivalent to annulment of contract, the employer is not called upon to give notice or pay compensation, although compensation may be paid if there has been agreement between the employer and worker to that effect.

Paragraph 8. Under section 132, Part VIII of the Federal Labour Act, the employer must within three days supply any worker leaving the undertaking with a certificate of service.

Paragraph 9. A worker who after leaving an undertaking because of dismissal, remains without employment, may, according to circumstances, claim compensation for separation, an indemnity or a pension.

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When the dismissal was justified, there is no entitlement to compensation. But there is a "seniority benefit" specified by section 162 of the Federal Act.

Should the dismissal have been unjustified, the worker is entitled to reinstatement or to compensation equivalent to three months' wages. Furthermore, a worker who has no desire for reinstatement can claim three months' wages, plus the total wages which he would have earned between the date of dismissal and the date on which his employer complies with the award.

The new Social Security Act published in 1973 offers the worker the possibility of claiming a pension. See Chapter V, fourth section, called: "Unemployment Insurance for the Elderly", sections 143, 144, 145, 146, 147, 148 and 171 of the Social Security Act.

Paragraph 10. Procedure is as explained in this Paragraph. Be it added only that section 395 of the Federal Act admits exclusion clauses for entry and separation.

Paragraph 11 (1). When dismissal is prompted by the worker's own serious misconduct, he has no claim to compensation. But he is still entitled to seniority benefit, whether or not his dismissal was warranted (section 162).

Paragraph 11 (2). In national practice, this is what is done.

Paragraph 11 (3). Section 517 of the Federal Labour Act lays down that the employer shall have a month in which to dismiss a worker.

Paragraph 11 (4). A worker unjustifiably dismissed can appeal within two months, beginning on the day after he left the undertaking (section 518).

Paragraph 11 (5). In all disputes referred to the labour courts, there is a period during which conciliation is attempted. In Mexico, the procedure outlined here does not exist.

Paragraph 11 (6). The Act (section 47) lists the reasons for dismissal which are to be considered as good and sufficient, but Part XV leaves the door open for action by the courts. The Act defines a "reasonable period of time" for the employer and worker (for the former, one month, and for the latter, two).

Paragraph 12. This is the policy which we are trying to introduce in Mexico in the field of labour relations.

Paragraph 13 (1). In the event of collective dismissal, the workers can inform the Conciliation and Arbitration Board before the latter delivers its verdict (Federal Act, section 782).

In the event of staff cuts dictated by the introduction of machinery or new working procedures, the employer must try to reach agreement with his workers. Only if such agreement is impossible can he request permission from the Conciliation and Arbitration Board (section 439).

Paragraph 13 (2) and (3). The questions mentioned in these subparagraphs must be the subjects of consultation. It would unquestionably help in obtaining results if the authorities were to intervene.

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Paragraph 14. As already mentioned, whenever staff cuts are to be made, even when there is agreement between employer and workers, the advice of the labour authorities must be sought, and it is for them to approve of the reduction.

Paragraph 15 (1) and (2). Of all the criteria which might count in considering staff cuts, the most important would appear to be that set forth in section 437 of the Federal Labour Act, which makes provision for account to be taken of workers' seniority in such a way that the more senior workers are not affected.

Paragraph 16 (1). Mexican law proceeds in this fashion (Federal Act, sections 438, 154 and 155).

Paragraph 16 (2). Right to priority in reinstatement is virtually unlimited in time for the Mexican worker, although exercise of this right, once the opportunity arises, is subject to prescription.

Paragraph 16 (3). Reinstatement is subject to two criteria, if the preferences prescribed by law are to be observed: (a) satisfactory service; and (b) length of service. Thus, efficiency and length of employment are combined (section 154).

Paragraph 16 (4). Under Mexican law, this right is not expressly prescribed.

Paragraph 17. The recommendation made here is acceptable.

Paragraph 18 (a), (b) and (c). Casual workers, workers taken on for a particular job, workers on probation, etc. do not enjoy the protection of the law, as in this provision.

Paragraph 18 (d). Civil servants, or rather public employees in general, have their own system, but in any event a state worker cannot be removed from his job without good reason (section 46, I) (amended by Decree dated 30 December 1966, and section 53 of the Federal Labour Act).

Moreover, the Federal Labour Act supplements the Federal State Workers Act, as set forth in section 11 of the latter.

MOROCCO

Order of 23 October 1948 concerning model rules of employment for determining the relations between employed persons in industry, trade or the professions, and their employers (L.S. 1948 - Mor. 3), as amended by the Order of 18 March 1954 (B.O. No. 2161 of 26 March 1955) and by Decree No. 2-57-1081 of 20 August 1957 (B.O. No. 2342 of 13 September 1957).

Royal Legislative Decree No. 316-66 of 14 August 1967 to provide for the payment of compensation on the dismissal of certain classes of employees (L.S. 1967 - Mor. 1 B).

Royal Legislative Decree No. 314-66 of 14 August 1967, to provide for the maintenance of operations in industrial and commercial undertakings and for the dismissal of their employees (L.S. 1967 - Mor. 1 A).

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Paragraphs 2 and 4 of the Recommendation. Under the terms of section 4 of the Order of 23 October 1948, the employment of persons employed in industry, trade or the professions may be terminated in the event of (a) reduction of the number of posts; (b) incapacity of the employee due, inter alia, to his age or to his inability to do the work assigned to him; or (c) as a disciplinary measure.

The preliminary draft of the Labour Code, prepared by an administrative committee, reproduces the provisions of Paragraphs 2 and 3 of the Recommendation with respect to the existence of and determination of a valid reason for dismissal (section 43).

Paragraphs 4 to 6. A dismissed worker may, within one month of the date of receipt by him or handing to him of the letter notifying him of his dismissal, bring the matter to the attention of the labour court, which evaluates the issue in the light of the reasons stated in the letter. If the court finds that the dismissal was unjustified it may either order that the worker be reinstated in his post, with retroactive effect as from the date of his dismissal, or order the employer to pay him compensation calculated having regard to circumstances and in particular the prejudice caused to the worker.

The Legislative Dahir of 27 July 1972 instituted "social courts", to which are to be referred individual claims and disputes relating to contracts of employment and articles of apprenticeship which, owing to their nature or the terms of the law, do not fall within the competence of any other court (section 1).

Provision is made in a number of collective agreements for bodies to which a worker who feels that his employment has been unjustifiably terminated may appeal, while retaining the right to take the matter to court at any time. Moreover, the collective labour agreement applicable to bank employees, concluded on 21 May 1960 between the UMT Federation of Unions of Bank Employees and Executives and the Professional Organisation of Bankers, provides that an employee who has been subjected to a second-degree disciplinary measure - in particular dismissal - may refer his case to a disciplinary board. If the employer feels that he cannot accept the decision of the board he must request the convening of the National Joint Banking Board, which must give a ruling on the substance of the issue.

Paragraph 7. A regular employee whose employment is to be terminated is entitled to a period of notice the length of which, save in the case of serious misconduct or force majeure, must be in conformity with customary practice and with the regulations, or to compensation of an amount equal to the remuneration he would have received during the period of notice (section 5 of the Order of 23 October 1948, as amended by the Decree of 18 March 1954).

During the period of notice a regular employee may absent himself for two hours per day up to a limit of eight hours per week or thirty hours in thirty consecutive days, for the purpose of seeking other employment (section 5 of the Decree of 23 October 1948). These periods of absence without loss of pay must effectively be spent seeking employment and cease as soon as the employee has found another job (Decree No. 2-69-128 of 26 January 1970).

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Paragraph 8. Under the terms of section 745 bis, added by the Dahir of 8 April 1938 to the Code of Obligations and Contracts (Dahir of 12 August 1913), every worker is entitled to request, upon expiry of his contract, a certificate indicating only the dates of his engagement and termination and his occupational qualifications. Any employer who fails to accede to such a request is liable to pay the worker damages.

Paragraph 9. Any insured person over 60 years of age who can show proof that he has been insured for at least 3,240 days and who has ceased all gainful employment is entitled to an old-age pension (section 53 of the Legislative Dahir of 27 July 1972 respecting the social security scheme).

Every permanent employee working under a contract of unspecified duration in an industrial or commercial establishment, liberal profession, agricultural or forestry undertaking, non-trading corporation, trade union, association or group of any kind is entitled to compensation for dismissal after one year of actual employment in the undertaking (section 1 of Royal Legislative Decree No. 316-66 of 14 August 1967).

Paragraph 11. In case of dismissal for serious misconduct no compensation is payable (Royal Legislative Decree No. 316-66 of 14 August 1967), and the worker may be dismissed without notice (section 6 of the Order of 23 October 1948). Under the terms of this section 6 the following, inter alia, are deemed to constitute serious misconduct: (a) conviction of a common-law offence; (b) theft; (c) drunkenness; (d) brawling on the premises or work-sites of the undertaking; (e) grossly insulting the supervisory or managerial staff; (f) refusal by the worker to perform work forming part of his duties; (g) voluntary and unjustified absenteeism; (h) interference with freedom to work; (i) sabotage; (j) punching the time card of another worker or asking another worker to punch his own time card with fraudulent intent; (k) repeated and unjustified lateness in arriving for or resuming work; (l) inability to do the job or perform the duties for which the worker was engaged; (m) fraud or breach of trust to the detriment of the employer; (n) jeopardising, intentionally or through gross negligence, the safety of other workers or of the workplace or causing substantial damage to machinery, equipment or raw materials belonging to the establishment. These provisions of the Order of 23 October 1948 are re-embodied in the Dahir of 24 April 1973 determining the conditions of employment and remuneration of agricultural employees.

The provisions of Paragraph 11 (5) of the Recommendation have been implemented in certain collective agreements.

Paragraphs 12 to 14. Action by the parties concerned to avert or minimise as far as possible reductions of the workforce consists essentially in intervention by the labour inspectorate and the local administrative authorities, irrespective of the number of workers it is proposed to discharge. Under the terms of Royal Legislative Decree No. 314-66 of 14 August 1967, respecting the maintenance of operations in industrial and commercial undertakings and the dismissal of their employees, no industrial or commercial undertaking or any part thereof may be closed, nor may all or any of the persons employed in such undertakings be dismissed without being replaced, except with the permission of the governor of the prefecture or province (section 1). The latter must take a decision on an

TERMINATION OF EMPLOYMENT

application for permission to close within three months, after consulting a committee composed in a manner to be prescribed by decree (section 2). He must take a decision on an application for permission to dismiss employees without replacing them - which has to be transmitted to him by the official responsible for labour inspection, with his opinion - within the same time limit, and, where large numbers of workers are to be dismissed, he may consult the committee if he sees fit or if the official responsible for labour inspection so requests (section 3).

Most collective agreements lay down a procedure for the consultation of workers' representatives.

Paragraph 15. Section 4 of the Order of 23 October 1948 establishes criteria for the selection of workers to be affected by a reduction of the work force, such as the nature of the contract of employment (temporary workers being liable to dismissal before established staff), seniority and family responsibilities.

Paragraph 16. Workers whose employment has been terminated owing to a reduction of the work force are entitled, under section 3 of the Order of 23 October 1948, to priority of re-engagement.

Paragraph 18. Public servants engaged in the administration of the State are governed by special provisions: the General Civil Service Regulations (Dahir of 24 February 1958).

NETHERLANDS

Civil Code (Title 7 A of the Third Book, fifth division).

Commercial Code.

Civil Service Act, 1929.

Extraordinary Employment Relations Decree, 5 October 1945, as amended (L.S. 1963 - Neth. 1).

Unemployment Act, 9 September 1949, as amended (L.S. 1967 - Neth. 1).

Works' Councils Act, No. K.174, 4 May 1950 (L.S. 1950 - Neth. 2), as amended, No. 54, 28 January 1971 (L.S. 1971 - Neth. 1).

Regulations on termination of employment are laid down in law, in binding regulations respecting conditions of employment, in decrees of corporations, in collective agreements and in current practice.

Paragraphs 2 and 3 of the Recommendation. Neither the employer, nor the employee, has to state his reasons for terminating the employment (Civil Code). But the employer who wants to dismiss an employee needs the approval of the director of the district employment office (article 6 of the Extraordinary Employment Relations Decree of 1945). The director of the district employment office may consider whether there is a well-founded reason for dismissal.

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The members of a Works' Council enjoy additional protection. Their dismissal requires the permission of the district court judge, who may give this permission only if he has reasons to believe that the dismissal is not related to the fact that they are members of the Works' Council (section 21, subsections 2 and 3 of the Works' Council Act).

Paragraphs 4 and 5. The law prescribes that disputes arising from dismissal of workers are to be submitted to the district court judge. The worker may institute legal proceedings, if his dismissal is obviously unreasonable, or if the employer does not observe the regulations relevant to the termination of employment. However, the parties may, by mutual consent, submit their labour disputes to arbitrators chosen by themselves.

Paragraph 6. In case of an obviously unreasonable dismissal, the judge may decide that the worker should be granted an equitable compensation (section 1639 s of the Civil Code).

Paragraph 7. The worker whose employment is to be terminated is entitled to a period of notice (sections 1639 h, 1639 i, 1639 j, 1639 k of the Civil Code). When the rule is infringed, sanctions are to be imposed and the worker is entitled to receive a compensation (section 1639 o, subsection 3 of the Civil Code).

Paragraph 8. The employee whose employment has been terminated is entitled to receive a certificate, in which the way he has provided for his obligations and the reason of his dismissal are mentioned only at his request (section 1638 a of the Civil Code).

Paragraph 9. The Unemployment Act of 1949 provides for income protection for dismissed workers.

Paragraph 10. In case of individual dismissals, the fact that the permission of the director of the district employment office is required does not appear to make consultation between employers' and workers' organisations necessary. The parties may agree by collective agreement to such consultation.

Paragraph 11. A reason called urgent by the employer in case of immediate dismissal may always be submitted to the competent judge.

Paragraphs 12, 13 and 14. The employer shall advise the Works' Council of any intended closure or reduction of the undertaking, unless major interests render such consultation undesirable (section 25 of the Works' Council Act). He should always ask the advice of the Works' Council in respect of the execution of such decisions, particularly in respect of the consequences for the employees.

Although there are no statutory regulations concerning consultations to be held in the event of an intended reduction of the number of employees or concerning notification of the competent authorities, where an important reduction is to be contemplated, the employers generally act in practice in accordance with the provisions of the Recommendation. If the reduction results from a merger, the Code of Mergers drawn up by the Social and Economic Council and providing for a similar procedure, usually applies.

TERMINATION OF EMPLOYMENT

Moreover, an advisory committee in which workers' organisations are represented is heard by the director of the district employment office whose permission is required for the dismissal of employees (section 6 of the Extraordinary Employment Relations Decree of 1945).

In practice, many collective agreements provide for these standards.

Paragraph 15. Some collective agreements prescribe these criteria for the selection of workers to be affected by a reduction. It appears from the directives for the directors of the district employment offices that some of these criteria are observed in connection with the requirement of the permission of these authorities for discharge of employees under section 6 of the Extraordinary Employment Relations Decree, 1945.

Paragraph 16. Several collective agreements provide for a priority of re-engagement of workers whose employment has been terminated owing to a lay-off, when the employer again engages workers. Furthermore, the director of the district employment office may attach this condition to his permission to dismiss a worker (section 6 of the Extraordinary Employment Relations Decree of 1945).

Paragraph 17. The aid of the district employment office is enlisted in order to place workers in another job.

Paragraph 18. A distinction is made in the Civil Code between employment contracts concluded for a specified period of time and employment contracts concluded for an indefinite period. In principle, the provisions concerning period of notice only apply to the latter ones. However, they also apply to employment contracts concluded for a specified period, which are continued after the expiry of the period.

The regulations concerning the period of notice are not applicable during a probation period, which shall not be in excess of two months (section 1639 n of the Civil Code).

The legal status of civil servants is safeguarded by the Civil Service Act.

Surinam

Civil Code, Title 7 A of the Third Book, section 5.

Commercial Code

Public Servants' Decree of 1963.

Paragraphs 2 and 3 of the Recommendation. Two categories of reasons for dismissal exist: the urgent reason referred to in section 1615-Q, and the weighty reason referred to in section 1615-X of the Civil Code.

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Paragraphs 4 and 5. A worker who feels that his employment has been unjustifiably terminated may apply to the Labour Inspectorate which acts as a mediator. If there is no agreement, the parties may apply to a civil judge.

Paragraph 6. Under article 1615-S of the Draft Ordinance to amend the Civil and Commercial Codes in respect of obviously unreasonable dismissal, which is presently before the Parliament, the judge could grant the worker an equitable compensation in case of an obviously unreasonable dismissal.

Paragraph 7. The period of notice to be observed in case of dismissal is equal to the period which usually elapses between two consecutive payments of wages, subject to a minimum of one week and to a maximum of one month (section 1615-L of the Civil Code). Section 1615-R of the Civil Code provides for sanctions for infringement of this rule.

Paragraph 8. The reason for dismissal is mentioned at the request of the worker, so that a certificate may contain something unfavourable (section 1614-Z of the Civil Code).

Paragraph 9. Unemployment legislation does not exist. However, indigent persons and others in need of assistance may receive public assistance, consisting of a small financial benefit and free medical treatment, after the Public Assistance Department has investigated their case.

Paragraph 10. It will be investigated to what extent a dismissal committee, which does not exist, can be set up.

Paragraph 11. Under the Civil Code, an allegedly urgent reason for dismissal can always be submitted to the judgment of the competent magistrate in court.

Paragraph 18. In principle, the provisions concerning the period of notice only apply to workers whose employment contracts are concluded for an indefinite time. However, they are also applicable to employment contracts concluded for a specified period, which may be prolonged upon the expiry of this period. The provisions concerning termination of employment are not applicable during the stipulated trial period which may not exceed two months (section 1615-L of the Civil Code). Public servants have been given a particularly firm basis through the Decree of 1963 on Public Servants.

The principles of the Recommendation are applicable to the major branches of economic activity and to nearly all categories of workers.

NEW ZEALAND

Social Security Act, 1938.

Apprenticeship Act, No. 22, 29 October 1948 (L.S. 1948 - N.Z. 2).

State Services Act, 1962.

Industrial Conciliation and Arbitration Act, No. 72, 1 October 1954 (L.S. 1954 - N.Z. 1) as amended in 1970 (L.S. 1970 - N.Z. 1).

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There is no specific legislative code relating to termination of employment or dismissal procedures. Where procedures do not exist in statutory provisions, arbitration awards, industrial agreements or individual contracts of service, the position is governed by common law, based on custom defined or augmented by case law, most cases being concerned with the employer's right of summary dismissal.

Paragraph 2 of the Recommendation. Under English Common Law, the employer who terminates the employment of a worker is not obliged to give the reason for dismissal. There are cases in which it would be injudicious to disclose the reason for dismissal, but most of these cases meet the requirement of the Recommendation that the reason for dismissal must be connected with the conduct of the worker or the operational requirements of the establishment.

The awards and industrial agreements which cover most forms of employment usually contain clauses which recognise the employer's ultimate right to dismiss a person from his employment.

In practice an employer would ordinarily be expected to give the reason for dismissal unless the employment is of a casual or temporary nature or for a specified period, or the reason is well-known by the parties. Union pressure following a complaint from an aggrieved member would usually elicit the reason, in cases where it was not freely divulged.

Paragraph 3. Most employment in the private sector is governed by awards and industrial agreements under the Industrial Conciliation and Arbitration Act, 1954, section 167 of which provides for protection against dismissal for the reasons mentioned in Paragraph 3 (a), (b) and (c) of the Recommendation. Workers in commerce are also covered in respect of Paragraph 3 (a) and (b) of the Recommendation by section 34 of the Shops and Offices Act, 1955. Some awards contain similar provisions.

Section 5 (1) of the Race Relations Act 1971, provides that dismissal of any person on grounds of colour, race or ethnic or national origins is unlawful.

Under section 15 of the Equal Pay Act, 1972, dismissal or alteration of a position of any employee because he has made a claim against his employer within the period of 12 months preceding that dismissal or alteration constitutes an offence.

Outside these legal provisions covering sex, colour, race and national extraction, the force of public opinion, backed by union pressure, would be needed to prevent an employer from terminating an employee's services on grounds of pregnancy, marital status, religion or social origin. Very few terminations are believed to be based on these considerations, no proven acts of this nature having been brought to the Government's attention.

Paragraphs 4 and 5. There are some administrative provisions covering some sectors of employment, for example, government services, harbour boards and public transport, where workers may appeal to an independent board or committee against dismissal.

Section 64 of the State Services Act 1962 enables a dismissed public servant to appeal against the State Services Commission's

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decision to a board of appeal, which has jurisdiction to hear and determine every such appeal.

The Apprentices Act, 1948, provides that any apprentice is entitled to appeal, within fourteen days, against the decision of the local apprenticeship committee or district commissioner to grant leave to an employer to dismiss him, to a magistrate whose decision is final and conclusive (sections 38 and 39).

The practice is sometimes followed by a union and an employer concerned in a dispute which cannot be resolved by direct negotiation to agree that it be determined by an independent arbitrator, but a dismissed worker may only appeal to the courts on grounds of wrongful dismissal. The court may award damages for breach of contract. However, very few wage workers take this course of action. The 1970 Industrial Conciliation and Arbitration Amendment Act, section 4, regarding the settlement of personal grievances, probably has more relevance, although here also the only grounds for appeal are wrongful dismissal and not unjustified dismissal as mentioned in the Recommendation.

Paragraph 6. In the case of public servants, the requirements of this Paragraph are covered to some extent by the provisions of section 64 (6) of the State Services Act (the appeal board may annul the penalties imposed on the civil servant), subject, however, to the provisions of section 75 of the same Act (no compensation for loss of salary).

The position of apprentices is dealt with in section 38 (9) of the Apprentices Act.

Under paragraph 5 of section 179 of the Industrial Conciliation and Arbitration Act, the court, if it finds that the worker was wrongfully dismissed may order: (a) the reimbursement of lost wages; (b) his reinstatement in his former position or in a position not less advantageous; (c) the payment of compensation by his employer, at the option of the worker, after consultation with the duly authorised representative of his union.

In the case of a worker who places the matter in the hands of his union, and the matter is referred to an independent arbitrator, the powers of the arbitrator or tribunal are set out in section 179 (9) of the Industrial Conciliation and Arbitration Act. In general, unions usually succeed in inducing employers to reinstate dismissed employees and to pay them lost wages.

Paragraph 7. The provisions of Paragraph 7 (1) of the Recommendation are practically always observed.

The employment of public servants, other than apprentices, may be terminated at any time after three months' notice in writing has been given (section 40 (1) of the State Services Act).

Under section 56 (1) (a) of the Shipping and Seamen Act, 1952, a period of notice is also provided for the termination of employment of seamen.

Most employment is subject to arbitration awards or industrial agreements which almost invariably provide for a period of notice or compensation in lieu thereof and usually state that the period of notice is one week.

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The basic difference between the termination of employment clause in awards and the redundancy clauses which exist in some awards and agreements is the length of the period of notice required.

During the period of notice, the worker is entitled to time off (limited to one day) without loss of pay in order to attend interviews for alternative employment, but only in case of redundancy and under some recent redundancy agreements.

Paragraph 8. Under section 35 of the Factories Act, 1946, any person leaving employment in the factory is entitled to receive, on request, a certificate stating the period during which he has been employed.

Some awards and industrial agreements covering employers outside factories contain certain similar clauses.

In government service, references are confined to a statement of the position held and the length of service.

With regard to Paragraph 8 (2) of the Recommendation, it is unlikely that a worker would accept a certificate inserting something unfavourable.

Paragraph 9. Under the Social Security Act, 1938, a worker whose services have been dispensed with is entitled to draw social security benefits, provided he satisfies the Social Security Commission that he is unemployed, capable and willing to undertake suitable work, has taken reasonable steps to obtain suitable employment and has resided continually in the country for not less than twelve months. However, a married woman worker is entitled to a benefit only if the Commission is satisfied that her husband is unable to maintain her (section 51 of the Social Security Act).

Severance allowances and other types of separation benefits did exist in some collective agreements in 1972, but there was no national legislation or national agreement covering all workers.

Paragraph 11. Provisions of Paragraph 11 of the Recommendation are found in sections 40 and 58 of the State Services Act, in section 90 of the Government Railways Act, 1949, and in section 38 of the Apprentices Act, 1948. Most awards and industrial agreements provide for a period of notice to be given except in the case of dismissal for wilful misconduct, as the Warehousemen Award, 11 December 1972 (excluding northern industrial districts).

The possibility of union pressure or reprisal would be sufficient in normal circumstances to restrain an employer from abusing his right to dismiss workers for serious misconduct.

There is no statutory limitation on this matter, but it is generally unlikely that an employer will maintain a threat of dismissal over the head of an employee indefinitely. It would imply that the employer had condoned the offence committed if he did not take immediate dismissal action.

Under the State Services Act, 1962, section 64 (3), an appeal must be received within fourteen days after the date on which the decision has been notified to the officer concerned. Some awards also contain a provision on this point.

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In general, it is not conceded that dismissal of a worker should be deferred until there has been an opportunity for the worker and his counsel to state his case. The normal course is that dismissal becomes effective immediately and that representations are made thereafter.

The terms "serious misconduct" and "reasonable time" have not been generally defined in this connection and employers decide individual cases on their merits.

Paragraphs 12 to 17. Until the early part of 1973, redundancy was not considered a problem, although some industrial awards and agreements contained clauses determining the minimum period of notice of termination of employment required in a redundancy situation, e.g. one or two weeks, depending on the workers' length of service.

Tripartite exploratory talks between the Federation of Labour and the Employers' Federation convened by the Department of Labour, were held in July 1972, and are to continue this year, on the problem of redundancy. It was agreed at these talks that the Government should bear some responsibility at the labour market level with regard, for example, to retraining and relocation of workers. A departmental redundancy committee has been established in the Department of Labour, which co-ordinates information and head office policy on redundancy problems. District offices of the Department have been supplying reports on redundancy situations in their areas since September 1972 to provide the Department with an ad hoc early warning system.

In the case of public servants, specific provision is made for termination of services in redundancy situations in section 38 of the State Services Act, but the section first provides that such persons may, if practicable, be transferred to any other department of the public service which in the opinion of the Commission requires additional assistance.

Appropriate measures to meet situations resulting from possible reductions of the work force would be discussed by the tripartite talks this year. It is hoped that these talks will lead to the adoption of redundancy agreements before they are needed.

In July 1972 there were 24 industrial agreements, 17 awards and one Labour Disputes Investigation Act Agreement containing some provisions for redundancy.

In 1972, an expanded employment service was introduced in Auckland, which is shortly to be extended to all parts of the country. This service includes efforts on the part of officers to ensure that more vacancies are notified to the service and that more applicants enrol for assistance in finding employment.

The proposed new industrial relations legislation will give effect to some provisions of the Recommendation not yet covered by national legislation or practice.

A proposed Bill outlines procedures for settlement of disputes, including among them the settlement of personal grievances, which will cover any grievance a worker may have against his employer resulting from his dismissal. The matter could be referred to a

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grievance committee consisting of representatives of union and employers and, in case there is no settlement by the grievance committee, to an industrial court. If dismissal is found unjustified, the final settlement would provide for either reimbursement of wages lost, reinstatement, or payment of compensation.

NICARAGUA

Labour Code (L.S. 1945 - Nic. 1; 1962 - Nic. 1).

Paragraph 7 (2) of the Recommendation. Section 116 (2) of the Labour Code establishes the entitlement of an employee who has been given notice to one hour a day with full pay for the purpose of seeking other employment.

Paragraph 11 (1). Sections 18 and 119 of the Labour Code set forth the grounds which justify the immediate dismissal of a worker.

Paragraph 11 (2). With reference to this Paragraph, all the grounds for dismissal do not relate to serious misconduct.

Paragraph 11 (4). Section 359 (in fine) of the Labour Code establishes the worker's right to appeal against his unjustified dismissal within one month.

Paragraph 16 (1). Sections 112 and 113 of the Labour Code provide that in the event of temporary suspension of a contract of employment for economic reasons, the workers who were employed by the undertaking or employer shall be given priority of re-engagement, and they are given a time limit of thirty days in which to return to work.

NIGERIA

Labour Code Ordinance, 5 November 1945, as amended 1946, 1948, 1949, 1950 (L.S. 1946 - Nig. 1 B).

National Provident Fund Act, No. 20, 26 June 1961 (L.S. 1961 - Nig. 1).

Under sections 31 to 33 of the Labour Code, either party to an oral contract for a period of time, which is normally terminated on the last day of the term agreed upon, may terminate at any time such oral contract by giving written or oral notice to the other party or by payment of wages for the period of notice; the period of notice is from one to fourteen days according to the length of the period of the contract and to the length of service.

Under section 26 of the National Provident Fund Act an emigration grant is provided for a member of the Fund if the Director of the Fund is satisfied that he is emigrating or has emigrated from and has no present intention of returning to Nigeria, and under section 27 of the same Act a withdrawal grant must be paid to a member of the Fund when the Director is satisfied that for at least two years immediately preceding the application the member has not been employed as a worker and has reached the age of fifty-five years.

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It is normal practice that an employee is issued, on request, at the time of termination, a certificate specifying the date of his engagement and termination and the type of work on which he was employed.

Any employee who is dissatisfied with the termination of his employment is entitled to appeal to the court of law for redress. If the termination is the subject of industrial dispute, the matter may be referred to the Industrial Arbitration Tribunal, which decided in one particular case that the company with whom the dispute was declared by the trade union had to reinstate the dismissed workers in their respective posts under the same conditions of employment as they enjoyed before dismissal.

The methods of handling termination of employees because of redundancy and termination of employment generally are contained in negotiated collective agreements of the establishments, which provide for the payment of various scales of severance or redundancy allowance to the workers whose employment has been terminated owing to a reduction of the work force. One principle in popular use is that of first in last out. The normal practice is that employees whose appointments are terminated because of redundancy are placed in alternative employment, where possible, or will be given first consideration when vacancies occur in the establishment.

It is a noticeable trend in collective agreements reached between employers and workers that there is increasing resort to the provisions of the Recommendation as a guide in reaching decisions on issues dealt with in the instrument. The Recommendation has also had a positive influence in the development of labour legislation. For example, under the proposed Labour Decree, which will be soon promulgated, employers would be obliged to inform trade unions or workers' representatives concerned of the reasons for and the extent of an intended redundancy and also to negotiate redundancy payments. They would also be under the obligation to apply the principle of "first in last out" subject to certain named factors of relative merit. The Commissioner for Labour would have a reserve power to make regulations providing, generally or in particular cases, for the compulsory payment of redundancy allowances. Employers would be prohibited from including in any contract of employment, the condition that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union. The same reasons would be precluded from being the cause for dismissal of a worker or otherwise prejudicing his employment.

The provisions of the Recommendation are appropriate for action by the Federal and State Governments because the subject of labour is on the concurrent legislative list in the Constitution of the Federation.

NORWAY

Labour Disputes Act, No. 1, 5 May 1927 (L.S. 1927 - Nor. 1).

Employment Act, No. 9, 27 June 1947 (L.S. 1947 - Nor. 2).

Workers' Protection Act, No. 2, 7 December 1956, as amended
13 June 1969 and 15 December 1972 (L.S. 1956 - Nor. 2).

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National Insurance Act, No. 12, 17 June 1966 (L.S. 1966 - Nor. 3).

The fact of having reached pensionable age alone is not a valid reason for giving notice when the employee is under 70 years of age (section 14 of the Workers' Protection Act, as amended 15 December 1972 and section 43 of the Act concerning working conditions for agricultural workers, as amended 15 December 1972). When an employee over 67 years of age, whose efficiency has been reduced through sickness or injury, asks for a transfer, the employer must investigate the possibility of transferring him to a type of work that would be more suitable considering his age and state of health. The fact of having reached pensionable age under the National Insurance Act of 17 June 1966 is thus not in itself a valid reason for dismissal. However, these provisions have no influence upon dismissals due to the fact that the employee has reached pensionable age according to private or other public pension schemes.

Civil servants whose employment has been terminated are not entitled to receive a certificate since they are not covered by section 45 of the Workers' Protection Act. The amendment to section 17 of the Basic Agreement between the Federation of Trade Unions and the Employers' Confederation provides that any employee who has been dismissed has the right to receive a certificate in which the employer is entitled, without giving any particular reason, to make an entry stating that the employee has been dismissed.

In respect of income protection, it can be noted that obligatory and statutory provisions regarding unemployment benefits exist. The employees who lose their jobs without any fault of their own have, under certain conditions, the right to daily cash benefits from the National Insurance Scheme. Information on these benefits has been given in reports on the application of Conventions Nos. 44 and 102.

The labour inspection services give guidance about the provisions of the Workers' Protection Act which contain protection against dismissal, but it is the employee in question who must claim his rights under these provisions. Disputes are settled by the courts. In its guidance service, the Directorate of Labour Inspection gives full publicity to this Recommendation, underlining the general requirement of valid reasons that have to be taken into account in case of termination of employment. The Directorate considers the provisions of the Recommendation as supplementary when it is a question of determining whether reasons for dismissal are valid.

The Employment Act of 27 June 1947 makes it mandatory for the employers to inform the employment service authorities without delay when decisions have been made either as regards production changes or reductions in the operations of the undertaking. Under section 14 of this Act, any employer who wants to reorganise or to curtail his activity and who gives notice to at least ten employees within one month or gives them leave of absence without pay, or who reduces the weekly working hours to less than thirty hours, must notify the local employment service two months before such reorganisation or curtailment takes effect, unless it is impossible to predict it at such an early date. In case of considerable financial difficulties or reasons of a substantial commercial nature, the employer may give notice to the county employment manager or to his deputy and require that they deal with it confidentially, until the employees have been notified. In that event appropriate measures

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may be discussed between the employer, the Labour Directorate, the local bodies and the relevant ministry, before the reduction or the reorganisation are known and put into effect. These provisions do not apply either to work in agriculture, forestry, whaling, sealing and fishing and the laying up of ships abroad, or to dismissals for the purpose of effecting a lockout (section 1 of the Labour Disputes Act, 5 May 1927) or to the suspension or reduction of work due to circumstances which give the employer the right to dismiss the employees at shorter notice (section 42 of the Workers' Protection Act). The Labour Directorate may stipulate other limitations of the obligation to give notice. This notice does not exempt the employer from giving the employees notice provided by law, labour agreements or labour regulations.

Criticism has been made as to the efficacy and mode of implementation of the present advance notification procedures, with a view to obtaining a satisfactory result. The Ministry of Local Government and Labour has therefore appointed an outside expert to investigate the possibilities of a better advance notification system.

No legislative provisions impose on undertakings the obligation of notifying local authorities about impending reductions or changeovers. In this respect voluntary co-operation between undertakings and local authorities has to be relied upon. The employment service authorities seek to secure through their ordinary measures (placement benefits to increase mobility and adult vocational training) new employment for employees who have become redundant because of reduction in the operations of undertakings.

Section 9, paragraph 2 of the Basic Agreement between the Federation of Trade Unions and the Employers' Federation provides that a discussion between the management and the shop steward should take place as early as possible on plans for reduction.

During the winter 1971-72, the employment service authorities established a preparedness plan against unemployment which included the establishment of a so-called preparedness committee, consisting of representatives of the Ministry of Industry, the Ministry of Local Government and Labour, the Regional Development Fund and the Directorate of Labour, whose task is to find ways and means to counteract the consequences of dismissals and works closure and to help to implement and co-ordinate such measures.

The Government supplies detailed information regarding the application of the Recommendation to seamen, agricultural workers, civil servants and certain other public employees.

Migrant workers. The Workers Protection Act applies equally to Norwegian and foreign citizens. Unemployment benefits apply only to Norwegian citizens and residents of Norway, Denmark, Finland, Iceland or Sweden.

PAKISTAN

West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 18 May 1968 as amended (L.S. 1968 - Pak. 1).

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Industrial Relations Ordinance, 25 October 1969 as amended
(L.S. 1969 - Pak. 2).

The West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance applies to all commercial establishments employing 20 or more workers and to industrial establishments employing 50 or more workers (but the provincial governments are entitled to extend its provisions about termination of employment to industrial establishments employing 20 or more workers). Under Standing Order No. 12, the employment of a permanent worker cannot be terminated without giving one month's notice or one month's wages in lieu thereof. The employment of a temporary worker may be terminated without such notice, but reasons for termination of all employments must be assigned.

Under the West Pakistan Shops and Establishments Ordinance, 1969, which applies to establishments not covered by the Standing Orders Ordinance, a permanent employee whose employment is to be terminated must be given by the employer one month's notice in writing.

Under section 7 of the Road Transport Workers Ordinance, 1961, services of such a worker cannot be terminated without sufficient cause, unless one month's previous notice or one month's wages in lieu thereof has been given and until he has been paid wages for any period of leave which he has not taken.

Under section 8 A of the Industrial Relations Ordinance, 1969, the services of a trade union officer cannot be terminated during pendency of an application for registration of the union except with the prior consent of the Registrar of Trade Unions. Similarly, services of a worker who is a party to an industrial dispute cannot be terminated except with the approval of the conciliator, where the industrial dispute is under conciliation, or with the prior approval of the labour court or labour appellate tribunal where the dispute is under adjudication before such court or tribunal. Under section 15 of the Industrial Relations Ordinance, dismissal, discharge or removal of any workman due to his participation in the promotion or formation of union activities, is prohibited.

When a worker is aggrieved by his termination, dismissal, discharge or retrenchment, he may apply either directly or through his union to a junior labour court for his reinstatement. The court must give its decision within a week after the said application.

In case of dismissal for serious misconduct, the worker must be given an opportunity to be heard in an independent inquiry (Industrial and Commercial Employment Ordinance, Standing Order No. 15).

A worker whose employment has been terminated for reasons other than misconduct is entitled to receive all his dues, including gratuity equal to 20 days' wages for each completed year. In the case of dismissal, he is not entitled to gratuity or notice in lieu thereof, but he is entitled to receive the amount to his credit in the provident fund.

Workmen who have been retrenched are given within one year priority of re-engagement if the employer again engages workmen. The employer is required to notify by registered post the retrenched workmen of the category concerned an offer of re-employment according to their seniority.

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The provincial governments are responsible for the implementation of the legislation. The employers' and workers' organisations are free to take up the matter of non-implementation of the legislation with the Federal and Provincial Governments. They may also approach the judicial bodies.

PANAMA

The Labour Code, sections 210 to 229 (Official Gazette, 18 February 1972) (L.S. 1971 - Pan. 1).

Under section 214 of the Code, the employer is under an obligation to supply a worker dismissed by him with a letter explaining the specific reasons for the dismissal.

In the event of unjustifiable unilateral dismissal, the employer must give thirty days' time off, or pay compensation equivalent to the wages for this period, plus an indemnity, as specified in section 225.

If there were good and proper reasons for dismissal, the position may be as defined in section 213 (A and B), with no need for the payment of compensation. Or it may be as defined in C of the same section, dealing with economic reasons for dismissal; in which event the employer must pay separation compensation (section 225 of the Labour Code).

Should the employer be unable to prove in court that there were good reasons for dismissal, the worker affected has two months in which to make up his mind whether to demand reinstatement and the wages which would have been due to him, or compensation plus the wages accruing up to the date of the verdict.

No worker who has been employed for two years may be dismissed without good and sufficient reason. Before these first two years are up, unilateral dismissal is possible, but the employer has to offer compensation and pay a sum equivalent to the period of notice.

Workers occupying positions of trust are subject to the same principle, but are not protected against unilateral dismissal until they have been employed five years.

PERU

I. Methods of Implementation

Act No. 11,377 of 29 May 1950 respecting the dismissal of civil servants (Anuario de la legislación peruana, Vol. 41, Jan.-July 1950, p. 201).

Legislative Decree No. 18,471 of 10 November 1970, to prescribe the grounds for dismissal of workers employed in the private sector (and those in public undertakings covered by the legislation applying to the private sector) (El Peruano, 11 Nov. 1970; L.S. 1970 - Per. 3).

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Legislative Decree No. 19,334 of 28 March 1972 respecting the security of tenure in employment of workers employed in industrial undertakings relevant to the national interest or national security (El Peruano, 29 Mar. 1972).

Legislative Decree No. 18,139 of 6 February 1970 respecting the employment of journalists.

Legislative Decree No. 19,479 of 25 July 1972 respecting the employment of performers (El Peruano, 26 July 1972).

Presidential Decree No. 006/72 TR of 30 May 1972 and Presidential Decree No. 007/71 TR of 30 November 1971 respecting the procedure in the labour courts (El Peruano, 1 June 1972, *ibid.*, 1 Dec. 1971).

II. Standards of General Application

The valid reasons for dismissal are specified in the law and are connected with the capacity and conduct of the worker or based on the operational requirements of the undertaking.

Act No. 11,377 of 1950 lays down that the employment of civil servants may be terminated only in the event of serious misconduct and after the administrative procedure has been exhausted.

Under Legislative Decree No. 18,471 of 1970, every dismissal of a worker must be notified to the labour authorities, with an indication of the grounds. The lawful grounds for dismissal are serious misconduct and reduction of staff or laying off of the entire staff, with the authorisation of the labour authority.

Paragraph 6 of the Recommendation. The authority in question is empowered to order the reinstatement of the worker if the employer is unable to prove that his decision is well founded. The worker is entitled in this case to the payment of unpaid wages.

Under Legislative Decree No. 19,334, a worker in an industrial undertaking relevant to the national interest or national security may not be dismissed for serious misconduct until the matter has been investigated by a commission of inquiry and the misconduct proved to the satisfaction of the competent authorities.

Legislative Decree No. 18,139 of 1970 provides that journalists may be dismissed only for serious misconduct, the peremptory closing down of a specialised section or another reason recognised as justifiable by the labour authority.

Legislative Decree No. 19,479 of 1972 lays down that performers are governed as far as dismissal is concerned by Legislative Decree No. 18,471.

III. Provisions concerning Reduction of the Work Force

Legislative Decree No. 18,471 describes the procedure to be followed for the suspension or termination of the employment of all or part of the work force or for the reduction of the number of workers, shifts, hours or days of work.

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Section 5 of the Legislative Decree provides that an application for the discharge of staff must be made to the Ministry of Labour, which advises the competent ministry, and must be brought to the notice of the workers.

The labour authority must then convene the conciliation board, and in the event of disagreement between the workers and the employer the matter must be referred to the Subdirectorate of Labour in the first instance and to the Regional Directorate of Labour in the second and final instance.

In this case thirty days' notice of dismissal must be given. The workers concerned must be given priority if the employer decides to take on new staff, failing which they are entitled to demand their reinstatement and payment of remuneration equivalent to that received by the new staff for the days not worked by them until their reinstatement. If a worker decides to terminate his employment he is entitled, in addition to the remuneration indicated above, to three months' wages.

IV. Scope

The legislation applies to all workers in the country without discrimination. The labour authority is responsible for the application of the provisions mentioned above so long as the employment relationship is maintained. Once this relationship is broken off competence passes into the hands of the labour courts.

POLAND

Act of 2 July 1924, as amended, respecting the employment of women and young persons (L.S. 1924 - Pol. 2), Part III, section 16.

Decree of 6 February 1945, as amended, to institute works councils (L.S. 1945 - Pol. 2 A), sections 3 and 28.

Act of 4 February 1950, as amended, respecting the Social Inspectorate of Labour (L.S. 1950 - Pol. 1), section 9.

Ordinance of the Council of Ministers dated 24 April 1954, respecting arbitration committees (L.S. 1954 - Pol. 1 B), paragraph 12.

Decree of 18 January 1956, as amended, to restrict the right to terminate contracts of employment without notice, and to ensure continuity of employment (L.S. 1956 - Pol. 1), section 17.

Civil Code, Act of 23 April 1964.

Protection of the employment relationship is assured, not by the obligation to have a valid reason for terminating a contract of employment but by: (a) the provisions of the civil law, on the basis of which workers may appeal against dismissal, and under the terms of which the exercise of a right in a manner inconsistent with the social and economic objectives of the law is deemed to be a breach of the law and does not enjoy the protection of the law; (b) the general obligation upon establishments where work is performed to

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consult the appropriate trade union bodies with respect to the termination of employment relationships; (c) clauses in certain collective labour agreements whereby a dismissal is valid only after obtention of the consent of the works council of the undertaking concerned; (d) the fundamental principles of the social and economic system, which guarantees employment to all citizens capable of working.

There are moreover certain restrictions upon the freedom of establishments to dismiss workers. For instance, under the terms of the law, workers who perform social functions, who find themselves in special personal or family circumstances or who are on sick leave or absent for a justifiable reason (up to a maximum length of time specified by law) may not be dismissed. This protection is extended, for example, to members of works councils, members of arbitration committees and social tribunals, disabled war veterans and servicemen and workers performing their military service and their wives, pregnant women or women on maternity leave and young persons during their vocational training period.

More severe restrictions are imposed in the case of instant dismissal. A worker dismissed without notice who has not committed serious misconduct, or discharged without an important reason, or without the consent of the works council of the establishment in the case of dismissal for serious dereliction of duty, may successfully apply either for reinstatement on the same terms as before, with payment of unpaid wages for the time during which he was unemployed, or for appropriate compensation.

The arbitration committees and the competent courts, which have not only the right but a duty to review every case of dismissal as regards its conformity with the law and with the principles of social justice, are responsible for supervising the general protection of employment relationships.

The body called upon to settle disputes arising in connection with the termination of an employment relationship is required not only to examine the case from the standpoint of the claims made against the employer but also to assess on its own initiative all the circumstances surrounding the case and then to decide, bearing in mind the conduct of the worker and the manner in which he has performed his work, whether the termination of the contract may be deemed to be consistent with the principles of social justice. If it concludes that the worker has not so acted as to give grounds for dismissal, or that the employer has taken his decision without a valid reason - bearing in mind in particular the principles governing the functioning of an establishment where work is performed - it may decide that the worker should be reinstated and the unpaid wages paid to him.

Certain social organisations - and first and foremost the trade unions - are likewise authorised to act on the workers' behalf. They may, for instance, appeal to a court in the name of the worker concerned or on their own account. They may also intervene to contest a dismissal, at the worker's request, through channels other than the law courts. In principle they are not in a position to counteract the effects of the legal action undertaken by employers, but in practice their intervention often results in the revocation of the termination of a contract of employment, especially in cases where social interests or a cause of particular importance to the worker are at stake.

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QATAR

The Labour Law No. 3 of 1962 provides for the termination of contracts of service.

ROMANIA

Constitution.

Act of 26 March 1970 respecting the organisation of work discipline in state socialist units (Buletinul Oficial al Republicii Socialiste România, No. 27, 27 Mar. 1970).

Labour Code, Act No. 10 of 23 November 1972, which came into force on 1 March 1973 (Buletinul Oficial, No. 140, 1 Dec. 1972; L.S. 1972 - Rum. 1).

Paragraph 2 of the Recommendation. The valid reasons for dismissal are connected either with the capacity or conduct of the worker or the requirements of the undertaking, the cases in which a contract of employment may be terminated on the initiative of the unit, as listed in section 130 of the Labour Code, being as follows: the reorganisation, disbanding or move to another locality of the unit; the worker's failure to meet the occupational requirements of his post; the reinstatement in the post of the former holder by a court decision; the retirement of the worker; serious misconduct or repeated breaches of his work obligations, including the standards of conduct in the unit; the worker's conviction of an offence related to his work; his being held in custody for more than sixty days, or a court order prohibiting him from carrying on his occupation. Where a contract is terminated on the initiative of the unit, the trade union committee must be consulted.

Paragraph 3. If a worker is dismissed who is a member of the union committee or of another trade union organ, the higher trade union organ must also be consulted. In the case of workers' representatives elected to the unit's collective management organ or judicial commission, the approval of the body which elected him (i.e. the General Assembly of Workers) must be obtained (section 132 (1) of the Labour Code).

Non-state supervision of compliance with the legal provisions relating to labour relations is organised and exercised by the trade unions, in accordance with the law and with their by-laws (section 181 (2) of the Labour Code).

Paragraphs 4 and 5. A worker may appeal against his dismissal within thirty days to the courts (section 174 of the Labour Code). Workers in managerial posts must address their appeal to the next higher administrative organ (section 175 of the Labour Code).

As well as being able to conduct their own defence, workers are defended before jurisdictional organs and before organs of the State and of the public by the trade union organisations (section 169 of the Labour Code).

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Paragraph 6. If the jurisdictional organs find that a worker was dismissed without justification they may order the undertaking to reinstate the worker in his post and pay him damages for the period during which he was deprived of his wages (section 136 of the Labour Code).

Paragraph 7. A worker whose contract of employment is to be terminated is entitled to notice only in case of termination on certain grounds. If the unit fails to give him the due notice of fifteen days he is entitled to compensation equal to half a month's wages (section 131 of the Code).

Paragraph 8. At the time of the termination of the contract of employment, the unit must hand over to the worker his work book, which must contain full particulars concerning his engagement and termination and the type of work he has been doing, but include nothing unfavourable to the worker (section 137 of the Labour Code).

Paragraph 9. Arrangements are made for the placement in other jobs of workers discharged as a result of reorganisation measures either by the units concerned or through the intermediary of the employment exchanges.

Paragraph 10. The Labour Code does not provide for the giving of a period of notice or of compensation in lieu thereof in the event of dismissal for serious misconduct. In the event of infringement of the rules of discipline it is compulsory for the worker concerned to be given a hearing and for his case to be studied carefully (section 13 of Act No. 1 of 26 March 1970 respecting the organisation of work discipline). A unit may terminate the contract of employment of a worker who has committed serious misconduct not later than one month from the date upon which the manager of the unit becomes aware of the serious misconduct (section 130 (2) of the Labour Code).

Paragraphs 12 to 17. In the event of reduction of the work force following the reorganisation of a unit all the parties concerned are consulted, including the trade unions. Criteria similar to those set forth in the Recommendation, such as the need for the efficient operation of the unit, the ability, experience, skill and occupational qualifications of individual workers, their age and their family situation, are taken into consideration.

The problem of giving priority of re-engagement to workers dismissed by a unit as a result of reorganisation does not arise, since the units themselves have to take every possible action to find them other employment.

The authorities entrusted with the supervision of the application of these provisions are, as concerns the units, the different ministries and other central public and state organs responsible for them, and, as concerns the trade unions and the actual performance of work, the Ministry of Labour.

SINGAPORE

Employment Act, 6 August 1968, as amended in 1970 (L.S. 1968 - Sin. 1).

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Industrial Relations Act No. 27 of 1965 (L.S. 1965 - Sin. 1) as amended in 1968 (L.S. 1968 - Sin. 2).

Paragraphs 2 to 7 of the Recommendation. Under section 35 (2) of the Industrial Relations Act, statutory safeguards against unfair dismissal are provided for union employees. Remedies for unfair dismissal would include both reinstatement and compensation. A union worker who feels that his employment has been terminated without just cause or excuse may, within one month, make written representations through his trade union to the Minister of Labour, requesting reinstatement in his previous employment. An opportunity is then given for resolving the case by conciliation and where no settlement is reached, the Commissioner of Labour holds an inquiry under section 34 (3) of the same Act and submits his recommendations to the Minister whose decision is final. Where an employee is dismissed or threatened to be dismissed under the circumstances listed in section 81 (1) of the Industrial Relations Act, the Industrial Arbitration Court, which comprises the President or Deputy President and a member each of the Employer and Employee Panel sitting in session, is empowered to make an award.

Currently no redress is provided by law for non-union employees who suffer unfair or arbitrary dismissal if the employer has met the terms of the contract, e.g. with regard to giving notice. However, an employee who is dismissed on account of redundancy may negotiate with his employer for the payment of retrenchment benefit.

Where the contract of service does not provide for the length of notice of termination, the minimum periods are provided in section 10 of the Employment Act. Where insufficient or no notice of termination is given by the employer, the employee is entitled to payment in lieu thereof.

Paragraph 8. The law does not oblige employers to provide the employee with a certificate. However, in practice many employers supply such certificates on the request of the employee.

Paragraph 9. In some cases, retirement benefit is payable to a long-service employee whose employment has been terminated, in addition to the statutory compulsory Central Provident Fund, as a result of negotiations between the employer and the employee or the trade union representing him.

Paragraph 11. In case of dismissal for serious misconduct, section 14 of the Employment Act provides that the employer may, after due inquiry, dismiss the employee without notice on grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his service. Before the decision to dismiss a worker for serious misconduct becomes effective the employee is usually given an opportunity to state his case. Where the worker concerned is a union employee, an inquiry is held in the presence of the workers' representatives before a decision is taken.

Paragraphs 12 to 15. Positive steps taken to avert or minimise as far as possible reductions of the work force include the transfer of workers from sections where they are redundant to vacant posts in other sections, and suspension of further recruitment when employees retire or resign from employment.

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Sometimes, when a reduction of the work force is contemplated, workers' representatives are consulted and the assistance of the Ministry of Labour is sought whenever necessary.

If a proposed reduction of the work force is on such a scale as to have a significant bearing on the manpower situation of a given area or branch of economic activity, the employer usually notifies the Ministry of Labour in advance of such reduction.

The selection of workers to be affected by a reduction of the work force is at the discretion of the employer and depends on the interests of the undertaking. However, the principle of "first in - last out" is often observed.

Paragraph 17. Employees whose employment has been terminated as a result of a reduction of the work force may register at the Employment Service of the Ministry of Labour which tries to place them in alternative employment without undue delay.

Action is being taken to provide non-union employees the same legal protection against unfair dismissal as that enjoyed by union employees.

SPAIN

Act respecting the employment contract (1944) (Official Gazette, February 1944) (L.S. 1944 - Sp. 1).

Decree to define the general principles of social security, No. 907, dated 21 April 1966 (Official Gazette, 22 and 23 April 1966) (L.S. 1966 - Sp. 3 A).

Decree dated 21 April 1966 concerning procedures applicable in labour tribunals (Official Gazette, 23 April 1966).

Decree 1265/71 to regulate the trade union status of alien workers in Spain (Official Gazette, 1 June 1971) (L.S. 1971 - Sp. 3).

Decree 1878/1971 to issue rules concerning legal protection and guarantees concerning persons elected to trade union office (Official Gazette, 13 August 1971) (L.S. 1971 - Sp. 4).

Decree 3090/1972 on employment policy (2 November 1972) (Official Gazette, 15 November 1972).

Order dated 18 December 1972 governing short general educational and technical courses and additional costs of advanced technical training courses for the registered unemployed (Official Gazette, 2 February 1973).

Order dated 18 December 1972 governing action taken with a view to advanced technical training under the Employment Policy Decree (Official Gazette, 2 February 1973; errata: 2 April 1973).

Order dated 18 December 1972 concerning procedures for the cessation, suspension or modification of employment contracts (Official Gazette, 2 February 1973).

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Paragraph 2 of the Recommendation. Sections 76 (paragraph 5 (a), 7 (a) and 8 (a), 77, 79 and 81) of the Employment Contract Act, the Decree dated 2 November 1972 and the Order dated 18 December 1972 (procedures governing the cessation, suspension and modification of employment contracts) apply this particular paragraph.

Paragraph 3. By virtue of Decree 1878 (23 July 1971) on the legal system of guarantees applicable to persons elected to trade union office in modification of Decree 1484 (2 June 1966), and of Decree 1265 (9 June 1971) concerning the trade union status of foreign workers in Spain, Spanish legislation is entirely in accordance with subparagraphs (a) to (d) of this paragraph.

Paragraph 4. The Decree dated 21 April 1966 on the procedure applicable in labour courts, sections 2 (a) and 3 (a), Part II, Book II, sections 97 to 117, deals with a worker's right to appeal to the labour courts should he feel that he has been wrongfully dismissed.

Paragraph 5. The Decree dated 21 April 1966 and the Organic Law on Labour Courts (17 October 1940), plus the Decree dated 14 November 1958 on organisation of the order of labour magistrates and registrars define the terms of reference of these bodies.

Paragraph 6. Section 81 of the Employment Contract Act and sections 103 to 105 of the Procedural Decree (1966) deal with this.

Paragraph 7. Essentially this Paragraph is applied whether separation took place for individual reasons or was prompted by technical or economic factors. Because he receives a written notice of dismissal, the worker can always appeal to the courts in full knowledge of the grounds for complaint against him, and hence can prepare his defence.

Although there may be no formal notice, in fact, there may be a compensatory allowance. Furthermore, in certain circumstances the worker may claim unemployment allowance (sections 172 et seq. of the Social Security Decree). Should a worker feel that he has been wrongfully dismissed, and take the matter to the courts, he is given time to look for another job (section 98 of the Procedural Decree, 1966). Should his dismissal take place because of a staff reduction, the Decree dated 18 December 1972 provides guarantees in his favour. Section 15 of this Decree offers better protection than that extended under the Recommendation.

Paragraph 8. The employer is obliged under section 75-5 of the Employment Contract Act to supply a dismissed worker with a certificate, in which nothing prejudicial to the worker may appear.

Paragraph 9. Sections 172 to 177 of the Social Security Decree provide for unemployment benefits, supplementary allowances and others.

Paragraph 10. Section 97, paragraph 3 of the Procedural Decree (1966) provides for consultation with the workers' representatives whenever there is a works council.

Paragraph 11. Section 77 of the Employment Contract Act provides a list of cases in which (and only in which) dismissal for "serious misconduct" may take place. Hence a labour magistrate will

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only deliver a verdict of "dismissal for serious misconduct" if the charges levied against the worker are duly proved (Procedural Decree, 1966, section 102). He will grant no compensation to the worker (Decree, section 103).

An employer cannot forgo his right to dismiss for "serious misconduct" since in most of the cases listed in section 77 the worker in question has consistently behaved very badly. However, should he have been guilty of one isolated act of reprehensible conduct, it is assumed that if his employer does not immediately dismiss him he has, ipso facto, decided to overlook it, in which case the end result is as provided for in the Recommendation.

Section 82 of the Employment Contract Act lays down circumstances in which a worker may be deprived of his right of appeal against the employer's decision. In Spanish law, a dismissed worker has ample possibilities of defending his interests when he appeals to the labour courts.

Paragraph 12. The Decree dated 2 November 1972 and the Order dated 18 December 1972 deal with these matters.

Paragraph 13. Employers are not bound by a consultation with the workers' representatives. Besides which, sections 12 et seq. of the Decree dated 2 November 1972 and the corresponding sections of the Decree dated 18 December of that same year afford the workers excellent guarantees.

Paragraph 14. Spanish law goes further than the Recommendation. Not only must notice be given to the authorities; the latter are called upon to devise plans of reorganisation by sectors or groups having regard to social and economic circumstances, technical developments, and the medium- and long-term prospects (Decree dated 2 November 1972, sections 22 to 25).

Paragraph 15. Section 15 of the Employment Policy Decree dated 2 November 1972 lays down the following criteria for selection: elective trade union office; family responsibilities (bread-winner for a big family); physical or psychological condition (handicapped workers); age (older workers) and seniority.

Paragraph 16. The plan for reorganisation mentioned under Paragraph 14 above provides for priority in re-employment to be given to redundant workers in undertakings within the same branch or sector (Decree dated 2 November 1972, section 24). Similarly, Chapter IV of this Decree and the Order dated 18 December 1972 (on further occupational training), section 4 (2), makes special provision for the upgrading of these workers.

Paragraph 17. The Employment Policy Decree was chiefly designed to achieve full employment, which is the fundamental objective of economic and social development. Accordingly, the provisions of this Paragraph are put into effect by the public employment authorities.

Paragraph 18. Spanish legislation does not invoke these exceptions. Nevertheless, civil servants with a purely administrative status are not subject to labour law (Employment Contract Act, section 8).

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Paragraph 19. Section 9 of the Employment Contract Act and section 1 (1) of the Decree dated 5 June 1962 lay down standards to be applied in the event of conflict between the law and collective agreements or works regulations.

SRI LANKA

Industrial Disputes Act, No. 43, 16 December 1950 (L.S. 1950 - Cey. 1).

Termination of Employment of Workmen Act, No. 45, 28 October 1971
(Special Provisions) (L.S. 1971 - Cey. 1).

The Termination of Employment of Workmen Act (1971) has been enacted with a view to preventing arbitrary and capricious dismissals on grounds such as lack of raw materials, financial incapacity and redundancy. It provides that an employer cannot terminate the contract of a workman for reasons, otherwise than by reason of a punishment imposed by way of disciplinary action, without the prior written consent of the worker or the prior written approval of the Commissioner of Labour. Under this Act, termination is deemed to include also non-employment of a workman, whether temporarily or permanently.

Any termination effected in contravention of the provisions of this Act is null and void, and the workman who has been so terminated must be continued in his employment, on an order made by the Commissioner of Labour, in the same capacity as before, with payment of all benefits he would have received if his services had not been terminated.

In all inquiries under the Act, the Commissioner of Labour, or any officer he delegates, must follow the principles of natural justice and equity in determining the validity of the reasons adduced for the termination of employment. The aggrieved workman is present at such inquiries and he is entitled to be represented by a lawyer, trade union or friend.

Under the Industrial Disputes Act (1950), any workman whose employment has been terminated can ask for relief at the labour court in respect of his termination.

The provisions of the Termination of Employment of Workmen Act (1971) do not apply to certain categories of employers and workmen: (a) employers employing less than 15 employees on average for a period of 6 months prior to such termination; (b) workers employed for less than one year; (c) the Government, local government service commission, any local authority, any co-operative society, any body, corporate or unincorporate whose capital is wholly provided by the Government, in its capacity as an employer; (d) workmen employed by an employer in contravention of the provisions of any law for the time being in force; (e) workmen not in certain scheduled employment, as laid down in the Schedule to the Act.

Migrant workers. They are protected by the provisions of the Termination of Employment of Workmen Act (1971), and all terminations resulting from repatriation, retirement, retrenchment and lay-off have to be effected under the express provisions of the Act.

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SUDAN

Employers and Employed Persons Ordinance, 1948, as amended in 1969.

Trade Disputes Act, 1966, as amended in 1969 (L.S. 1966 - Sud. 1).

Paragraph 2 of the Recommendation. Termination of employment connected with the capacity or the conduct of the worker or based on the operational requirement of the undertaking is dealt with in the Employers and Employed Persons Ordinance, 1948, as amended in 1969.

Paragraph 3. These provisions are covered by the Trade Disputes Act, 1966, as amended in 1969 (section 10).

Paragraph 4. A worker who feels that his employment has been unjustifiably terminated is entitled to forward his complaints to the Labour Department, which makes the necessary inquiries and must try to solve the dispute according to the laws in force.

Paragraphs 5 and 6. The Commissioner of Labour has the powers provided for in these provisions.

Paragraph 7. Section 10 of the Employers and Employed Persons Ordinance provides for termination of contracts of service by notice. Implementation of Paragraph 7 (2) of the Recommendation depends on the good relations between employers and employees.

Paragraph 8. The Employers and Employed Persons Ordinance makes provision in this regard.

Paragraph 9. The aims of this provision are met in respect of employees whose conditions of service qualify them to receive severance allowance, insurance allowance or pensions.

Paragraph 10. The purposes of this provision could be achieved only through collective bargaining between employers and employees and it mainly depends upon the free choice of the employers.

Paragraph 11. Sections 10 and 11 of the Employers and Employed Persons Ordinance, 1948, contain provisions on these matters.

Paragraph 12. Under section 27 of the Trade Disputes Act, reduction of the work force for any reason is not allowed unless inquiries about the validity of the reasons of such reduction are made.

Paragraph 13. When a reduction of the work force is contemplated consultation with workers' representatives takes place, in practice, in some establishments and corporations.

The Labour Department has advised employers to give their workers leave with pay to ensure the continuation of their service until a solution is reached, and has contacted other competent public authorities on behalf of the employers with a view to solving or minimising the reasons which cause the reduction of the work force (such as delay in the import of raw materials or bottlenecks in transportation).

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Paragraph 14. Under section 27 of the Trade Disputes Act, the employer cannot lock out the work place totally or partially without the consent of the Minister of Public Service and Administrative Reform.

Paragraph 15. The criteria of selection of workers to be affected by a reduction of the work force laid down in the Recommendation are not clearly stated in the legislation but they are given due weight when such actions are taken.

Paragraph 16. When it approves a reduction of the work force, the Department of Labour usually states that priority should be given to workers whose employment has been terminated owing to the reduction.

In case of re-engagement, priority should be given to workers having seniority.

In practice, the workers who are re-engaged are paid the same wages they were paid before the reduction of the work force.

Paragraph 17. The labour employment exchange offices usually give priority of re-engagement to employees whose employment has been terminated.

Paragraphs 18, 19 and 20. The aims of these provisions are covered by the Employers and Employed Persons Ordinance.

SWEDEN

Collective Bargaining Act, No. 506, 11 September 1936 (L.S. 1936 - Swe. 8).

Act No. 727, 14 October 1939, respecting Prohibition Against the Dismissal of Employees by Reason of National Service (L.S. 1939. - Swe. 6).

Act No. 844, 21 December 1945, respecting Prohibition Against the Dismissal of Employees by Reason of Marriage or Pregnancy.

Workers' Protection Act, No. 1, 3 January 1949 (L.S. 1949 - Swe. 1).

Act No. 199, 4 June 1971, respecting Protection of Employment for Certain Employees (L.S. 1971 - Swe. 2).

Basic Agreement between the Swedish Employers' Confederation and the Confederation of Swedish Trade Unions, 1938, as amended in 1947, 1958 and 1964.

In recent years the question of security of employment has come increasingly to the fore, as a result of current structural changes on the labour market. Development has put large groups of employees, above all the elderly and those with a reduced working capacity, in an even more exposed position.

On the basis of a report of a government committee of experts on job security appointed to study these questions, the Government has submitted to Parliament in a Bill (1973:129) a draft Protection

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of Employment Act and a draft Act concerning Certain Measures to Promote Employment, to replace, among other legislation, the Act concerning Protection of Employment for Certain Employees, and the relevant rules now included in collective agreements.

The draft Protection of Employment Act provides that termination of employment at the initiative of the employer shall have objective grounds, that in case of dispute, the question of validity of the termination can be submitted to a court of law and that the employee has, as a rule, the right to remain at work until such a dispute is settled.

The employee would be entitled to receive one month's notice of termination, increasing with age to six months, after a minimum period of employment.

Under the proposed Act, the order in which employees are separated or laid off by reason of a work shortage would, in principle, be dependent on their seniority in the firm. Such employees would enjoy, for one year from the date of termination, priority of re-employment with the previous employer. Advance notice to employees' organisations of intention to separate or lay off labour would be required. The draft Act concerning Certain Measures to Promote Employment would require the employer to notify the County Labour Board before a cut-back in operations which involves termination of employment between two and six months in advance, depending on the number of employees to be affected.

The Act would apply to foreign workers and, in principle, to all employees in public and private service. Cases relating to application of the Act would be tried, in the case of non-organised employees, by a general court. Otherwise, the case would be tried by the labour court. Disputes could, if so agreed, be referred to arbitration for decision.

The above-mentioned proposed legislation does not contain income protection for workers whose employment has been terminated. However, rules in this field are incorporated in special legislation. In the case of cash support during unemployment, the Government has recently proposed new legislation. Since 1970, legislation provides for a state pay guarantee in cases of bankruptcy.

SWITZERLAND

The Civil Code.

Federal Act dated 25 June 1971 to amend Parts X and X (bis) of the Code of Obligations (Labour Contract) (L.S. 1971 - Sw. 1).

The questions raised in the Recommendation are dealt with by legal provisions, collective agreements, model contracts, individual employment contracts, decisions by the courts and arbitration awards.

Paragraph 2 of the Recommendation. A worker dismissed in the ordinary way can complain of unfair treatment within the meaning of section 2 (2) of the Civil Code. The law contains no special provision on ordinary, but wrongful dismissal, unless a contract is terminated because of military service (Code of Obligations,

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section 336 g). On the other hand, it does allow summary dismissal for good and sufficient reasons.

Paragraph 3. Abuse of the right to dismiss is defined by case law. Should there be a dispute about a case of summary dismissal, the law lays down that the judge may not consider, as a "good and sufficient reason", the fact that the worker has been unable to work for reasons beyond his control. As regards the reasons listed in Paragraph 3 of the Recommendation, Swiss jurisprudence does not consider, or has not considered them as valid reasons for either ordinary or summary dismissal.

Paragraph 4. A worker who feels that he has been dismissed without good and sufficient reason may start proceedings against his employer in courts which according to cantonal law are competent to hear his case. In general, any case brought by a worker against an employer suffers prescription after five years; in the event of dismissal because of military service, the worker must complain in writing to the employer within thirty days. Representation in the courts competent to hear cases concerning employer-worker relations is not allowed in all cantons. A worker bound by a collective agreement can also appeal to a body set up under the agreement.

Paragraph 5. The court considers the reasons adduced for dismissal, and all other pertinent factors, and gives its views on the question of whether the dismissal was justified or not, if asked to do so by the worker dismissed. Bodies set up by collective agreement usually proceed in the same way.

The courts are not entitled to intervene in deciding on the size of staff in undertakings and establishments, but there is nothing to prevent collective agreements from assigning such authority to some body set up by them.

Paragraph 6. Unless the worker has been reinstated, a court which has come to the conclusion that his dismissal was unjust must: (a) if the dismissal was ordinary, sentence the employer to pay damages for his abuse of the right to dismiss (if dismissal was for military service, the compensation must not exceed six months' wages); (b) in the event of summary dismissal, condemn the employer to pay the worker's wages until such time as his contract would have expired in the normal way, deducting the money which the worker has, or might have, earned by working elsewhere between the date of his dismissal and the date on which the contract would normally have expired.

Paragraph 7. According to the law, an indefinite labour contract can be terminated during the first year of employment, one month in advance for the end of the month; from the second to the ninth years' employment, two months in advance for the end of a month; and from the tenth year of employment onwards, three months in advance for the end of a month.

These periods may be modified by agreement, but from the second year of employment onwards, not less than one month's notice must be given.

In principle, a fixed-term contract ends when it is due to expire, and there is no need to give notice of dismissal. If prolonged tacitly, it is deemed to continue indefinitely. If the parties have agreed on a period of notice, the contract is also deemed to continue indefinitely, if the requisite notice has not in fact been given.

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During the trial period (which must not exceed three months) dismissal may be notified, under the law, seven days in advance, the dismissal to take effect at the end of a week. But changes in this respect can be made by agreement.

Under the law, a dismissed worker is entitled to such time off as may be needed to find another job. But it does not say whether payment is to be made for the hours devoted to this purpose.

Paragraph 8. According to the law, a worker may at any time ask his employer for a certificate showing the kind of work he has done and how long he was employed, the capacity in which he was employed, the quality of his work and his behaviour.

He can also ask that the certificate show only how long he was employed and in what capacity.

Paragraph 9. The labour market is at present characterised by an acute shortage of labour, so that a dismissed worker should have little difficulty in finding other work. However, should he, through no fault of his own, be unable to find any, he is in principle entitled to a daily allowance, provided he is insured by an unemployment insurance fund. Workers aged 50 and over, with 20 years' service in the undertaking, are entitled to a "long-service grant", equivalent to at least 2 months' wages. This grant, fixed by agreement, has no statutory maximum and the statutory age and seniority limits can be changed by agreement. But, if no separation payment has been stipulated in writing, the worker can only obtain it by an appeal to the judge, who must then decide what an equitable amount would be (it must not exceed 8 months' wages). In addition, the separation payment may be reduced or abolished altogether in certain circumstances (if the worker has for no good reason terminated his contract, or if the employer has with good reason decided on summary dismissal, or if payment would mean serious financial embarrassment for him).

Paragraph 10. The law does not require employers to consult the workers' representatives before making a dismissal, although collective agreements may include a provision to this effect. In practice, however, they rarely do.

Paragraph 11. Serious misconduct may constitute a good and sufficient reason for summary dismissal without notice or compensation. It may also entitle the employer to reduce or even withhold entirely the separation grant. In appropriate circumstances, payment of unemployment benefit may be suspended, for a period depending on the gravity of the offence.

Should there be bona fide reasons why, serious misconduct having been committed, the employer cannot be expected to go on employing the worker concerned, this in itself constitutes good and sufficient reason for summary dismissal (Code of Obligations, section 337, second paragraph).

According to the spirit of the law (and this has been confirmed by verdicts rendered in the courts), an employer entitled to exercise the right of summary dismissal is deemed to have renounced it if he has not exercised the right within a reasonable time from the moment he was apprised that good and sufficient reason for dismissal existed.

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Under the law, there is no provision for a worker to put his case until the decision to dismiss him for serious misconduct has become effective. But such a procedure can be provided for in collective agreements.

Legislation governing employment contracts does not expressly say that serious misconduct is a good and sufficient reason for summary dismissal. But in practice there is no doubt at all that "serious misconduct", as mentioned in the Recommendation is usually taken as justifying summary dismissal for good and sufficient reasons, as defined in the Swiss Code of Obligations, and covers the majority of the cases which arise.

Paragraphs 12 and 13. Negotiations between employers and workers cover these matters.

There is no public authority specially responsible for assisting workers and employers in their talks about staff reductions. Only collective disputes, occurring in this respect, can be brought to the attention of conciliation and arbitration boards set up by the State.

Paragraph 14. The employer is under no obligation to inform the authorities before reducing his staff.

Paragraphs 15 and 16. These matters are dealt with by negotiations between employers and workers.

Paragraph 17. Workers dismissed on the occasion of staff reductions can apply to the cantonal labour offices, which act as employment agencies.

Paragraph 18. The Code of Obligations applies to all kinds of workers in private enterprise, including those bound by fixed-term contracts, short-term casual workers, and probationers. The status of officials is governed by administrative law.

Paragraph 20. In principle, the dismissal of workers with a special status, such as apprentices, commercial travellers and home workers, is subject to provisions no less favourable to them than the general provisions. Hence, in so far as the latter lay down conditions at least as favourable as those of the Recommendation, it can be assumed that the latter is observed with respect to workers with special status.

TRINIDAD AND TOBAGO

Masters and Servants Ordinance, Chapter 22, No. 5.

Industrial Relations Act, No. 23 of 1972.

Under the Industrial Relations Act, dismissal of a worker due to his participation in trade union activities is forbidden (section 42) and power is given to a magistrate to impose certain legal sanctions which include reinstatement of the dismissed worker in case of breach of this provision. Appeal lies against the magistrate's decision.

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Disputes arising in respect of dismissal of a worker for reasons other than for participation in trade union activities are covered by the trade disputes procedure laid down in the Industrial Relations Act which provides that, when the parties cannot reach a settlement by themselves, the Minister of Labour attempts conciliation on his own initiative or upon a report sent to him by the trade union or the employer involved in the dispute. If conciliation fails, the dispute may be referred to the Industrial Court which is empowered to order either the worker's reinstatement or re-employment in his previous or a similar position, with or without payment of compensation or damages, or payment of exemplary damages in lieu of such reinstatement or re-employment. Appeal lies against the Court's decision on a point of law.

The same Act provides for the registration of collective agreements by the Industrial Court. Provisions of every agreement so registered are directly enforceable by the Court. These agreements invariably provide for conditions regulating the flow of severance benefits to workers whose services are terminated by their employers. They cover such aspects as the closure of business and reduction of the work force, requiring employers to hold prior consultation with workers' representatives with a view to finding ways of relieving the impending hardship on the workers including the possibility of continued employment.

In practice, workers dismissed on grounds of serious misconduct lose their claim to severance benefits while workers declared redundant are entitled to receive all terminal benefits.

The Masters and Servants Ordinance provides for minimum periods of notice for dismissal or resignation and penalties for breaches thereof where no express stipulation governs the category of employment. It provides remedies for ill-usage of workers by employers. A magistrate has jurisdiction regarding contracts of employment under the Ordinance and appeal lies against his decision.

Participation of workers' and employers' organisations in the elaboration of legislation and implementation of national programmes respecting labour relations matters is promoted. Consultation is carried on at the industrial and national levels.

TUNISIA

Labour Code, Act No. 66-27 of 30 April 1966 (L.S. 1966 - Tun. 1).

The comparatively new labour law is largely based on the legislation of the most advanced countries and is being constantly improved along the lines of international labour law.

Any employer who dismisses a worker without justification is liable to be sentenced by the courts to pay compensation for wrongful dismissal. The amount of this compensation is determined by the judge, who takes into account the extent of the prejudice sustained by the employee.

Under section 14 of the Labour Code, a contract of employment for an unspecified period ceases to have effect on the giving of

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one month's notice in the case of monthly paid workers and of eight days' notice in the case of other workers, without prejudice to any more favourable arrangements that the employee can claim by virtue of any special regulation, collective or other agreement or custom in the occupation. A contract of employment made for a specified or an unspecified period ceases to have effect:

- (a) by agreement between the parties;
- (b) in the event of serious misconduct by either of the parties; and
- (c) if the contract cannot be performed either as a result of an Act of God or force majeure occurring before or during the performance of the contract or on account of the employee's death.

If an employer dismisses a worker without giving him notice, he is obliged to pay him the wages he would have received during the period of notice.

During the period of notice it is customary to grant the dismissed worker a certain number of hours' leave of absence to seek alternative employment.

If for any reason an employee leaves his employment, he is entitled to a certificate of employment stating the length of his service, the nature of the post or posts he has held and their dates. The employer must not make any unfavourable comments concerning the employee on this certificate.

Except where there has been serious misconduct, dismissed workers are entitled to dismissal compensation, known as length of service compensation, which is calculated on the basis of one day's wages per month of service actually worked in the same undertaking up to a maximum of three months' wages, based on the amount of the wages received at the time of dismissal, this being without prejudice to any more favourable arrangements made by virtue of an agreement between the parties, a collective agreement, special arrangements or custom; this is the case to some extent for permanent agricultural workers (section 371 of the Labour Code) and professional journalists.

An employer wishing to dismiss or lay off all or part of his permanent staff for economic or technical reasons must first inform the competent labour inspectorate for the area. Failure to do so renders the dismissal or lay off unlawful.

The labour inspectorate endeavours to conciliate the parties; if conciliation proves impossible, it convenes a meeting of the appropriate committee for the supervision of dismissals which gives its opinion on the advisability of dismissing or laying off the workers concerned and, where appropriate, of paying compensation (section 21 of the Labour Code). This supervisory committee is made up of an employer and a salaried employee or wage earner who are appointed by the most representative organisations of employers and of workers in the branch of industry or commerce concerned for that particular region, the chairman being the senior labour inspector. Members of the committee, who are bound to secrecy, may ask the employer to justify his reasons. The employer is required to co-operate in all investigations made by the Labour Inspectorate and any incorrect or false statement on his part renders him liable to a fine.

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TURKEY

Labour Courts Act, No. 5521, 30 January 1950 (L.S. 1950 - Tur. 2).

Labour Act, No. 1475, 25 August 1971.

Maritime Labour Act, No. 6379.

During the probation period, the parties may terminate the contract without notice and compensation. The duration of the probation period is one month under the Labour Act and the Maritime Labour Act and up to three months under the Press Labour Act (No. 5953).

An employer who wants to terminate a contract of employment must notify the worker a certain time ahead and pay the legal compensations whenever necessary, except in the cases mentioned in section 17 of the Labour Act. However, these conditions basically depend on the principle of goodwill. The same principle is relevant for both the Press Labour Act (section 11) and the Maritime Labour Act (section 9).

The duration of the notice period is determined according to the length of the employment of the worker (section 13 of the Labour Act). These periods may be prolonged by agreements. The same principles are set forth in section 6 of the Press Labour Act and section 16 of the Maritime Labour Act.

Section 14 of the Labour Act specifies the amount and conditions of severance compensation to be paid to the worker. The same provisions are included in section 20 of the Maritime Labour Act and section 6 of the Press Labour Act.

Section 13 of the Labour Act states that union membership or participation in union activities or filing in good faith a complaint against the employer are not valid reasons for termination of employment.

With a view to preventing the worker from being left unemployed and with the consideration that the employer will not face the same difficulties in finding a new worker, section 19 of the Labour Act obliges the employer to permit the worker to seek new employment within the hours of work during the period of notice, without loss of pay.

An employee whose contract of employment has been terminated is entitled to be paid any annual leave remuneration due, which he did not avail himself of, unless he misbehaved and has acted against the principles of goodwill.

According to section 20 of the Labour Act and section 12 of the Maritime Labour Act, the employer must give the worker a certificate of employment with a view to helping him in finding a new employment. This certificate contains information about the type and duration of the employment. If the worker suffers any harm as a result of the delay of issuing of the certificate by the employer or if there is any misleading information about him, he is entitled to bring a suit for compensation.

Under section 24 of the Labour Act, when a lay-off of one-tenth or more of the work force (subject to a minimum of ten), at any one

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time or at intervals, is intended, in order to reduce the volume of work of the number of employees, the employer must inform the Regional Directorate of Labour in writing of his intentions, at least one month in advance. Workers whose employment has been terminated owing to a reduction of the work force are given priority of re-engagement by the employer when he again engages workers. Section 24 provides also for the conditions of re-employment. Penalties to be given in case of violation of this section are provided for in section 98 of the Labour Act.

All disputes arising between the workers and the employers about the implementation of employment contracts and the Labour Act are settled in the Labour Courts.

Since the Agricultural Labour Act has not yet been enacted, these provisions are not applicable in the agricultural sector for the time being. But studies for the enactment of this Act in the Parliament are in process.

UKRAINIAN SSR

Constitution of the Ukrainian SSR.

Labour Code, approved by the Supreme Soviet of the Ukrainian SSR on 10 December 1971.

The socialist-planned organisation of economy, the ceaseless growth of productive forces, the elimination of unemployment and of the possibility of economic crises have created a situation in which dismissal of workers is reduced to the transfer to work in another undertaking or institution. The question of termination of the employment relationship is governed by the Labour Code, by collective agreements and by internal labour regulations.

Paragraph 2 of the Recommendation. The labour legislation, based on the principle of the citizen's right to work, lays down a clearly limited list of reasons for which management, after taking all disciplinary measures available, may use dismissal as an ultimate measure.

Under section 36 of the Labour Code, the employment relationship may be terminated for the following reasons: (1) agreement between the parties; (2) expiration of the period of the employment contract in case of a contract concluded for a specified time or task; (3) recruitment or enlistment of the worker or employee for military service; (4) termination of the contract of employment on the initiative of the manual or non-manual worker, on the initiative of management, or on the demand of the trade union body; (5) transfer of the worker to other work or to an elective office, with his consent; (6) refusal of the worker or employee to be transferred to work in another locality to which the undertaking, institution or organisation is being moved; (7) enforcement of a sentence condemning the worker or employee to loss of liberty, corrective labour or other form of punishment which prevents him from working at his post. Management may terminate an employment contract concluded for an indefinite period or an employment contract whose period of validity has not expired, without the agreement of the worker, only for the following reasons explicitly indicated in sections 40 and 41 of the Labour Code: (a) closure of the undertaking,

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institution or organisation, or reduction of the number of employees; (b) the worker's unfitness for his work because of insufficient qualifications or state of health; (c) worker's failure systematically and without good reason to carry out his duties under the contract of employment or internal regulations, provided that he has previously been subject to disciplinary or public sanction; (d) the worker's absence from work without good reason; (e) the worker's absence from work for more than four months because of temporary disability (in case of a worker's disability due to an industrial accident or occupational disease, the post is kept for him until recovery or establishment of his invalidity); (f) reinstatement by law of a worker who had previously held the post; (g) blatant violation of employment obligations on the part of a worker who incurs disciplinary liability as a subordinate; (h) offences on the part of a worker handling money or valuable goods, if such offences give grounds for distrusting him; (i) a moral offence by a worker fulfilling educational functions, if such offence is not compatible with the pursuance of his work.

Dismissal on the three grounds (a), (b) and (f) is allowed only if it is not possible to transfer the worker with his consent to other work. Dismissal may not take place during a period of temporary disability or while the worker is on leave.

Dismissal without the agreement of the trade union committee is illegal and the dismissed worker must be reinstated in his previous work (section 43 of the Labour Code and section 18 of the Order concerning the rights of the works local committee).

Paragraph 3. Trade union membership and acting as a worker's representative do not constitute grounds for dismissal but guarantee that the worker retains his place of work and his average earnings.

Restriction of rights on the grounds of sex, race, nationality or religion is forbidden. A worker who has been dismissed for those reasons must be reinstated.

Paragraph 4. In all cases of termination of employment at the initiative of the management the workers are entitled to appeal against that termination to the committee for labour disputes, the works local committee or the people's court.

Paragraphs 5 and 6. Labour disputes committees set up in undertakings, institutions and organisations and consisting of an equal number of representatives of the works local committee of the trade union and of management must examine, in the first instance, labour disputes, other than those which must, in accordance with section 231 of the Labour Code, be heard directly by the people's court. Requests for reinstatement of workers or employees dismissed by the management other than workers or employees occupying posts contained in a special list (section 240 of the Labour Code), are heard directly by the people's court.

A worker or employee may appeal, within one month from the date he received the order of dismissal, to the people's court, which immediately reinstates him with payment of his unpaid wages for the enforced period of absence, but not for more than three months if it considers that the dismissal is unfounded.

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Paragraph 8. On the day the worker is dismissed, the management must give him a work book in due and proper form in which no mention of any sanction may be entered.

Paragraphs 12 to 14. In case of reduction of the work force the management is bound to inform the trade union committee in good time about the proposed measures.

Paragraph 15. Priority for retaining jobs in case of reduction of the work force is given to workers with highest qualifications and in case of equal qualifications to: (a) workers with two or more dependants; (b) workers in whose family there is no other worker with independent earnings; (c) workers having a long period of uninterrupted service in the undertaking, institution or organisation; (d) workers studying at higher or secondary specialised training establishments while actually working; (e) war invalids and members of the family of servicemen or partisans killed or reported missing in the defence of the USSR or carrying out other military duties; (f) inventors and workers engaged in the scientific organisation of work.

Paragraph 17. The management is bound to take measures in order to find jobs for workers to be dismissed.

USSR

Constitution of the USSR and the Constitutions of the Union and Autonomous Republics.

Act No. 2-VIII, to approve fundamental principles governing the labour legislation of the USSR and of the Union Republics (L.S. 1970 - USSR 1).

Labour Code of the Russian SFSR (L.S. 1971 - USSR 1).

By virtue of the labour legislation in force, the level of legal guarantees enjoyed by the workers is considerably higher than the provisions laid down in Recommendation No. 119.

Paragraph 2 of the Recommendation. The labour legislation gives an exhaustive list of grounds upon which management is entitled to terminate a contract of employment concluded for an indefinite period, as well as to terminate before expiration a contract of employment concluded for a definite period. These grounds are as follows: (a) closure of the undertaking, institution or organisation, or reduction of staff; (b) the worker's unfitness for his work or post, because of insufficient qualifications or the state of his health; (c) the worker's systematic failure, without good reason, to perform his obligations under the contract of employment, when he has previously been subject to disciplinary or public sanctions; (d) worker's absence without good reason; (e) worker's prolonged absence for more than four months (excluding maternity leave) because of illness, except for cases of industrial accident and occupational disease in which case the post is kept open for the worker until he is again able to work or invalidity has been established; (f) reinstatement in accordance with law, of a worker who had previously performed the work in question (section 17 of the Fundamental Principles; section 33 of the Labour Code of RSFSR and the corresponding sections of the Labour Codes of other Union Republics).

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Dismissal of a worker during temporary disability or during his annual leave is forbidden.

Workers enjoy an essential guarantee due to the provision according to which a contract of employment may be terminated at the initiative of the management only with prior agreement of the works, factory or local trade union committee. Should this provision not be observed, the dismissal is illegal and the dismissed worker is reinstated (section 18 of the Fundamental Principles; section 35 of the Labour Code).

Paragraph 3. Under section 122 of the Constitution, discrimination for reasons of sex, race or nationality is forbidden.

In addition to the general conditions, dismissal of trade union workers requires the agreement of the superior trade union body (section 99 of the Fundamental Principles).

Paragraph 4. Dismissed workers are entitled to appeal to their regional people's court within one month from the day on which notice of their dismissal was served, against that dismissal (sections 89 and 90 of the Fundamental Principles).

Paragraphs 5 and 6. A worker who has been dismissed without legal grounds or in contravention of the established procedure must be reinstated (section 91 of the Fundamental Principles; section 213 of the Labour Code). He is also entitled by decision of the court to receive his average earnings for the period of enforced absence, but not for longer than three months (section 92 of the Fundamental Principles; section 214 of the Labour Code). The court decision on reinstatement is to be implemented immediately. Where the management delays implementation, the worker concerned is paid his average earnings from the day of the court decision to the day of its implementation.

Paragraph 7. A worker whose employment is to be terminated is entitled, as a general rule, to receive a separation benefit amounting to his two weeks' average earnings (section 19 of the Fundamental Principles; section 36 of the Labour Code).

Paragraph 8. On the day of dismissal, management is bound to give the worker his work book, which is the basic document relating to the employment activities of the worker or employee and in which is recorded information concerning the worker, the work performed, as well as any bonus or reward, but not sanctions (section 39 of the Labour Code). At the request of the worker, the management is compelled to make reference to his work, to indicate his speciality, qualification, function, period of work and amount of earnings (section 40 of the Labour Code).

Paragraphs 9 and 10. Every able-bodied citizen is guaranteed the possibility of obtaining work corresponding to his qualification and speciality. Since there is no unemployment, there is no system of unemployment insurance.

Paragraph 11. In case of dismissal of a worker or employee for regular failure to perform his obligations under the contract of employment, or for absence from work without good reason, separation benefits are not paid (section 19 of the Fundamental Principles).

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In this case the management is generally entitled to cancel a contract of employment within one month after receiving the consent of the works, factory or local committee, and is entitled to cancel it within one month from the day on which the offence has been reported (section 35 of the Labour Code).

Any worker may appeal to any government body or voluntary organisation of his choice if he disagrees with the decision of the management to dismiss him, regardless of the one month time limit laid down for appealing to a people's court. It must be noted that the established time limit may be extended by the court, if it has been allowed to expire for valid reasons (section 90 of the Fundamental Principles).

Paragraphs 12 to 14. The work force enjoys a planned distribution. Five-year and one-year plans prepared with the direct participation of the trade unions take account of the requirements in manpower for the various branches of industry, the various regions and undertakings. The staff social development plans of the undertakings, usually drawn up for a five-year period by the management and the works, factory or local committee, provide for expected changes in manpower requirement of individual undertakings, for the volume of work and technological changes, for any change in the qualification structure of the work force of the undertaking and for appropriate measures to be taken for the training and retraining of its workers.

The management must inform the works, factory or local committee in good time of any intention to reduce the staff and of the number of posts to be affected. Dismissal of a worker due to a reduction of the work force is allowed only if it is not possible to transfer him with his consent to another job (section 17, paragraph 2 of the Fundamental Principles). There may be no dismissal without the consent of the works, factory or local committee.

Paragraph 15. In case of reduction of the work force, priority for retention in employment is granted in the following order: highest qualified and productive workers; workers maintaining two or more family dependants; workers in whose family there is nobody else engaged in remunerated activity; workers with a large uninterrupted service in the undertaking concerned; workers who have suffered, in that undertaking, an industrial accident or an occupational disease; workers who raised their qualification without interrupting their employment by attending secondary or higher specialised training establishments; disabled war veterans and next of kin of members of the armed forces and of partisans killed or reported missing in the defence of the country.

Paragraphs 16 and 17. Since all the dismissed workers are guaranteed the possibility of immediate employment in another job, there is no problem of priority of re-engagement of workers whose employment has been terminated owing to a reduction of the work force. Persons wishing to enter employment may apply directly to an undertaking or to special state bodies dealing with placement and distribution of manpower.

Paragraphs 18 to 20. These provisions apply to all branches of the economy and to all categories of workers, including civil servants, exceptions being made for workers who have concluded a contract of employment for a specified period of time or specified task, and for workers serving a probation period.

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UNITED KINGDOM

Safeguarding of Employment Act (Northern Ireland), 1947.

Contracts of Employment and Redundancy Payments Act (Northern Ireland), 1965.

Redundancy Payment Act, 1965 and 1969 (L.S. 1965 - U.K. 1).

Race Relations Act, 25 October 1968 (L.S. 1968 - U.K. 1).

Industrial Relations Act, 5 August 1971 (L.S. 1971 - U.K. 1).

Code of Industrial Relations Practice, 2 February 1972 (L.S. 1971 - U.K. 1 bis).

Contracts of Employment Act, 27 July 1972.

The Race Relations Act 1968, the Industrial Relations Act 1971, and the Code of Industrial Relations Practice do not apply to Northern Ireland and the position on termination of employment is similar to that which obtained in Great Britain prior to the passing of the Act.

In 1971, a Review Body on Industrial Relations was established representative of the CBI and the Northern Ireland Committee of the Irish Congress of Trade Unions. Since then it has been conducting an exhaustive review of industrial relations in Northern Ireland, having been charged with recommending what changes are necessary and desirable to promote the most effective system for the province. It has now completed its substantive work and is in process of drafting its report which is expected to appear before the end of the year.

Paragraph 2 of the Recommendation. The Industrial Relations Act 1971 gives to employees, with certain exceptions, protection against unfair dismissal. Dismissal is unfair unless it is on the grounds of the employee's capability, qualifications, conduct or because of a statutory requirement or redundancy, or some "other substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held" (sections 24 (2) and 24 (1) (b)).

Paragraph 3. Under section 5 of the Industrial Relations Act, all workers have the right to belong to a trade union registered under the Act, to seek or hold office, and to take part in its activities outside working hours, or, with the consent of the employers, within working hours. Where the main reason for an employee's dismissal is that he exercised these rights or indicated his intention to exercise them, the dismissal must be regarded as unfair (section 24 (4) of the Act).

The Government opposed inclusion in the Industrial Relations Act of a list of the invalid reasons contained in Paragraph 3 (c) and (d) of the Recommendation, because it felt that the procedure proposed for determining whether dismissal was unfair made such a list unnecessary. It is unlikely that an employer could establish, as a fair reason for dismissal, discrimination on grounds of marital status (unless this is a genuine occupational requirement) or participation in proceedings against him. There have been cases heard

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by the National Industrial Relations Court, where dismissal due to discrimination on grounds of sex has been found unfair. The Government has undertaken to introduce legislation in the near future to combat discrimination on grounds of sex.

Section 3 of the Race Relations Act, 1968, makes it unlawful to discriminate against any person on grounds of colour, race or ethnic or national origins, by dismissing him in circumstances in which other persons are not, or would not, be dismissed. It is not unlawful to discriminate against somebody on grounds of belief or religion, although it is the policy of the Government not to do so.

Paragraph 4. Under section 6 of the Industrial Relations Act, an employee who feels that he has been unfairly dismissed, is entitled to make a complaint, within four weeks, to an industrial tribunal, composed of a legally qualified chairman and two lay members who have knowledge or experience of industry or commerce. The parties may represent themselves in person or be represented by a lawyer or any other person of their choice (schedule 6, paragraph 9). Appeals against industrial tribunals' decisions can be made on points of law only to the National Industrial Relations Court.

Under the Race Relations Act, complaints must be made within two months and may be made to the nearest conciliation committee, direct to the Race Relations Board, employment exchange or careers office. All complaints must be referred to the Secretary of State for Employment who will decide whether suitable machinery exists in the industry to deal with it. In order to avoid overlapping jurisdictions, it has been decided that a complainant is excluded from pursuing a complaint of unlawful dismissal against his employer under the Race Relations Act if he is eligible to pursue his complaint under the provisions of section 149 of the Industrial Relations Act.

Paragraph 5. In the first instance, complaint of unfair dismissal is copied to a specially appointed conciliation officer at the Department of Employment who must attempt to secure a settlement, if the parties request his help or if he himself considers that there is a reasonable prospect of settlement. If, however, the complaint is not settled and proceeds to a tribunal hearing, the employer must first establish the main reason for dismissal and show that it is one of the reasons accepted as "fair" under section 24 of the Industrial Relations Act. If he succeeds, the tribunal must then consider whether in all the circumstances, the employer acted reasonably or unreasonably in dismissing the employee for that reason. In case of redundancy, even where tribunals or the National Industrial Relations Court have found no evidence of any infringement of section 5 of the Industrial Relations Act or of an agreed procedure or customary arrangement, they have usually considered whether in the particular circumstances of the case, the employer was justified in selecting the complainant for redundancy (section 24 (6) of the Act). However, tribunals do not determine whether the employer was justified in deciding to reduce the size of his labour force.

Paragraph 6. Where the tribunal is satisfied that a complaint of unfair dismissal has been substantiated, it must first consider whether it is practicable and equitable for the dismissed employee to be re-engaged. It may consider the alternative remedy of compensation only if it is satisfied that re-engagement is not practical or where a recommendation for re-engagement has not been complied with (section 106 (4) and (5) of the Industrial Relations Act). The

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award of compensation may be increased or reduced (if the tribunal considers that its recommendation has been rejected unreasonably by the employer or the employee - section 116 (4) of the Industrial Relations Act).

Tribunals must base their assessment of compensation on the employee's actual loss (section 116 (2) of the Industrial Relations Act). They may reduce their award to take account of any failure by the employee to mitigate his loss (for example, by failing to look for a new job), or of the extent to which the employee contributed to his own dismissal (section 116 (2) and (3) of the Industrial Relations Act). In October 1972, the National Industrial Relations Court laid down certain guidelines for the assessment of employees' loss in a decision on appeal (Norton Tool Co. Ltd. v. Tewson).

Paragraph 7. The Contracts of Employment Act 1972 and Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 lay down the rights of both employees and employers to minimum periods of notice. The length of notice to be given to an employee varies according to the length of service from a minimum of one week's notice to a minimum of 8 weeks' notice (section 1 of the Contracts of Employment Act 1972). Individual contracts of employment may provide for longer periods of notice. Employers may pay wages in lieu of notice. (These provisions do not apply to part-time employees who normally work for less than 21 hours a week.)

Paragraph 46 (iv) of the Code of Industrial Relations Practice provides that management should make arrangements to ameliorate the effects of redundancies in consultation with employees or their representatives: this should include allowing reasonable time off in order to seek other work. While the Code imposes no legal obligations, section 4 of the Industrial Relations Act requires any relevant provisions to be taken into account in proceedings before the National Industrial Relations Court or an industrial tribunal.

Paragraph 9. Under the Redundancy Payments Act 1965 and Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965, employees dismissed on account of redundancy who are above 18 and under 65 years of age (60 for women) and have been continually employed for at least 104 weeks in the same business, are entitled to receive lump-sum compensation. A worker who has unreasonably refused a suitable alternative job offered by the employer may be disqualified.

The amount of compensation is related to weekly pay, length of service and age. The payments are not offset against unemployment benefits and are exempt from income tax. Employers who make the due payments may reclaim, by way of rebate, a proportion of the amount from a central Redundancy Fund, which also makes "guarantee payments" to employees of firms unable to make the payments themselves.

Many schemes have developed in both the public and private sectors, and often in consultation or negotiation with employees' representatives, which provide for severance payments to be paid to redundant employees over and above those required by statute.

Paragraph 10. The Code of Industrial Relations Practice recommends that details of any disciplinary action should be given in writing to the employee concerned and, if he wishes it, to his representative (paragraph 133 (iv)). Tribunals must take account of the

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Code's recommendations, and in many cases, they and the National Industrial Relations Court decided that dismissal was unfair, even if it was justified by misconduct, when the employer did not follow this procedure. The Code recommends that no disciplinary action should be taken against a shop steward until the circumstances of the case have been discussed with a full-time official of the union concerned (paragraph 133 (v)), and that any employee should have the right to be accompanied by his employee representative when he states his case before disciplinary appeals procedures (paragraph 132 (ii)). Many industries have appeals procedures which meet their requirements; in some cases the procedures have been formalised in written agreements.

Paragraph 11. In case of misconduct, the provisions of the Industrial Relations Act and the Contracts of Employment Act do not restrict the employer's right to dismiss summarily. However, in case of complaint of unfair dismissal to an industrial tribunal, or action for damage for wrongful dismissal in the civil courts, employers must be prepared to show that the misconduct was serious enough to merit dismissal without notice (and without compensation in case of redundancy).

In cases where a significant interval has elapsed between the misconduct and the dismissal, tribunals have often found that the misconduct was not the main reason for dismissal.

There is no statutory definition of serious or gross misconduct. The industrial tribunals sometimes draw on precedents where the facts are similar.

Paragraph 14. Employers are encouraged to give the Department of Employment as much advance notice as possible of redundancy, with numbers, skills or types of occupation, and likely date of availability for other employment.

Paragraph 17. In case of redundancy, actions adopted by the Department of Employment will vary according to circumstances, but some or all of the following measures will be taken: wherever possible a Department of Employment Job Team attends the works to give information and advice to employees before their jobs are due to end; special approaches are made to employers in the surrounding area to obtain as much information as possible about current or future vacancies; details of vacancies in other areas are also made available, in some cases from the computer job bank, and electronic equipment is being increasingly used to speed up and extend job information; special action is taken to deal with inquiries from local and other firms about the skills and experience of the labour becoming available; transfer grants and allowances are paid in appropriate cases; special approaches to firms are made on behalf of individual employees whose skills may be of particular interest; special arrangements are made for those who may require assistance from the Professional and Executive Recruitment Service, the Occupational Guidance Unit, or training and retraining under the Training Opportunities Scheme.

Paragraph 18. Under sections 27, 28 and 30 of the Industrial Relations Act, certain categories of workers are excluded from the unfair dismissal provisions.

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Paragraph 19. Under section 31 of the Industrial Relations Act, employers and their employees, or organisations of workers, may apply jointly to the National Industrial Relations Court to have their own appeals procedure. The procedure must provide for remedies as favourable as those available under the Act and must allow for reference to an independent arbitrator in the event of failure to reach a decision. If the National Industrial Relations Court is satisfied that the procedure agreement meets the criteria set out in section 31, it must make an Order designating the agreement as a substitute for the rights given under the provisions of the Act.

Migrant Workers

One of the conditions which must be satisfied before a permit or permission to work can be given is that the overseas national is employed on the same terms and conditions as a worker from the resident labour force.

Guernsey

Industrial Disputes and Conditions of Employment Laws, 1947/71.

In case of termination of employment, all wage agreements negotiated between employers and employees provide for a period of notice (normally one week) to be given by either party. This provision is given statutory force by sections 15 and 16 of the Industrial Disputes and Conditions of Employment Laws which also provide for negotiation, arbitration and awards in respect of pay and working conditions in trade and industry. Under the provisions of the law, a worker who is not a party to a specific agreement is deemed to enjoy conditions of employment not less favourable than those stipulated in an agreement covering other workers in the same trade or industry.

The State's Labour and Welfare Committee is the appointed authority with responsibility for the administration of the above-mentioned laws. The Committee does not recognise the right of any employer to discriminate against any worker on grounds of race, colour, sex, marital status, religion, political opinion, nationality or social origin, nor is any worker denied the right to union membership, or to hold office, to participate in union activities or to act as a worker's representative.

Any worker aggrieved at the manner of termination of his employment may appeal to the Committee against his dismissal.

Insured workers whose employment has been terminated are normally entitled to unemployment benefits unless they have been dismissed for misconduct or have resigned without good cause.

In the absence of large industrial undertakings, there are no reductions of the work force significantly affecting the level of unemployment or of economic activity.

Isle of Man

Certain agreements between bodies representing employers and certain categories of workers set out the length of notice which should be given where a worker's employment is to be terminated.

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Jersey

Collective agreements between individual employers and trade unions generally provide for minimum periods of notice, and trade union vigilance has proved most effective in ensuring observance of the terms under which an employment may be terminated.

The Insular Insurance Order, 1965, exempts unemployed persons from the liability to pay contributions and provides for the award of credits during any such period of employment.

No discrimination is practised.

It is envisaged that legislation relating to the termination of employment will be enacted within the next two years.

UNITED STATES

Labour-Management Relations Act, 1947 (29 USC, 151 et seq.)
(L.S. 1947 - USA 2).

Railway Labour Act (45 USC, 151 et seq.).

Fair Labour Standards Act (29 USC, 200 et seq.).

Occupational Safety and Health Act, 1970 (29 USC, 651 et seq.)
(L.S. 1970 - USA 1).

Longshoremen and Harbour Workers' Compensation Act (33 USC, 901 et seq.).

Age Discrimination in Employment Act (29 USC, 621 et seq.).

Civil Rights Act of 1964 (42 USC, 2000e et seq.) (L.S. 1964 - USA 1).

Executive Orders 11246, 11375 and 11478.

Under the constitutional system, the provisions of the Recommendation are appropriate in whole or in part for action by the constituent states. Protection from termination of employment at the initiative of the employer has also been achieved through private bargaining agreements.

The employer's right to terminate employment is limited by federal laws. Termination of employment based on union activities is prohibited by the Labour-Management Relations Act of 1947 (29 USC, 158 et seq.), and the Railway Labour Act (45 USC, 151 et seq.). Termination of employment for the filing in good faith of a complaint or the participation in a proceeding against an employer is prohibited by the Fair Labour Standards Act (29 USC, 200 et seq.), the Labour-Management Relations Act 1947 (29 USC, 158 et seq.), the Occupational Safety and Health Act 1970 (29 USC, 651 et seq.), the Longshoremen and Harbour Workers' Compensation Act (33 USC, 901 et seq.) and the Age Discrimination in Employment Act (29 USC, 621 et seq.). The Civil Rights Act 1964 (42 USC, 2000e et seq.) and Executive Orders 11246, 11375 and 11478 prohibit termination of employment due to race, colour, sex, marital status, religion, national extraction or social origin.

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The Consumer Credit Protection Act, title III (15 USC, 1671 et seq.) provides for restriction on discharge from employment by reason of garnishment, and the Federal Coal Mine Health and Safety Act (30 USC, 901 et seq.) restricts discharge by reason of the fact that a miner is suffering from pneumoconiosis.

Sixteen states, Guam and Puerto Rico have labour relations Acts applicable to private sector employment. Typically, these Acts grant employees the right to join labour organisations and to engage in concerted activities for the purpose of bargaining or other mutual aid or protection. Usually, these statutes also designate it as an unfair labour practice for an employer to restrain or interfere with employees in the exercise of their guaranteed rights. Seeking union office or acting as a worker representative would be regarded as a protected employee activity, although the Acts do not use this express language.

Two additional states, under labour relations Acts applicable only to agricultural employment, also provide for this protection.

Protection from termination for filing a complaint or participating in a proceeding is frequently provided for in specific laws, as enumerated below, although three states also have a general provision prohibiting the discharge of employees for giving testimony in a labour proceeding, which apparently covers all labour laws. Non-retaliation protection is provided under laws relating to minimum wages (29 states, the District of Columbia, Puerto Rico, and Guam); equal pay (24 states); wage garnishment (27 states, the District of Columbia); wage assignment (one state); prevailing wages on public works (2 states); wage payment and collection (one state); maximum hours (one state); labour relations (private sector generally) (16 states, Guam, Puerto Rico); (private sector, agriculture only) (2 states); non-discrimination (31 states, the District of Columbia, Guam and Puerto Rico); (typically these laws apply to discrimination by reason of race, colour, religion, sex, age and national origin or ancestry, but not political opinion or social origin except in Puerto Rico; one also covers marital status, and a few cover physical handicap); occupational safety and health (14 states); workmen's compensation (7 states, the District of Columbia).

Protection from discrimination in employment by reason of race, colour, religion or national extraction is afforded under the laws of 40 states, the District of Columbia, Puerto Rico and Guam. All but two of these laws also prohibit sex-based discrimination. Almost all of these laws include a specific anti-discharge provision, but even where not expressly prohibited, such a discharge would probably be regarded as a form of unlawful employment discrimination.

One state law includes "marital status" as a prohibited basis of discrimination on a par with other reasons, and 8 laws include "physical handicap". In addition, 32 states and Guam prohibit age discrimination in employment.

Forty states and Puerto Rico have laws which prohibit terminating or threatening an employee by reason of his political opinion or activities.

With regard to employment discrimination by reason of social origin or position, as distinct from national origin or ancestry,

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the states have not adopted specific legislation on this point. (However, the Puerto Rico non-discrimination law does expressly prohibit termination by reason of birth or social position.)

Practically all of the state laws enumerated above make it unlawful for the employer to engage in a prohibited act and impose a specific penalty for violation. Many of them also afford the employee specific administrative remedies to appeal the violation. Such remedies are most frequently found in the enumerated laws dealing with labour relations, occupational safety and health, and discrimination.

The statutory income protection schemes for workers whose employment has been terminated are administered by each state as provided for under the terms of the Federal Unemployment Tax Act, 26 USC 3301 et seq., and Subchapter III of the Social Security Act, 42 USC, 501 et seq.

With reference to migrant workers, who for the most part in the United States are agricultural workers, agricultural labour is excluded from unemployment insurance coverage in all but a few jurisdictions.

Collective bargaining agreements and employer personnel practices govern where a worker feels that his employment has been unjustifiably terminated for reasons other than those covered by federal or state laws. Grievance arbitration arrangements found in most collective bargaining contracts provide for the type of appeal referred to in Paragraphs 4, 5 and 6 of the Recommendation.

Severance pay plans and supplemental unemployment benefit plans have been established through collective bargaining agreements.

Collective bargaining agreements and employer personnel practices govern the matters dealt with in the Recommendation's supplementary provisions concerning reduction of the work force.

UPPER VOLTA

Labour Code, Act No. 26/62 of 7 July 1962 (sections 35 and 47; section 174 respecting the dismissal of staff representatives).

Order No. 98/TFP/DTMC of 15 February 1967 respecting the declaration of workers' movements.

Effect is very largely given to the provisions of the Recommendation by the legislation and collective agreements and in national practice.

The supervision of the application of these provisions is entrusted to the inspectors of labour and social legislation. Employers' and workers' organisations may bring breaches of these provisions to the notice of the Labour Inspectorate at any time.

TERMINATION OF EMPLOYMENT

REPUBLIC OF VIET-NAM

Labour Code, Chapters II, III, V, IX, XIII (L.S. 1956 - V.N. 1 A, 1 B, 1 C).

Paragraphs 2 and 3 of the Recommendation. According to section 31 of the Labour Code, a fixed-term contract may not be prematurely interrupted by one of the parties except in the circumstances provided for in the contract or as a result of serious misconduct. Unjustified breach of contract by one party renders the latter liable for damages. Hence the reasons listed in Paragraph 3 of the Recommendation could not be invoked to justify dismissal.

Paragraph 4. Any worker who feels that he has been wrongfully dismissed can appeal to the labour tribunal or to the labour inspector, who will try to arrange a settlement. Should he fail to do so, he refers the matter to the labour tribunal or to the competent civil court (Labour Code, section 260). According to section 262, the worker can arrange for representation, or be assisted by, a worker exercising the same occupation, or by a representative of his own occupational organisation, by giving such a representative an authorisation in writing.

Some works agreements and collective agreements provide for procedures whereby complaints are considered and settled by joint committees within the undertaking before recourse is had to the law.

Paragraphs 5 and 6. The labour tribunal alone, or in its absence the competent civil court, are empowered to say whether dismissal was justified and to order the payment of compensation for wrongful dismissal. The amount of this compensation will depend on custom, the kind of job occupied, the worker's seniority and age, superannuation deductions and contributions and any other relevant considerations (Labour Code, section 32).

Paragraph 7. This Paragraph is covered by the Labour Code, sections 32 to 36, and 45.

Paragraph 8. This Paragraph is covered by the Labour Code, section 47.

Paragraph 9. Unless dismissal was for gross misconduct, a dismissed worker is entitled to a separation allowance as provided for in the Labour Code, sections 48 "bis" and 48 "quater".

Paragraph 10. The joint committees, composed of persons representing the employer and unions (in at least one collective agreement) are usually consulted before the management takes a final decision about dismissal.

Paragraph 11. Paragraph 11 (1) of the Recommendation is covered by the Labour Code, sections 37 and 48 "bis".

Serious misconduct is defined in the Labour Code, section 38. Section 39 gives examples of such misconduct. However, it is for the courts (section 31) to interpret the gravity of the charge against the worker.

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As regards questions settled under agreements, apart from sections 39 and 40 of the Labour Code, provision is made for a range of sanctions (from a written warning to dismissal) against workers guilty of misconduct, including professional negligence.

Paragraphs 12 to 17. The provincial labour inspectors, and those attached to the préfectures, assist employers' and workers' representatives with a view to the settlement of cases involving an inevitable reduction in personnel, so as to minimise the effects on the workers and find fresh work for those who have lost their jobs. The Ministry of Labour is considering the setting-up of five new employment offices in the course of the year. In places where no such office exists, the labour inspection offices will handle placement.

Paragraphs 18 to 20. National legislation covers the field of application of the Recommendation.

YUGOSLAVIA

Constitution dated 7 April 1963, Constitutional Amendments XXI to XLII (1971) (L.S. 1963 - Yug. 3).

Act concerning the mutual relations among workers in collective work (Sluzbeni List, 19 April 1973, SFRJ No. 22/1973).

Decree dated 4 April 1965 to promulgate a Basic Act respecting the organisation and financing of placement¹ (L.S. 1965 - Yug. 2), supplemented in 1966 (L.S. 1966 - Yug. 2), and amended in 1969 and 1970 (L.S. 1970 - Yug. 1).

The right to work and freedom of labour are guaranteed by the Constitution as basic rights of the individual and the citizen. The community is required to work towards the creation of conditions which will be ever more favourable to the exercise of the right to work, notably by developing the productive energies of the nation and protecting the rights of the workers. Under the Constitution, the workers enjoy a right to security of employment, and it lays down that employment may not be broken off against the worker's wishes except in the circumstances defined by the Federal Act (section 36). The freedom of rights constitutionally guaranteed can be neither taken away nor restricted, and any arbitrary act harming or restricting them is against the Constitution and is punishable by law (Constitution, articles 66 and 70).

¹ The Basic Act in question, in view of the changes made therein by constitutional amendments, has been abrogated as a Federal Act. It does, nevertheless, remain in force in the Republics, until such time as they, in the exercise of their own rights in the matter, adopt their own legislation.

TERMINATION OF EMPLOYMENT

Under the Basic Act respecting Employment Relationships, revised in 1966¹ (applied up to 27 April 1973²), a workers' collective could not, in principle, cease to employ a worker except with his consent (section 100), except if: (a) the worker's post had been abolished, or there had been a reduction in staff because of organisational or technical improvements, or because two or more work units had amalgamated (sections 102 and 103); (b) if there had been a permanent reduction in activity (sections 102 and 103); (c) if the worker was not equal to the demands of the post he occupied (provided it was impossible to transfer him to some other post suited to his skills) (sections 102 and 105); (d) if the work unit had ceased operations or been wound up, unless there had been association or amalgamation with some other work unit (section 109); (e) if the worker had omitted to report certain facts, or had been guilty of false pretences on recruitment, as regards his qualifications for the job as laid down by the law or by the Basic Act (section 14 (2)); (f) if the worker had qualified for a retirement pension (forty years' employment for a man, thirty-five for a woman) (section 108); (g) if the worker had refused to accept another job (sections 32 and 33); (h) if the worker had been away for a length of time laid down by the regulations of the work unit where he was employed (section 100 (3)).

Should the worker have been guilty of a fault which under the regulations of his work unit qualified as serious misconduct, he was liable to dismissal (section 91 (2); section 90 of the Basic Act on Employment Relationships). Moreover, under section 114 of the Basic Act on Employment Relationships, employment might cease without his consent and without that of his work unit, if, objectively considered, he was quite unable to continue working. According to the law, the following conditions had to be met for this to be possible: (i) the competent social security authorities had to judge him permanently and totally incapacitated; or (ii) he had been sentenced to more than three months' imprisonment; or (iii) a legal decision or ruling by a tribunal or other body had forbidden him to work. Under the Basic Act on Employment Relationships, some kinds of worker enjoyed increased protection, and the following could not be dismissed: (1) male workers with over thirty years' service and females with over twenty-five (unless he or she refused a transfer to some other job); (2) the elected members of a works council, management board or committee in a work unit; the members of a committee or delegates to an organisation representing several workers' collectives (unless objectively found to be lacking in the occupational qualifications required for the post or posts) (section 107 (2)); (3) pregnant women or mothers of infants under the age of eight months, workers medically certified as being temporarily incapacitated, workers sent by their work units to take a specialised or advanced training course, workers on annual leave and workers doing military service (not longer than three months) (section 107 (2)).

¹ L.S. 1965 - Yug. 4; L.S. 1966 - Yug. 1.

² Date on which took effect the Act concerning the mutual relations of workers in associated work.

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Should the workers' collective put an end to a worker's employment, the latter, unless he has been dismissed, is entitled to a period of notice lasting from one to six months (as the rules of the work unit may specify), or to a wage for the same period, calculated on the basis of his output during the last accounting period. During this time, he must remain on the job, but is entitled to look for other work and hence to take time off. How long he may be absent for this purpose is specified by the rules (Basic Act on Employment Relationships, sections 100 (2), 110 and 111).

Such a decision must be taken by the workers' collective and the management body elected by all members of the work unit (section 106 (1) and section 128 of the Basic Act), and must be brought to the worker's notice in writing, with an explanation of the reasons (same Act, section 106 (3)).

Such a worker is entitled to appeal to the highest organ of the work unit. Execution of the decision may be suspended, unless the law should rule differently, until the tribunal has rendered judgment (Basic Act, sections 123 and 126).

Should the dismissal have been illegal, the tribunal, having found that the decision was indeed contrary to the law, may order that the worker be reinstated or, should his post have been done away with, that he be appointed to a post requiring the same skills, the wages unpaid to be paid to him. Or, should he prefer, it may rule that he be paid compensation (Basic Act, sections 128 and 129).

Should the worker feel that the action taken against him is unjustified, he may ask his trade union organisation to intervene (Basic Act, section 16 (2)). If so, the trade union represents him in all proceedings having to do with his rights.

The new Act on the mutual relations of workers in collective work, which took effect on 27 April 1973, lays down (further to Constitutional Amendment XXI) that an employment relationship subsists even when the basic collective work organisation decides, for technological or economic reasons, to do away with a job. In such circumstances, it must offer the worker another job according to the procedure laid down in the self-management agreement on the basic collective work organisation and the self-management agreement on the association of basic collective work organisations, and in accordance with the provisions of the employment convention and legislation. The employment relation ceases if the worker declines to accept the post offered (section 57 of the Act). In fact, this enactment forbids termination of an employment relation in the event of staff cuts and deals with the re-employment of redundant workers.

The new enactment no longer provides for termination because of a worker's inadequate qualifications. Similarly, arbitrary abandonment of the job or unjustifiable absence cannot justify cancellation of the employment relation. But a worker is no longer employed in collective work when found guilty of gross negligence in the performance of his duties, causing prejudice to the joint interests of his fellows (section 55).

In the case of a person occupying a managerial post, the relation is terminated for the following reasons: (1) if the person concerned is not re-elected to the post; (2) if he has failed to attain the targets set. But employment does not cease if he agrees to take another job (section 18 of the Act concerning the mutual relations of workers in collective work).

TERMINATION OF EMPLOYMENT

The new Act makes no changes as regards the other reasons for dismissal, and settles the question of the protection of workers' rights in accordance with the principles of the Basic Labour Relations Act.

An unemployed worker is entitled to a cash benefit, medical care, family allowances, and an allowance for removal and cash assistance in vocational training. If he wishes to claim the cash benefit, he must have one year's uninterrupted employment or eighteen months with interruptions, and must submit a claim to the competent local government body within thirty days from the date on which he stopped work. He is not entitled to such compensation if he has been dismissed, if he has deliberately abandoned his job, or if the employment relationship has ceased by virtue of the law (Basic Act on the organisation and financing of placement).

The minimum cash benefit is 50 per cent of the worker's average personal income during the last three months, and is paid for six to twenty-four months (depending on how many years employment he had).

As regards the qualifying period, amount and duration, the worker is even better off under the legislation in force in the federated Republics and Autonomous Provinces.

ZAMBIA

Trade Unions and Trade Disputes Act, 11 January 1965, last amended (Cap. 507) (L.S. 1965 - Zam. 1).

Employment Act, 20 September 1965 (L.S. 1965 - Zam. 2).

Industrial Relations Act, No. 36 of 1971 (L.S. 1971 - Zam. 2).

Legislative provisions cater for most of the matters dealt with in the Recommendation, while certain aspects are matters of industrial practice.

Paragraph 2 of the Recommendation. Section 25 of the Employment Act, 1965, provides for safeguards in cases where the oral contract of employment of an employee has been summarily terminated without due notice or payment of wages in lieu of notice, by requiring the employer to deliver to the proper officer, within four days, a written report of the circumstances leading to, and the reasons for, such summary dismissal.

Section 36 of the same Act lays down conditions which must be fulfilled for the termination of a written contract of services.

Paragraph 3. Employees' freedom of association is guaranteed under section 54 of the Trade Unions and Trade Disputes Act. Section 4 of the Industrial Relations Act makes radical provisions which enshrine this and other fundamental rights of employees and their organisations.

Termination of the services of an employee on the grounds of race, colour, sex, marital status, religion, political opinion, tribal extraction or social status is forbidden under section 114 of the Act.

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Paragraphs 4 to 7. Under Part IX of the Employment Act, labour officers are entitled to refer to court any breach of contract when they believe that the employee has been unfairly treated.

Paragraph 8. The employee whose services have been terminated is entitled to receive a certificate of service at the time of the termination of his contract (section 79 of the Employment Act). The Act cautions employers against inserting unfavourable remarks.

Paragraph 9. The National Provident Fund Act, Cap. 513, provides for a social security scheme. Claims are approved upon satisfying certain conditions such as age, disability.

Paragraph 11. A worker who is dismissed for serious misconduct is not given any period of notice or compensation in lieu thereof. He is only paid wages due to him up to the date of the occurrence which caused his dismissal (sections 25 and 26 of the Employment Act).

Paragraphs 12 to 16. Under the provisions of the Minimum Wages, Wages Councils and Conditions of Employment Act, Cap. 506, joint industrial councils are empowered to determine, inter alia, conditions of employment to be observed by employers. In civil engineering or building industries, the method of reducing the work force owing to reduction in operations is defined in Wages Determination Orders. The employer applies the principle of "first in - last out" and the reverse principle "last out - first in" is used as far as possible when operations are resumed. This principle of "first in - last out" applies only to employees in service for more than six months.

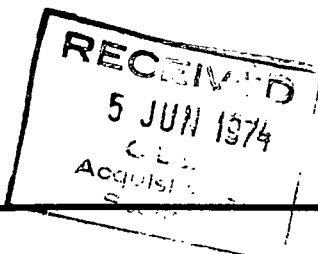
When a reduction of the work force is contemplated by a certain company, the workers' representatives are consulted and the Labour Department is informed.

Paragraph 17. Employment exchanges help as much as they are able to place in employment redundant workers.

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S / de l'act

International Labour Conference
59th Session 1974



Report III
(Part 3)

Third Item on the Agenda :

Information and Reports on the Application
of Conventions and Recommendations

**Summary of Information
Relating to the Submission to the
Competent Authorities of Conventions
and Recommendations Adopted by
the International Labour Conference**

(Article 19 of the Constitution)



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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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¹ The Conference did not adopt any Conventions or Recommendations at its 57th Session (1972).

INTRODUCTION

Article 19 of the Constitution of the International Labour Organisation prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions and Recommendations adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the Conventions and Recommendations to the competent authorities, and also communicate particulars of the authority or authorities regarded as competent, and of the action taken by them.

In accordance with article 23 of the Constitution a summary of the information communicated in pursuance of article 19 is submitted to the Conference.

This year, since no new instruments were adopted by the Conference at its 57th Session, the present report contains a summary of additional information relating to the submission to the competent authorities of the Conventions and Recommendations adopted by the Conference at its 31st to 56th Sessions (1948 to 1971). It covers information received from governments up to the date of the meeting of the Committee of Experts on the Application of Conventions and Recommendations; the Committee examined, during its session from 14 to 27 March 1974, the information received from the governments, as stated in its report.

List of Texts Adopted by the Conference at its 31st to 56th Sessions

31st Session (1948)

Freedom of Association and Protection of the Right to
Organise Convention (No. 87).
Employment Service Convention (No. 88).
Night Work (Women) Convention (Revised) (No. 89).
Night Work of Young Persons (Industry) Convention
(Revised) (No. 90).
Employment Service Recommendation (No. 83).

32nd Session (1949)

Paid Vacations (Seafarers) Convention (Revised) (No. 91).
Accommodation of Crews Convention (Revised) (No. 92).
Wages, Hours of Work and Manning (Sea) Convention
(Revised) (No. 93).
Labour Clauses (Public Contracts) Convention (No. 94).
Protection of Wages Convention (No. 95).
Fee-Charging Employment Agencies Convention (Revised)
(No. 96).
Migration for Employment Convention (Revised) (No. 97).

Right to Organise and Collective Bargaining Convention
(No. 98).
Labour Clauses (Public Contracts) Recommendation (No. 84).
Protection of Wages Recommendation (No. 85).
Migration for Employment Recommendation (Revised) (No. 86).
Vocational Guidance Recommendation (No. 87).

33rd Session (1950)

Vocational Training (Adults) Recommendation (No. 88).

34th Session (1951)

Minimum Wage Fixing Machinery (Agriculture) Convention
(No. 99).
Equal Remuneration Convention (No. 100).
Minimum Wage Fixing Machinery (Agriculture) Recommendation
(No. 89).
Equal Remuneration Recommendation (No. 90).
Collective Agreements Recommendation (No. 91).
Voluntary Conciliation and Arbitration Recommendation
(No. 92).

35th Session (1952)

Holidays with Pay (Agriculture) Convention (No. 101).
Social Security (Minimum Standards) Convention (No. 102).
Maternity Protection Convention (Revised) (No. 103).
Holidays with Pay (Agriculture) Recommendation (No. 93).
Co-operation at the Level of the Undertaking Recommendation
(No. 94).
Maternity Protection Recommendation (No. 95).

36th Session (1953)

Minimum Age (Coal Mines) Recommendation (No. 96).
Protection of Workers' Health Recommendation (No. 97).

37th Session (1954)

Holidays with Pay Recommendation (No. 98).

38th Session (1955)

Abolition of Penal Sanctions (Indigenous Workers)
Convention (No. 104).
Vocational Rehabilitation (Disabled) Recommendation
(No. 99).
Protection of Migrant Workers (Underdeveloped Countries)
Recommendation (No. 100).

39th Session (1956)

Vocational Training (Agriculture) Recommendation (No. 101).
Welfare Facilities Recommendation (No. 102).

40th Session (1957)

Abolition of Forced Labour Convention (No. 105).
Weekly Rest (Commerce and Offices) Convention (No. 106).
Indigenous and Tribal Populations Convention (No. 107).
Weekly Rest (Commerce and Offices) Recommendation (No. 103).
Indigenous and Tribal Populations Recommendation (No. 104).

41st Session (1958)

Seafarers' Identity Documents Convention (No. 108).
Wages, Hours of Work and Manning (Sea) Convention
(Revised) (No. 109).
Ships' Medicine Chests Recommendation (No. 105).
Medical Advice at Sea Recommendation (No. 106).
Seafarers' Engagement (Foreign Vessels) Recommendation
(No. 107).
Social Conditions and Safety (Seafarers) Recommendation
(No. 108).
Wages, Hours of Work and Manning (Sea) Recommendation
(No. 109).

42nd Session (1958)

Plantations Convention (No. 110).
Discrimination (Employment and Occupation) Convention
(No. 111).
Plantations Recommendation (No. 110).
Discrimination (Employment and Occupation) Recommendation
(No. 111).

43rd Session (1959)

Minimum Age (Fishermen) Convention (No. 112).
Medical Examination (Fishermen) Convention (No. 113).
Fishermen's Articles of Agreement Convention (No. 114).
Occupational Health Services Recommendation (No. 112).

44th Session (1960)

Radiation Protection Convention (No. 115).
Consultation (Industrial and National Levels) Recommendation
(No. 113).
Radiation Protection Recommendation (No. 114).

45th Session (1961)

Final Articles Revision Convention (No. 116).
Workers' Housing Recommendation (No. 115).

46th Session (1962)

Social Policy (Basic Aims and Standards) Convention
(No. 117).
Equality of Treatment (Social Security) Convention (No. 118).
Reduction of Hours of Work Recommendation (No. 116).
Vocational Training Recommendation (No. 117).

47th Session (1963)

Guarding of Machinery Convention (No. 119).
Guarding of Machinery Recommendation (No. 118).
Termination of Employment Recommendation (No. 119).

48th Session (1964)

Hygiene (Commerce and Offices) Convention (No. 120).
Employment Injury Benefits Convention (No. 121).
Employment Policy Convention (No. 122).
Hygiene (Commerce and Offices) Recommendation (No. 120).
Employment Injury Benefits Recommendation (No. 121).
Employment Policy Recommendation (No. 122).

49th Session (1965)

Minimum Age (Underground Work) Convention (No. 123).
Medical Examination of Young Persons (Underground Work)
Convention (No. 124).
Employment (Women with Family Responsibilities)
Recommendation (No. 123).
Minimum Age (Underground Work) Recommendation (No. 124).
Conditions of Employment of Young Persons (Underground
Work) Recommendation (No. 125).

50th Session (1966)

Fishermen's Competency Certificates Convention (No. 125).
Accommodation of Crews (Fishermen) Convention (No. 126).
Vocational Training (Fishermen) Recommendation (No. 126).
Co-operatives (Developing Countries) Recommendation
(No. 127).

51st Session (1967)

Maximum Weight Convention (No. 127).
Invalidity, Old-Age and Survivors' Benefits Convention
(No. 128).
Maximum Weight Recommendation (No. 128).

Communications within the Undertaking Recommendation (No. 129).
Examination of Grievances Recommendation (No. 130).
Invalidity, Old-Age and Survivors' Benefits Recommendation (No. 131).

52nd Session (1968)

Tenants and Share-croppers Recommendation (No. 132).

53rd Session (1969)

Labour Inspection (Agriculture) Convention (No. 129).
Medical Care and Sickness Benefits Convention (No. 130).
Labour Inspection (Agriculture) Recommendation (No. 133).
Medical Care and Sickness Benefits Recommendation (No. 134).

54th Session (1970)

Minimum Wage Fixing Convention (No. 131).
Holidays with Pay Convention (Revised) (No. 132).
Minimum Wage Fixing Recommendation (No. 135).
Special Youth Schemes Recommendation (No. 136).

55th Session (1970)

Accommodation of Crews (Supplementary Provisions) Convention (No. 133).
Prevention of Accidents (Seafarers) Convention (No. 134).
Vocational Training (Seafarers) Recommendation (No. 137).
Seafarers' Welfare Recommendation (No. 138).
Employment of Seafarers (Technical Developments) Recommendation (No. 139).
Crew Accommodation (Air Conditioning) Recommendation (No. 140).
Crew Accommodation (Noise Control) Recommendation (No. 141).
Prevention of Accidents (Seafarers) Recommendation (No. 142).

56th Session (1971)

Workers' Representatives Convention (No. 135).
Benzene Convention (No. 136).
Workers' Representatives Recommendation (No. 143).
Benzene Recommendation (No. 144).

Summary of Supplementary Information relating to the
Submission to the Competent Authorities of the
Conventions and Recommendations Adopted by the
International Labour Conference at its 31st to
56th Sessions (1948 to 1971)

AUSTRALIA

The instruments adopted at the 55th and 56th Sessions of the Conference have been submitted to Parliament.

BELGIUM

The instruments adopted at the 55th and 56th Sessions of the Conference have been referred to Parliament. The Government is contemplating the ratification of Convention No. 134 and can accept Recommendations Nos. 137, 138, 139 and 142. It cannot at present envisage the ratification of Conventions Nos. 135 and 136 nor can it accept Recommendations Nos. 143 and 144.

BOLIVIA

Conventions Nos. 91 to 93, 108, 111, 133 and 134, and Recommendations Nos. 90, 103, 105 to 107, 109, 111 and 137 to 142 have been referred to the competent authorities, and the ratification of Convention No. 111 has been proposed.

BURMA

The instruments adopted at the 44th to 56th Sessions of the Conference have been referred to the Cabinet and will be submitted afresh with proposals for the ratification or acceptance of some of them.

CENTRAL AFRICAN REPUBLIC

The instruments adopted at the 56th Session of the Conference were on 2 February 1973 referred to the Cabinet. The Government provides information, mentioning the possibility of ratifying Conventions Nos. 120, 121, 128, 131 and 132.

FINLAND

The instruments adopted at the 55th and 56th Sessions of the Conference were submitted to Parliament on 8 June and 24 August 1973 respectively. The Government has proposed the ratification of Conventions Nos. 133, 134, 135 and 136.

GREECE

The Government has decided to ratify Conventions Nos. 113 and 134 and considers that ratification of Convention No. 112 could be envisaged. In addition, a draft legislative decree concerning workers' protection against benzene risks has already been drafted; once it has been adopted, the Government will be able to ratify Convention No. 136. The Government does not consider the time to be ripe for ratification of Conventions Nos. 109, 111 and 114, and feels that Recommendation No. 110 is inapplicable to Greece. It has decided to accept the provisions of Recommendation No. 105 and thinks there is no call for further action as regards Recommendations Nos. 106, 107 and 108, since these Recommendations are adequately covered by Greek legislation. It is not considering acceptance of Recommendations Nos. 109 and 111.

GUINEA

The instruments adopted at the 55th and 56th Sessions of the Conference have been submitted to the competent authorities.

ICELAND

The instruments adopted at the 55th Session of the Conference have been submitted to Parliament.

IRAQ

The instruments adopted at the 55th Session of the Conference have been submitted to the competent authorities. The Government has approved the application of Recommendations Nos. 135 and 136, adopted at the 54th Session.

IRELAND

The instruments adopted at the 56th Session of the Conference were submitted to Parliament on 11 December 1973. The Government is considering the ratification of Conventions Nos. 135 and 136 and the acceptance of Recommendations Nos. 143 and 144.

MALAWI

The instruments adopted at the 54th and 56th Sessions of the Conference have been submitted to the competent authority, which for the time being does not intend to ratify the Conventions in question. It has taken note of the Recommendations.

MEXICO

Convention No. 129 has been submitted to the Senate. The Secretariat of Labour and Social Security is now studying Convention No. 133 and has reported in favour of ratifying Convention No. 134 for transmission to the Senate. Recommendations Nos. 88, 96, 97, 98, 101, 102, 135, 136, 143 and 144 have been submitted to Congress.

THE NETHERLANDS

Conventions Nos. 129 and 131 have been ratified and Recommendation No. 135 has been submitted to Parliament.

NEW ZEALAND

The instruments adopted at the 56th Session of the Conference were submitted to Parliament on 5 June 1973. When the study of the industrial use of benzene is completed, regulations will be drawn up and the Government intends at that time to ratify Convention No. 138 and to accept Recommendation No. 144.

PAKISTAN

The Government submitted Conventions Nos. 129, 130, 131 and 132, together with Recommendations Nos. 132, 133, 134, 135 and 136, to the competent authorities on 24 May 1973.

PHILIPPINES

The instruments adopted at the 56th Session of the Conference were on 21 March 1972 submitted to the competent authorities.

POLAND

The Cabinet has decided to postpone ratification of Conventions Nos. 121 and 130. It declares that Recommendations Nos. 99 (except for Paragraph 24), 127, 129 and 136 are applied in Poland, that Recommendation No. 134 is applied to a very considerable extent, and that there is no reason to adopt Recommendation No. 121. All the above instruments have been referred to the Diet.

SINGAPORE

The instruments adopted at the 56th Session of the Conference have been submitted to Parliament. The Government has decided to ratify Conventions Nos. 135 and 136 and to accept Recommendation No. 144.

SRI LANKA

The instruments adopted at the 54th Session of the Conference have been submitted to Parliament. The instruments adopted at the 55th Session are being printed and those adopted at the 56th Session are being translated.

TRINIDAD AND TOBAGO

The instruments adopted at the 55th and 56th Sessions of the Conference were submitted to Parliament on 1 and 12 June 1973. It is proposed to postpone any action on Convention No. 134 and to do nothing about the other instruments.

UNITED STATES

Convention No. 128 and Recommendation No. 131, together with the instruments adopted at the 54th, 55th and 56th Sessions of the Conference, have been submitted to Congress.

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The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

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International Labour Conference
59th Session 1974

Report III
(Part 4A)

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)

Volume A:
General Report
and Observations concerning Particular Countries

International Labour Office Geneva

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PART ONE

GENERAL REPORT

GENERAL REPORT

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, 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 States Members of the International Labour Organisation on the action taken with regard to Conventions and Recommendations, held its 44th Session in Geneva from 14 to 27 March 1974. The Committee has the honour to present its report to the Governing Body.

2. In opening the Committee's proceedings Mr. Francis Blanchard, the Director-General of the International Labour Office, reviewed the major developments of the past twelve months. He emphasised in particular that the various means of action of the ILO all tended towards the same objective, i.e. to improve man's lot as regards material well-being, freedom, dignity and equality of opportunity, and that, in carrying out these endeavours, standards and the machinery for their implementation continue to be at the very heart of the ILO's work. The Director-General also recalled that over the almost 50 years of its existence the Committee of Experts had, through its independence and objectivity, broken new ground and obtained tangible results in the implementation of international standards, and had even made a contribution to the work of other international organisations.

3. The Committee, which had learned with profound regret of the death of Wilfred Jenks in October 1973, paid tribute to his memory. His passing brought to an end a period of association in the work of the Committee unequalled in length and fruitfulness. Over several decades, and most recently as Director-General of the ILO, Wilfred Jenks played a unique role in the field of international labour standards and human rights, which has been given recognition through the posthumous award of the United Nations Human Rights Prize. Springing from his profound faith in the ILO's standard-setting work, he attached particular importance to the functions entrusted to the Committee. The Committee was privileged to have the support and guidance of such a universally renowned jurist, who has left a lasting imprint on its activities. The memory of Wilfred Jenks will inspire all its members in facing the tasks of the future.

4. The Committee also learned with profound regret of the death since its last session of one of its members, Mr. Jean Morellet. Mr. Morellet's long association with the International Labour Organisation in a variety of important capacities enabled him to make an outstanding contribution to the work of the Committee over many years and his loss will be deeply felt.

5. In order to fill the vacancy, the Governing Body has appointed Mr. Jean-Maurice VERDIER (France), whom the Committee was pleased to welcome at its present session.

6. The composition of the Committee is now as follows:

The Right Honourable Sir Adetokunbo ADEMOLA, GCON, KBE, CFR, PC (Nigeria),
former Chief Justice of Nigeria; Chairman, National Census Board;

Mr. Günther BEITZKE (Federal Republic of Germany),
Professor of Civil Law and 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. Boutros BOUTROS-GHALI (Egypt),
Professor of the Faculty of Economics and Political Science of the University of Cairo;
Director of the Department of Political Science; Associate Member of the Institute of
International Law; Member of the International Commission of Jurists;

Mr. Pralhad Balacharya GAJENDRAGADKAR (India),
former judge of the Bombay High Court (1945-57); former judge of the Supreme Court
(1957-64); former Chief Justice of India (1964-66); former Vice-Chancellor, University of
Bombay (1966-71); Chairman of the Indian National Commission on Labour (1967-69);
Chairman, Law Commission;

Mr. E. GARCÍA SAYÁN (Peru),
former Professor of Civil Law and Political Economy at the Universities of Lima; former
Minister of Foreign Affairs; Member of the Advisory Council on Foreign Affairs; Chief
Delegate to the Third Session of the United Nations General Assembly (Paris, 1948);
President of the Peruvian Red Cross Society;

Mr. Arnold GUBINSKI (Poland),
Doctor of Laws; Professor of Law at the University of Warsaw;

Begum Raána Liaquat Ali KHAN (Pakistan),
former Ambassador to Italy and Tunisia; former Ambassador to the Netherlands;
former Professor of Economics at the Indrapastha College, Delhi; former delegate to the
United Nations General Assembly; former Member of the Syndicate and the Senate of
the Karachi University Executive Committee; Honorary Member, International Montes-
sori Association; first recipient of the International Gimbel Award for services to
humanity (1961-62); Founder-President of the All-Pakistan Women's Association;
President of the Anjuman Hilal-i-Ehmar (Red Crescent Society) of Sind Province;

Mr. H. S. KIRKALDY (United Kingdom),
Barrister, Fellow and formerly Vice-President of Queens' College in the University of
Cambridge; Professor Emeritus of Industrial Relations in the University of Cambridge;
member of the United Kingdom delegation to the sessions of the International Labour
Conference, 1929-44;

Mr. L. A. LUNZ (USSR),
Scientist Emeritus of the RSFSR; Doctor of Juridical Sciences; Professor of Civil Law
and Private International Law at the All-Union Research Institute of Soviet Law in
Moscow; Professor of Private International Law at Moscow University; Member of the
Foreign Trade Arbitration Commission at the USSR Chamber of Commerce;

Mr. E. RAZAFINDRALAMBO (Madagascar),
Chief Justice of Madagascar; Arbitrator of the International Centre for the Settlement of
Investment Disputes (IBRD) and of the International Civil Aviation Organisation;
Professor of Law at the University of Tananarive;

Mr. Paul RUEGGER (Switzerland),

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

Mr. Isidoro Ruíz MORENO (Argentina),

Professor of Public International Law at the University of Buenos Aires; Member of the Permanent Court of Arbitration; Member of the National Academy of Law, of the Academy of Sciences and of the Academy of Political Science; former Adviser to the Ministry of Foreign Affairs; member of the Council of the International Institute of Human Rights;

Mr. Arnaldo Lopes SUSSEKIND (Brazil),

former Judge of the Supreme Labour Court; former principal law officer of the Labour Courts Law Office; former President of the Permanent Commission on Labour Law; former Minister of Labour and Social Welfare; first Vice-President of the Ibero-American Academy of Labour and Social Security Law;

Mr. Joseph J. M. VAN DER VEN (Netherlands),

Professor of Labour Law, of the Sociology of Law and of the Philosophy of Law at the University of Utrecht; former Dean of the Law Faculty; former Rector of the University; former President of the Social Insurance Council of the Netherlands;

Mr. Jean-Maurice VERDIER (France),

Professor at the University of Paris X, Honorary Dean of the Faculty of Law and Economics; former Professor of the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68);

Mr. Joza VILFAN (Yugoslavia),

Member of the Permanent Court of Arbitration; former Attorney-General of Yugoslavia; former Head of the Yugoslav Mission to the United Nations; former Ambassador to India;

Mr. Earl WARREN (United States),

Chief Justice of the United States, retired;

Mr. Kisaburo YOKOTA (Japan),

former Chief Justice, Supreme Court of Japan; Member of the Japan Academy; Member of the Permanent Court of Arbitration; Member of the Institute of International Law; former Professor of International Law and Dean of the Law Department, Tokyo University; former President of the Japanese Institute of International Law; former Member of the International Law Commission of the United Nations.

7. The Committee regretted that for reasons of health Mr. Gubinski, Mr. Lunz and Mr. Warren were unable to attend the session this year.

8. The United Nations was represented at the session.

9. The Committee elected Mr. GARCÍA SAYÁN as Chairman and Mr. RAZAFINDRALAMBO as Reporter of the Committee.

10. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947) the Committee was called upon "to examine:

- (i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspection;

- (ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (iii) information and reports on the measures taken by Members in accordance with article 35 the Constitution ”.

11. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report which consists essentially of the following three parts: (a) review of reports from governments on ratified Conventions, supplied under articles 22 and 35 of the Constitution (see paragraphs 52 to 78 below, and Part Two (I and II)); (b) review of information supplied by governments under article 19, paragraphs 5 to 7, of the Constitution on the measures taken to submit Conventions and Recommendations to the competent authorities for the enactment of legislation or other action (see paragraphs 79 to 87 below), and Part Two (III); and (c) review of reports supplied by governments under article 19 of the Constitution on the Termination of Employment Recommendation, 1963 (No. 119) (see paragraphs 88 to 91 below, and Part Three, which is published in a separate volume as Report III (Part 4 B)).

II. General

New Member States

12. The Committee was informed that on 1 January 1974 the German Democratic Republic became a Member of the Organisation, bringing the total membership to 124.

Obligations Binding Member States

13. By the end of 1973 the number of ratifications of Conventions had reached a total of 3,983.

14. In the course of 1973, 77 ratifications by 23 member States were registered. Some of these ratifications were by federal States such as Australia and Canada where the matters dealt with in the Conventions in question were considered as coming within the concurrent competence of both the federal and constituent unit authorities. In addition to certain Conventions relating to basic human rights, Australia ratified the Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83); this ratification will result in the entry into force in 1974 of this Convention which was ratified earlier by the United Kingdom. The coming into force of Convention No. 83 will make applicable to a number of non-metropolitan territories the provisions of other Conventions which are set forth in the Schedule to Convention No. 83.

15. During 1973, 22 new declarations of application or acceptance of Conventions in respect of non-metropolitan territories were registered of which 14 were without modification and 8 with modifications. As at 31 December 1973, the total number of these declarations comprised 973 declarations of application without modification and 115 declarations of application with modifications. The Bahamas having become independent in 1973, the number of non-metropolitan territories was 46 at the same date.

16. Two denunciations not accompanied by the ratification of revising Conventions were registered in the period under consideration. These were the Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48) denounced by Poland, and

the Labour Clauses (Public Contracts) Convention, 1949 (No. 94) denounced by Brazil. Thus, the total number of denunciations of this type had reached 23 by 31 December 1973.

Collaboration with Other International Organisations

17. As in previous years, the Committee noted the ILO's continued active collaboration with other international organisations on questions concerning the supervision of instruments adopted under their auspices. Thus, in conformity with its usual practice, copies of reports supplied under article 22 of the ILO Constitution on the Indigenous and Tribal Populations Convention, 1957 (No. 107) were sent for comment to the United Nations, the Food and Agriculture Organisation of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the World Health Organisation (WHO). Copies of reports on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) were sent to the United Nations, FAO and UNESCO. In addition, the WHO was represented at the sitting of the Committee when Convention No. 107 was discussed. (See also paragraph 31 below as regards collaboration with the United Nations in matters relating to discrimination.)

18. In the course of its discussion on the application of Convention No. 107, the Committee was informed by a WHO representative of the new long-term measures being taken by his Organisation with a view to promoting—in ratifying countries—the creation and maintenance of adequate health services for indigenous and tribal populations, as required by Article 20 of the Convention. The Committee welcomed this initiative, which marked a new step in the collaboration between the ILO and WHO. It also hopes for a closer collaboration with the United Nations, FAO and UNESCO, all of which had co-operated in the framing of this Convention and are all called upon (as noted in the Preamble) to co-operate in promoting and securing the application of its provisions.

19. Within the framework of ILO collaboration with the Council of Europe, a representative of the ILO again participated in a consultative capacity, in conformity with article 26 of the European Social Charter, in meetings of the Committee of Independent Experts responsible for the supervision of the application of the Charter. Under the procedure for the supervision of the application of the European Code of Social Security and the Protocol thereto (in which the Committee of Experts is closely associated by virtue of Article 74, paragraph 4, of the Code and arrangements made on the subject between the ILO and the Council of Europe), the Committee was called on this year to examine a number of reports, including two first reports, from States which have ratified these instruments. The Committee noted that the number of ratifications received by the Code and the Protocol (of which the Code was drafted on the basis of the ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102)) is growing steadily, and that in future it will be called on to devote an increasing amount of time to the examination of these instruments. The conclusions reached by the Committee at its present session on the basis of the governments' reports will be communicated to the Secretary-General of the Council of Europe for transmission to that Organisation's Committee of Experts on Social Security. This procedure is designed to promote a uniform approach by the supervisory bodies of the two organisations in respect of provisions dealing with identical or similar matters. A representative of the ILO also participated in the meetings of the Sub-Committee of the European Code of Social Security and of the Committee on Social

and Health Questions of the Consultative Assembly in December 1973. These organs, which by virtue of Article 74, paragraph 3, of the above-mentioned European Code are also called upon to examine the reports of governments on the application of this instrument, reached conclusions analogous to those of the Committee of Experts.

Regional Reviews of the Application of Standards

20. The Committee noted that the reviews at the regional level of problems relating to the ratification and application of international labour standards—inaugurated in 1970 by the Asian Advisory Committee and followed up by the Asian Regional Conference in 1971—had been continued and now constituted a regular element of the regional activities of the ILO. Thus, during 1973, the Asian Advisory Committee (15th Session, Bangkok) and the Fourth African Regional Conference (Nairobi) reviewed the general situation of the countries of these regions as regards ILO Conventions, giving special attention to certain instruments of particular interest to the countries in question.

Regional Seminars on International Labour Standards

21. The Committee has in the past supported the Office practice of organising seminars in the various regions of the world to familiarise the officials of national ministries of labour with the obligations of member States and the procedures of the ILO relating to Conventions and Recommendations. The Committee accordingly welcomed the resumption of this activity which had been suspended since 1971, with the holding this year of two such seminars, the first for officials of Latin American countries, and the second in the Asian region.

Governing Body's In-Depth Review of International Labour Standards

22. The Committee recalled that the Governing Body planned to undertake in the course of 1974 an in-depth review of the whole programme of international labour standards, as part of its general programme for the systematic evaluation of the ILO's work. Special interest attaches to this review which will necessarily cover both the adoption and the application of ILO standards. Accordingly, in the course of its discussion the members of the Committee exchanged views on new measures which might be introduced to strengthen the impact of the ILO's standard-setting activities, with special reference to those falling within its own purview. These views—which are reflected in the relevant parts of the present general report—dealt with such matters as the possible reinforcement of the practical application of ratified Conventions, furthering the participation of employers' and workers' organisations in the supervisory procedures, other forms of ILO assistance to governments having difficulties in complying fully with their obligations and the role which the Committee can play in regard to promotional Conventions.

23. The Committee considered that it should not enter more fully into a discussion of the matter at this stage since it would no doubt have an opportunity to consider the in-depth review and since it might then be called upon to put forward its views on all aspects of the problem directly relevant to its functions and responsibilities.

Promotional Conventions

24. In 1973 already the Committee had considered the problems which may arise in regard to the implementation of promotional Conventions, that is, Conventions

which are not limited to precise legal standards but lay down objectives of a general character which call for continuing action by governments over such wide-ranging areas as equal remuneration, an active employment policy, equal opportunity and treatment in employment, the protection of indigenous populations, etc. It was pointed out in the course of this year's discussion that a great deal of continuing research by the Office was necessary if the Committee was to be in a position to ascertain that governments are introducing and implementing the various programmes and measures through which progressive application could be achieved. The Committee's functions in examining the effect given to these promotional Conventions cannot be fulfilled unless a considerable amount of information bearing on relevant social, economic and related developments becomes regularly available from governments, for review and analysis by the Office. The complexity of the matters dealt with in most promotional Conventions and the thorough research which is required if the implementing measures are to be properly assessed by the Committee were often reflected in long and detailed comments addressed to the governments concerned. The Committee trusts however that these comments may afford practical guidance for the responsible government services, particularly in developing countries where only limited resources are available for research and analysis.

Action for the Elimination of Discrimination in Employment and Occupation

25. A number of government reports on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) were examined this year, but it is for next year that the Committee's regular examination of reports due from countries which have ratified the Convention is scheduled. The Committee reserves the right to reconsider certain issues of general interest in this area at that time, and particularly those which were raised in a general observation in 1973 as regards resorting to direct contacts in respect of this Convention, the taking of specific steps by countries so that cases in which discriminatory practices in employment are alleged can be examined and dealt with in a concrete manner and the co-operation of employers' and workers' organisations and other appropriate bodies in the application of the Convention.

26. As will be seen in the observations concerning the application of Convention No. 111 in particular countries which appear in the second part of this Report, the Committee suggests in one case (Cyprus) that recourse to direct contacts might help in clarifying certain matters. In another case (Sierra Leone) it notes with interest that the Government proposes to seek technical advice from the International Labour Office with a view to drawing up specific legislation in areas within the scope of the Convention. In the particular case of equal remuneration without distinction based on sex, which is the subject of Convention No. 100, direct contacts carried out at the request of one Government (Argentina) have resulted in supplementary measures being adopted in this respect. The Committee hopes that other governments will also come to realise the advantages to be gained through these procedures, whose usefulness it has already stressed.

27. Further, in connection with missions carried out in various countries on the Office's own initiative, with the consent of the governments concerned, fruitful direct contacts took place in respect of issues related to the ratification prospects for Convention No. 111 (in Barbados, Jamaica, Singapore and Sri Lanka) or of means of implementing the Convention once ratified (Trinidad and Tobago). The Committee considers that the establishment and pursuit of this sort of consultation on all appropriate occasions would be highly advantageous.

28. The Committee also notes with interest the development of new possibilities of ILO "special surveys" in the area of elimination of discrimination in employment, as mentioned in its previous report, which may contribute to an appreciation of the facts and the quest for solutions in certain national situations. Use of this method as a form of technical co-operation is contemplated by one Government (Malaysia) and a preliminary mission has already gone there at the Government's request. The Governing Body at its 191st Session (November 1973) has, moreover, approved the rules of procedure to be followed, on a trial basis, in the examination of requests originating from other sources than the Government concerned, in particular from employers' and workers' organisations (it being understood that special surveys in these cases would require the consent of the Government of the State concerned). The Committee hopes that recourse to these procedures with a view to technical co-operation, research or the provision of good offices, as the case may be, will prove to be profitable for a positive examination of the issues which arise in this area.

29. As regards widening the scope of ILO standards, the Committee was interested to learn that the question of equal opportunity and treatment in employment for migrant workers has been placed on the agenda of the 1974 and 1975 Sessions of the Conference with the aim of adopting supplementary standards comparable to those of Convention No. 111. The Committee's comments made above in respect of the elimination of discrimination in general are, of course, fully applicable here as well.

30. As regards the elimination of discrimination based on sex, the choice of the Equal Remuneration Convention, 1951 (No. 100) and Recommendation, 1951 (No. 90) as the subject of the next Government reports under article 19 of the Constitution will enable the Committee to present a general survey on this question during 1975, which has been proclaimed "International Women's Year" by the United Nations. Also a new report of the International Labour Office on women workers in a changing world will be submitted to the Conference in the same year and will cover other aspects of the promotion of equality of the sexes in employment as well. The Committee appeals to governments which have ratified Convention No. 111 to include in their next reports specific information on the progress made and results achieved in this area. The Committee hopes that these studies in 1975 will enable it to observe and promote significant progress in this field.

31. Pursuant to the co-operative arrangements with the Committee on the Elimination of Racial Discrimination responsible for examining the application of the Convention on the Elimination of All Forms of Racial Discrimination adopted in 1965 under the auspices of the United Nations, the records of proceedings, documents and report of this body at its August-September 1973 Session have been communicated to the Committee which has noted them with interest. More particularly the Committee on the Elimination of Racial Discrimination stated that it fully shared the grave preoccupation of the ILO supervisory bodies as regards the application of Convention No. 111 by Portugal in those territories in Africa administered by that country and it asked that the information requested in this respect be forwarded to it once received. In view of the unfortunate fact that this information has not been received, an observation on this point (see Part Two of this report) once again draws the attention of the Government of Portugal to its obligation to provide the information requested. Finally, the ILO has continued to be represented by observers at the sessions of the Committee on the Elimination of Racial Discrimination pursuant to the decision adopted by the latter at its Sixth Session (August, 1972). The United Nations have, as usual, been invited to send a representative to the present

session. The application of Convention No. 111 was not the subject of detailed examination because of the two-year reporting system (see above, paragraph 25). Appropriate arrangements should continue to be made to ensure mutual representation at the subsequent sessions of each body in order that there may be effective and permanent co-ordination, in the implementation of the instruments concerned, in connection with any common problems which might arise with respect to the elimination of discrimination.

III. Procedure of Direct Contacts

32. In 1973 the Committee recalled the development of the procedure of direct contacts from its beginnings, reviewed the cases in which direct contacts had taken place and examined the principles governing the procedure in the light of the experience acquired. The Committee observes with interest that at the Conference Committee in 1973 the restatement of the principles governing direct contacts was warmly welcomed, particularly by the Workers' and Employers' members. It was in particular indicated that this procedure, which involves discussions between the competent government services and a representative of the Director-General, was an irreplaceable means of helping countries to implement ratified Conventions, and the Workers' members stated that it could also be useful for the examination of obstacles to the ratification of Conventions. Emphasis was also placed on the need for the representative of the Director-General to make contact with employers' and workers' organisations in the course of his assignment. More generally, both the Workers' and the Employers' members considered that every effort should be made to enable countries to have recourse to direct contacts whenever they considered it necessary.

33. As was also indicated to the Conference Committee, it is evident that the procedure of direct contacts cannot be construed as limiting the functions and responsibilities of the Committee or of the Conference Committee.

34. Since the last session direct contacts have taken place with the Governments of Argentina, Bolivia, Dahomey and Paraguay. (See also paragraphs 26 and 27 above for the cases relating to the elimination of discrimination in employment.)

35. In Argentina, the direct contacts took place in April 1973 and dealt with the application of Conventions Nos. 23, 32, 42, 50, 68, 81 and 100. As a result of these contacts, three Acts and a decree have been adopted in conformity with the provisions of Conventions Nos. 23, 50, 100 and 42 respectively, and three resolutions have been issued in relation to the application of Conventions Nos. 32, 68 and 81 with a view to the preparation of the necessary provisions for the application of Conventions Nos. 32 and 68 and for a better application of Convention No. 81.

36. In Bolivia, the direct contacts were held in October 1973, and concerned the application of Conventions Nos. 5, 14, 42 and 87, the submission of ILO Conventions and Recommendations to the competent authorities and the supply of reports. As a result of these contacts, three draft decrees were prepared relating to the application of Conventions Nos. 5, 14 and 42 and measures are being taken to lead to a better application of Convention No. 87. Also as a result of these contacts, seven Conventions and thirteen Recommendations have been submitted to the competent authorities and seven of the eight reports due have been received.

37. During the direct contacts held in Paraguay in November 1973, the application of ten Conventions was examined, namely, Nos. 52, 59, 60, 77, 78, 79, 81, 89, 90

and 95. The first results of these contacts were the preparation of a draft legislative decree designed to amend ten sections of the Labour Code affecting the application of these Conventions, and the adoption of three resolutions on the application of Conventions Nos. 59, 60, 78 and 81.

38. The direct contacts with Dahomey took place in December 1973, and involved a review of the implementation of Conventions ratified by Dahomey, of the arrangements for the submission of reports on ratified Conventions, on unratified Conventions and on Recommendations, and of the measures to be taken for the submission of ILO instruments to the competent authorities. Draft texts were prepared with a view to bringing national legislation into conformity with three Conventions (Nos. 6, 18, 33). The Government, which for two years had sent no reports, has this year sent all the reports due, both under article 22 and under article 19 of the ILO Constitution. The study of instruments by the different government services concerned has been initiated with a view to their submission to the competent authorities.

39. The Committee observes that, following a practice which has become one of the characteristic features of this procedure, the representative of the Director-General in each of these cases also entered into contact during his mission with the organisations of employers and workers.

40. Finally, the Committee notes the satisfactory results obtained as an outcome of the direct contacts held in 1972 in Colombia (Conventions Nos. 3, 8 and 23), Costa Rica (Conventions Nos. 29, 90 and 96), Guatemala (Conventions Nos. 45, 58, 77, 78, 79, 81, 89, 90 and 112) and Peru (Conventions Nos. 27, 77 and 78). (See the individual observations on these Conventions addressed to the countries concerned in Part Two I B.)

41. The Committee hopes that the positive results achieved in recent years in a variety of countries which have had recourse to direct contacts will provide a stimulus to other countries encountering difficulties in the fields of the submission, ratification and application of Conventions to make use of this procedure.

Other Assistance to Governments

42. The Committee considered that, besides the direct contacts procedures discussed above, additional steps of a less formal character could be taken to assist governments in complying with their obligations in regard to international labour standards. Such measures would for instance involve help to the competent national services in the drafting of the reports which they were asked to communicate each year to the ILO, any necessary clarification to these services regarding the form of action which the Committee considered appropriate to give effect to ratified Conventions (for example, by supplying explanatory notes or models of legislation), or assistance to governments in their task of submitting Conventions and Recommendations to the competent authorities (for example, by supplying model documents of submission, or by communicating wherever possible a translation of the instruments into the language of the country). It might be important for governments to be aware that, in addition to its regional seminars on standards, the ILO is available to advise and assist them in their own countries or in Geneva within the framework of the Organisation's action to promote the implementation of international labour standards.

IV. Observations by Employers' and Workers' Organisations

43. The Committee recalls the importance it has always attached—as a most useful element in the procedure of supervision—to observations which employers' and workers' organisations might make on the basis of the reports sent by their governments to the ILO and communicated to them in conformity with article 23, paragraph 2, of the Constitution. Such observations relate chiefly to the manner in which ratified Conventions are applied, but may also relate to the submission of Conventions and Recommendations to the competent authorities or to the effect given to selected unratified Conventions and to Recommendations; normally they suggest that new measures should be taken by the government to comply fully with its obligations, but occasionally they indicate that the measures taken by the government are considered satisfactory. Whatever their character, the observations made by organisations having direct experience of the situation in their country are a valuable source of information to the Committee in its work, and more generally the activities of these organisations constitute one of the principal means of ensuring that legislation giving effect to a ratified Convention is applied in practice.

Examination of Observations Received

44. The Committee this year was called upon to examine 34 cases of observations made in the previous twelve months by employers' and workers' organisations¹ on the manner in which governments comply with their obligations in regard to international labour standards. In addition, it considered eight cases of such observations, the examination of which had been deferred in 1973 pending receipt of the governments' comments.²

¹ Austrian Congress of Labour Chambers on Convention No. 81;

Bangladesh Employers' Association on Conventions Nos. 4, 6, 16, 18, 19, 22, 29, 81, 89, 90, 96, 105, 118;

Brazilian National Confederation of Workers in Maritime, Fluvial and Air Transport and Union of Dockworkers on Convention No. 22, the National Confederation of Agricultural Workers on Conventions Nos. 29 and 117, the Guanabara Provincial Union of Artists and Entertainment Technicians on Convention No. 106, and the National Federation of Dock Workers on Convention No. 127;

Federation of Turkish Trade Unions of Cyprus on Conventions Nos. 44, 88 and 111;

General Union of Workers in Dahomey, the General Union of Trade Unions, the National Federation of Workers in Commerce and Industry and other autonomous trade unions on Convention No. 26;

Finnish Trade Union of Ships' Officers on Convention No. 53, and the Confederation of Finnish Trade Unions on Convention No. 63;

several branches of the ANIL and other labour inspectors' trade unions affiliated to the Italian Labour Union (SNAPIL-UIL) and the Italian Confederation of Workers' Trade Unions (FILS-CISL) on Convention No. 81;

Japanese Spring Offensive Joint Struggle Committee (SOHYO, CHURITSU/ROREN) on Conventions Nos. 26 and 131;

German Confederation of Trade Unions on Convention No. 102;

Netherlands Consultative Body of Trade Union Federations on Convention No. 100.

In addition, observations relating to the effect given to Recommendation No. 119 (on which article 19 reports were due) were received from the Bangladesh Employers' Association, the German Confederation of Trade Unions, and the Federation of Employers of Kenya.

² From the Netherlands Federation of Trade Unions on Convention No. 9;

from the Uruguayan Confederation of Workers on Conventions Nos. 1, 2, 9, 14, 26, 63 and 67.

45. The Committee was interested to find that this year again there had been a larger number of instances in which employers' and workers' organisations participated in this way in the work of supervision. The 34 observations received this year thus represent a slight increase over the 30 communicated last year but, above all, they show a marked change if compared with the small number received in previous years (an annual average of 9 instances during the period 1963-72). In the majority of cases the observations introduced new elements of information directly relevant to the Conventions in question; they are reflected in the Committee's observations and direct requests. It is, of course, understood that any further views expressed either by the organisations or by the government concerned in the light of the Committee's own comments or any discussion at the Conference Committee will be welcomed and given every consideration.

Measures to Promote Greater Participation

46. The marked increase in the past two years in the number of observations received from organisations may to some extent be the result of various measures taken to promote their participation in the work of supervision in this way. The Workers' members of the Conference Committee on the Application of Conventions and Recommendations indicated in this respect in 1973 that a greater effort should be made by the organisations themselves, and that still more should be done to facilitate their active participation, particularly in developing countries. It therefore seems appropriate to review briefly what has already been done in this direction and to consider what further measures might be appropriate.

47. The first step, the necessity of which must be emphasised, is the communication to representative employers' and workers' organisations by their governments of copies of reports sent to the ILO on Conventions and Recommendations, as required by the ILO Constitution. The Committee has followed this question regularly year by year and, in 1972 in particular, reviewed the whole situation and suggested a number of measures likely to lead to improvements. It is therefore glad to find that there are now relatively few cases in which governments fail to communicate copies of their reports to the employers' and workers' organisations (4 per cent of reports on ratified Conventions¹, 5 per cent as regards reports under article 19 of the Constitution, and 12 per cent as regards information on the submission of Conventions and Recommendations to the national competent authority), and it voices its appreciation of the manner in which governments thus comply with this constitutional obligation.

48. A second measure consists in making available to the organisations which receive copies of their government's reports the material on the basis of which these reports may be considered. In this regard, measures have been taken by the ILO in the past two years (following discussion in the Conference Committee) to ensure that the representative national organisations receive a list of the Conventions on which reports are due from the government of their country and a copy of the relevant report forms or questionnaires sent to governments which contain also the text of the

¹ The following governments have not indicated in any of their reports on ratified Conventions whether copies thereof have been sent to the representative organisations: Honduras, Jordan, Liberia, Upper Volta. The following governments have not supplied these particulars in most of their reports: Burma, Libyan Arab Republic. Direct requests have been addressed by the Committee to all governments which have not complied with their obligations under article 23, paragraph 2 of the Constitution.

Convention or Recommendation concerned. It seems from the observations made by employers' and workers' organisations that the availability of this material has been of practical value to them in framing their observations. The Committee recalled in this connection that it had already referred in 1972 to possible arrangements to ensure that these organisations are made more fully aware of the bearing of the observations and direct requests addressed to their governments by the Committee.

49. The third measure relates to the need to inform employers' and workers' organisations about the ILO's standard-setting activities and, more particularly, about their role in the supervisory machinery. The need for new measures in this regard has frequently been emphasised and the Committee learned with interest of certain new developments. One of these is the Governing Body's decision to place on the agenda of the 1975 Session of the Conference the question of "Tripartite national machinery to improve the implementation of ILO standards", with a view to the adoption of an appropriate instrument. Certainly the creation of machinery of this kind should serve to make ILO standards and procedures better known to employers' and workers' organisations and to ensure their more active participation. Another development of the past year is the first regional workers' study course on international labour standards, held in Nairobi in November 1973 in conjunction with a regional Conference of the ILO, and the decision—due to the success of this meeting—to hold another such study course in 1974, this time in Mexico. The organisation of these courses had been repeatedly requested by the Workers' members at the Conference Committee and would, it was hoped, result in new contributions to the present Committee's work. A further development of which the Committee was informed is the arrangement now made in relation with the reviews of selected Conventions which are submitted to regional Conferences: these reviews are now sent systematically to the national representative employers' and workers' organisations in the region, with a request for their comments on any problems of application of the Conventions in their country. This is clearly a field in which a wide range of different measures could be combined with a view to promoting a better understanding, among the organisations concerned, of ILO standards and the procedures for their implementation.

50. The fourth question arises out of the fact that the representative organisations must be in a material position to make use of the information, documents and training made available to them. In this connection, emphasis had been placed, in the Conference Committee in 1973, on the difficulties facing certain organisations—particularly in developing countries—which were poorly equipped and lacked financial means and qualified personnel.

51. A final point to be considered involves the delays in examining observations sent by employers' and workers' organisations. The difficulties existing in this regard are due first to the fact that the Committee meets only once a year, secondly to the need to await any comments the government may wish to make on these observations, and thirdly to the two-yearly reporting system. Certain measures have been taken to compensate the delays resulting from these procedures. In particular—once the government's comments have been received—the organisation's observations are examined by the Committee regardless of whether or not a report was due on the Convention, thus speeding up the procedure. If the government does not send its comments within a reasonable time, the Committee will have to proceed with the examination of the substance of the observations.

V. Reports on Ratified Conventions

(Articles 22 and 35 of the Constitution)

Supply of Reports

Reports Requested and Received.

52. By far the greater part of the Committee's work consists in the examination of the reports¹ supplied by governments on Conventions which have been ratified by member States and on those which have been declared applicable to non-metropolitan territories.

53. Detailed reports are normally requested at two-yearly intervals, in accordance with a procedure approved by the Governing Body and the Conference. Under this two-yearly reporting procedure, Conventions are divided into two groups in respect of which detailed reports are requested every other year. This year the reports before the Committee related to 57 Conventions² and covered the period from 1 July 1971 to 30 June 1973. In addition to the two-yearly reports, detailed reports were also requested, in accordance with the Governing Body's decision, from certain governments on other Conventions, either because the first report was due after ratification, or because serious problems had previously been noted in the application of the Convention, or again, because reports due for the previous period had not been received or did not contain the information requested.

54. A total of 2,048 detailed reports were requested from governments on the application of ratified Conventions in States Members (article 22 of the Constitution). At the end of the present session of the Committee, 1,521 of these reports had been received by the Office. This figure corresponds to 74.3 per cent of the reports requested, as compared with 77.6 per cent last year. A table showing the reports received and those which are overdue, classified by country and by Convention, is to be found in Part Two (section I, Appendix I). Another table (section I, Appendix II) shows, for each year since 1933 in which the Committee has met, the number and percentage of reports which were received by the prescribed date, by the date of the meeting of the Committee and by the date of the session of the International Labour Conference.

55. In addition, 509 reports were requested on Conventions which have been declared applicable with or without modification to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 402 reports, or 78.5 per cent, had been received by the end of the Committee's session. A further 797 reports were requested on Conventions ratified by the member States but not declared applicable to the non-metropolitan territories; of these 666 or 83.5 per cent were received. A list of the reports received and those which are overdue, classified by territory and by Convention, may be found in the Appendix to section II of Part Two of this report.

56. Apart from the above-mentioned reports, 18 governments also supplied general reports on the Conventions for which detailed reports were not due for the

¹ ILO: *Summary of Reports on Ratified Conventions*, Report III (Part 1), to the 59th Session of the International Labour Conference (Geneva, 1974).

² Conventions Nos. 2, 4, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 34, 41, 42, 44, 48, 52, 53, 55, 56, 63, 65, 69, 71, 73, 74, 77, 78, 79, 81, 82, 85, 88, 89, 90, 92, 94, 95, 96, 101, 104, 105, 113, 114, 115, 117, 118, 121, 124, 125, 126, 127, 129 and 130.

period under review (Australia, Belgium, Burma, Central African Republic, Congo, Cyprus, Federal Republic of Germany, India, Indonesia, Iran, Ivory Coast, Malaysia, New Zealand, Sierra Leone, Singapore, Sweden, Switzerland, United Kingdom).

Compliance with Reporting Obligations.

57. Of the 119 governments from which reports were due on the application of ratified Conventions in States Members, the great majority have supplied all or most of the reports requested. However, a number of governments have not complied with their obligation to supply reports on ratified Conventions. Thus, none of the reports due this year have been received from the following 21 countries: Afghanistan, Barbados, Burundi, Chile, Democratic Yemen (Aden), Ecuador, Gabon, Laos, Mauritania, Somalia, Togo, Trinidad and Tobago, Turkey, USSR, Uruguay, Zaire; no reports have been received for the last two years from Chad, Portugal, Tanzania, and for the last three years from Lebanon and Yemen.

Supply of First Reports.

58. A total of 97 first reports on the application of ratified Conventions was received by the time the meeting opened. However, a number of countries have failed to supply the reports in question, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following States since 1972: Ecuador (Convention No. 118), Kenya (Convention No. 16); or since 1971: Colombia (Convention No. 62), Ecuador (Conventions Nos. 86, 110), Thailand (Conventions Nos. 29, 88, 122), Yemen (Conventions Nos. 104, 111). This continued failure to supply the first reports, without which the Committee cannot make an assessment of the application of the Conventions in question, renders it impossible for the supervisory procedures to operate in these cases, and the Committee urges the governments concerned to make every effort to ensure the despatch of all first reports when they are requested.

Replies to Committee's Comments.

59. The procedure for the examination of reports can only function satisfactorily if governments not only supply the detailed reports requested but also reply fully to the Committee's observations and requests. Failure to do so seriously jeopardises the process of supervision. In order to reduce such cases to a minimum, the International Labour Office, in its capacity as the Secretariat of the Committee, is responsible for ascertaining upon receipt of governments' reports whether these reports take account of the previous comments of the Committee and, if they do not, for writing immediately to the governments concerned requesting them to supply the necessary information without delay in order to enable the Committee to fulfil its task. Under this procedure the International Labour Office communicated with 34 governments; while in some cases these letters of reminder are of very recent date, only 8 governments have so far sent the information requested.

60. While the majority of governments are scrupulous in ensuring that full replies to the Committee's comments are included in their reports, the number of cases in which no such replies were communicated is once again substantial. A total of 23 governments has thus failed to reply to most or even all of the observations and direct requests relating to Conventions on which reports were requested this year (involving 161 cases¹, the same total as last year).

¹ Barbados (Conventions Nos. 17, 42, 63, 81, 94, 95, 115), Burundi (Conventions Nos. 14, 26, 29, 50, 64, 94), Chad (Conventions Nos. 13, 29, 33, 52, 81, 87, 98, 100, 105, 111), Chile (Conventions

61. In cases of this kind the Committee can do no more than repeat the observations or requests that it had made previously on the Conventions in question. The failure of the governments concerned to supply the reports requested or to reply to the Committee's comments thus delays the work of both the Committee of Experts and the Conference Committee. The Committee must therefore once again urge upon governments the special importance of ensuring that the reports requested are in fact communicated and that they reply in full to the Committee's comments.

Late Reports.

62. The Committee has noted that once again the great majority of reports reached the ILO after 15 October, the date for which they were requested (see Part Two, section I, Appendix II). This date was established in order to allow sufficient time for the various steps involved in the supervision procedure, which may include the translation as well as the examination of the reports and legislation and other relevant documentation. Failure to respect the established time-limit may thus impede the normal functioning of this procedure, and the Committee reiterates the hope that governments will do all they can in the future to supply the reports due by the date indicated.

63. The communication of reports in due time is particularly important in cases requiring detailed examination by the Committee, as in the case of first reports or in cases of important divergences in the application of a Convention. The Committee has thus been compelled to defer to its next session the examination of certain reports, as their study could not be completed with the necessary degree of care within the time available. Similarly, at its present session, it has had to examine a number of reports deferred from 1973.

Examination of Reports

64. In examining the reports received on Conventions which have been ratified and those which have been declared applicable to non-metropolitan territories, the Committee followed its usual practice of assigning to each of its members the initial responsibility for a group of Conventions; reports received in sufficient time were sent to the members concerned in advance of the session, and each member then submitted to the whole Committee his preliminary findings on the instruments concerned, for discussion and approval.

Observations and Direct Requests.

65. The Committee found, as regards the great majority of the cases considered by it, that no comment was called for regarding the manner in which the obligations

Nos. 19, 24, 25, 29, 34), Costa Rica (Conventions Nos. 81, 92, 113, 114, 117, 122), Democratic Yemen (Aden) (Conventions Nos. 95, 105), Ecuador (Conventions Nos. 29, 35, 37, 39, 87, 98, 100, 104, 105, 112, 117, 120, 123, 124), Gabon (Conventions Nos. 41, 52, 87, 101, 123, 124), Haiti (Conventions Nos. 1, 30, 81, 90, 98, 100, 106), Indonesia (Conventions Nos. 29, 100), Laos (Conventions Nos. 4, 6, 29), Lebanon (Conventions Nos. 14, 26, 52, 89, 90), Madagascar (Conventions Nos. 117, 118, 119, 120, 122, 124), Mauritius (Conventions Nos. 2, 63, 105), Mauritania (Conventions Nos. 19, 22, 29, 53, 62, 81, 94, 102, 111, 114, 118), Portugal (Conventions Nos. 1, 6, 14, 17, 18, 19, 81, 89, 105, 106), Somalia (Conventions Nos. 17, 22, 94, 95, 105) Syrian Arab Republic (Conventions Nos. 2, 19, 29, 52, 63, 87, 88, 94, 95, 96, 105, 115, 117, 118, 125), Tanzania (Conventions Nos. 17, 26, 29, 50, 59, 63, 65, 81, 88, 97, 98, 108) Trinidad and Tobago (Conventions Nos. 85, 105), Turkey (Conventions Nos. 81, 88, 95, 111, 115, 119), USSR (Conventions Nos. 29, 32, 52, 69, 92, 106, 122, 123, 124), Uruguay (Conventions Nos. 17, 23, 24, 25, 94, 95, 97, 103, 105).

freely undertaken in respect of Conventions were complied with. In other cases, however, the Committee found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. The Committee was particularly concerned this year at the need in certain cases to make comments on recent legislation conflicting with the provisions of Conventions which had previously been fully applied. As in previous years, its comments have been drawn up either in the form of "observations" which are reproduced in the Committee's Report or of "direct requests" which are communicated to the governments concerned; it was pointed out in the course of the discussion that, although direct requests are not published in the Committee's Report, this should not be taken to mean that they were not to be made available to any person or organisation having a justifiable interest to consult them. In addition, in the case of observations which it deemed particularly important, the Committee has continued its usual practice of asking the government, in a footnote, to supply full particulars to the Conference at its next session in June 1974 or to report in detail for the period 1973-74.

66. The Committee's observations are set out in Part Two (sections I and II) of the present report, together with a list, under each Convention, of any direct requests. An index of all observations—classified by country—will be found at the beginning of this report. A list of all direct requests will be found at the end of Part Two of the report.

67. The extent to which States fail to comply with their obligations under ratified Conventions should not be judged from the sheer bulk of the Committee's comments. Many of these are simply requests for fuller information in cases where the Convention may in fact be applied, and many others relate to points of detail or questions of minor importance.

Consideration by the Committee of Reports Due from Portugal.

68. As regards the examination of the implementation by Portugal of Conventions to which it is a party, the Committee at the present session considered the special situation arising in relation to the Indigenous and Tribal Populations Convention, 1957 (No. 107). This question is dealt with in a general observation under Convention No. 107.

69. With respect to the more general question of the application of Conventions in territories under Portuguese administration, the Committee had its attention drawn to a number of resolutions recently adopted by organs of the United Nations. By Resolution 1804(LV) of 7 August 1973, the Economic and Social Council—"referring to the Governments of Portugal and South Africa and the illegal régime of Southern Rhodesia"—had invited the specialised agencies "to refrain from taking any action which might imply recognition of the legitimacy of these régimes' colonial and alien domination". A recommendation in identical terms has been made by the General Assembly in Resolution 3118(XXVIII) of 12 December 1973.

70. On the other hand, in a Resolution (3110(XXVIII)) also adopted on 12 December 1973, the United Nations General Assembly has confirmed the continuing obligation of Portugal to transmit information in respect of "territories under its domination" under Article 73e of the Charter. The Economic and Social Council, by Resolution 1796(LIV) of 18 May 1973, referring to African territories

under Portuguese administration, recommended that "as the objectives of the various International Labour Organisation Conventions have not been fully attained, the International Labour Organisation should consider all possible means for strengthening the implementation by Portugal of the Conventions to which it is a party". In this connection, the Committee recalls that it is required by its terms of reference to examine the extent to which Portugal fulfils the obligations incumbent upon it under the ILO Constitution and the Conventions which it has ratified. In pursuance of this mandate, it has been called upon to examine the degree of implementation in territories under Portuguese administration of Conventions relating to certain basic human rights such as the elimination of discrimination in employment and occupation and the abolition of forced labour as well as Conventions relating to conditions of employment such as hours of work, weekly rest, minimum wages, employment of women and young persons, workmen's compensation and labour inspection.

71. Having regard to the various resolutions referred to above, it has appeared to the Committee that the above-mentioned recommendation that international agencies should refrain from "any action which might imply recognition of the legitimacy of [Portugal's] colonial and alien domination" is not intended to exempt Portugal from the obligations arising in respect of the territories concerned under the Constitutions and Conventions of the respective organisations nor from the procedures for international supervision established in relation to such obligations.

Practical Application.

72. As in previous years, the Committee has been concerned to assess, on the basis of the information available, the extent to which the national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms on the Conventions approved by the Governing Body, and the governments' replies to these questions constitute the main source of information on practical application available to the Committee. They cover such matters as relevant decisions by courts of law, the results of labour inspection, the number of workers protected, statistics of industrial accidents and occupational diseases, minimum wage rates, the amount of social security benefits granted, the operations of the employment service, unemployment rates, etc. The Committee has also taken into account other authoritative sources of information, including the labour inspection reports communicated by governments to the ILO, government reports and studies, observations on the application of ratified Conventions submitted to the ILO by employers' and workers' organisations (as more fully discussed in Chapter IV of this report) and technical co-operation reports of experts or missions working in fields covered by Conventions.

73. This year over 40 per cent of the reports supplied on Conventions for which particulars of this nature are specifically requested contained such data. This proportion constitutes an improvement over the low figure recorded last year, but is still lower than the figures of some previous years, and the Committee hopes that governments will continue to make every effort to include information on practical application in their reports, particularly on those Conventions for which such data are specifically requested. Direct requests on this point have been addressed to certain countries which have failed to reply to the questions in the report forms concerning practical application. A number of other countries, on the other hand, have supplied valuable information of this kind; thus, the Governments of the following countries have supplied such information in more than two-thirds of the reports concerned:

Belgium, Cyprus, France, Federal Republic of Germany, Greece, India, Ireland, Japan, Malaysia, Mexico, Norway, Spain, United Kingdom.

74. The Committee has also noted with interest the decisions of courts of law on questions of principle relating to the application of ratified Conventions to which certain countries referred in their reports. Seventeen reports contained information of this kind, and threw additional light on the problems which have arisen in these cases in giving practical effect to the terms of the Conventions concerned.

75. Among the variety of ways indicated above whereby the practical application of ratified Conventions can be promoted effectively, the Committee has always attached importance to the role of labour inspection as the principal instrument for seeing to it that implementing legislation is in fact observed. This depends on the existence of national labour inspection services (whether or not within the framework of the labour inspection Conventions) and requires action to ensure that these services are adequately staffed and function satisfactorily, that the labour inspection reports appear regularly and contain a maximum amount of information on labour questions (including information on labour relations), and that the labour inspection services are aware of the international labour Conventions which are applicable in their countries as a result of ratification. To underpin the Committee's task of supervision, labour inspection reports need to be regularly analysed by the Office. This analysis is in turn facilitated if the inspection reports are drawn up in accordance with the indications given in the relevant ILO Conventions and guidance to this effect is, in this case also, available from the Office.

76. Since the role of the labour inspection services in each country is to supervise the application of national legislation, the effective implementation of ratified Conventions presupposes that they are adequately reflected in national legislation. In this regard the Committee has often drawn attention to the practical difficulties which arise in ensuring the effective application of Conventions in countries in which, by virtue of the constitutional system or the practice followed, the terms of ratified Conventions are automatically incorporated into national law. Quite apart from the problem raised by the fact that most of the provisions of international labour Conventions are not self-executing, the incorporation of the terms of ratified Conventions into national law sometimes results in uncertainty as to the state of the law if it is not accompanied by appropriate measures of publicity and, as far as possible, by the express amendment or repeal of the pre-existing legislative texts. The bringing of national legislation into formal conformity with the terms of ratified Conventions, which is the solution that the Committee has considered to be the most sound, is also one of the conditions of the effective application of ratified Conventions.

Cases of Progress.

77. In accordance with its established practice, the Committee has drawn up a list of the cases in which it has been able to express its satisfaction at measures taken by governments to make the necessary changes in their law or practice following earlier comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Relevant details concerning the countries in question are to be found in Part Two of this report, and cover 86 instances in which measures of this kind have been taken, involving 42 States and 5 non-metropolitan territories. The full list is as follows:

REPORT OF THE COMMITTEE OF EXPERTS

Countries	Conventions Nos.
Algeria	63
Argentina	23, 29, 42, 50, 100, 105
Australia	42, 105
Belgium	56, 81, 92
Bolivia	96
Bulgaria	3
Burma	17
Burundi	17
Byelorussian SSR	87
Colombia	3, 8, 23, 111
Congo	87
Costa Rica	29, 90, 96
Cuba	27
Cyprus	44, 88
Czechoslovakia	87
Denmark	105
Finland	52
Federal Republic of Germany	102
Guatemala	45, 58, 77, 78, 79, 81, 89, 90, 95, 112
Iraq	115
Israel	79
Kuwait	81
Mali	29
Malta	42
Mexico	55
Morocco	101
Netherlands	96, 105
New Zealand	17
Pakistan	81, 90
Paraguay	59, 60, 78, 81, 95, 117
Peru	27, 62, 77, 78
Romania	1
Somalia	16
Spain	105
Sri Lanka	81
Sweden	105, 118
Thailand	14
Ukrainian SSR	29
Upper Volta	29
Venezuela	1, 3, 11
Yugoslavia	48
Zambia	124
<i>Non-Metropolitan Territories</i>	
<i>France</i>	
Comoro Islands	6
<i>United Kingdom</i>	
Antigua	81, 82
Guernsey	24, 25, 56
Gilbert and Ellice Islands	42
St. Vincent	94

These cases bring the total recorded instances of progress above 830 since the Committee began listing them in its reports about a decade ago. They provide a particularly useful illustration of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

78. As the Committee has pointed out in previous reports, these lists do not record the many other "invisible" or less apparent cases of progress which are the

direct result of the various procedures designed to promote international labour standards. Such cases include those where legislative and other measures are taken as a result of a government's decision to ratify; where measures are taken in relation with the submission of instruments to the competent authority even if these are not sufficient to enable the Convention to be ratified; where gradual progress is being made in the application of promotional Conventions; or where steps taken with a view to giving effect to the minimum standards of a ratified Convention, and which ensure their application, act as a catalyst for further measures going beyond the requirements of the Convention.

VI. Submission of Conventions and Recommendations to the Competent Authorities

(Article 19 of the Constitution)

79. In accordance with its terms of reference, the Committee this year examined the following information ¹ supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organisation:

- (a) additional information on action taken to submit to the competent authorities the instruments adopted by the Conference from its 31st (1948) to its 56th (1971) Sessions (Conventions Nos. 87 to 136 and Recommendations Nos. 83 to 144);²
- (b) replies to the observations and direct requests made by the Committee at its 1973 Session.

31st to 56th Sessions

80. The Committee noted with interest that considerable progress has been made in a significant number of countries in submitting instruments adopted by the Conference since its 31st Session to the competent authorities, and the following cases in particular were noted: Bolivia (a number of instruments adopted from the 32nd to the 55th Sessions), Burma (all of the instruments adopted from the 52nd to the 56th Sessions), Finland (all of the instruments adopted at the 51st, 53rd, 55th and 56th Sessions), Ghana (all of the instruments adopted from the 54th to the 56th Sessions), Indonesia (all of the instruments adopted at the 52nd, 53rd, 55th and 56th Sessions), Mexico (a number of instruments adopted from the 33rd to the 56th Sessions), Netherlands (various instruments adopted from the 41st to the 55th Sessions), Pakistan (all of the instruments adopted from the 52nd to the 54th Sessions), Sri Lanka (all of the instruments adopted from the 52nd to the 54th Sessions) and the United States (all of the instruments adopted from the 54th to the 56th Sessions).

81. The Table in Appendix I to section III of Part Two of the Committee's report shows the position of each State Member, as it emerges from the information supplied by the governments, with regard to the obligation to submit to the competent authorities the Conventions and Recommendations adopted by the Conference.

¹ ILO: *Summary of Information on the Submission to the Competent Authorities of Conventions and Recommendations Adopted by the International Labour Conference*, Report III (Part 3) to the 59th Session of the International Labour Conference (Geneva, 1974).

² The Conference did not adopt any Conventions or Recommendations at its 57th Session (1972).

Comments by the Committee and Replies from Governments

82. As it does every year, in section III of Part Two of this report, the Committee makes individual observations on the points which it considers should be brought to the special attention of governments. Requests with a view to obtaining supplementary information on other points have also been addressed directly to a number of countries which are listed at the end of the above-mentioned section III.

83. The Committee notes with regret that, notwithstanding its repeated requests, many governments have again failed to supply replies to its comments, even after reminders have been sent by the Office in accordance with the request made to it by the Committee. The Committee trusts that governments will endeavour in future to supply all the required information and documents.

Nature of the Competent Authority

84. This Committee and the Conference Committee have repeatedly stressed that the question of the nature of the competent authority is a fundamental aspect of the obligation to submit instruments. In this connection the Committee has been able in recent years to point to several instances of progress made as a result of its previous comments in relation to procedures for the submission of Conventions and Recommendations to the competent national authorities. In other cases, however, problems in this respect still exist and the Committee can only repeat the hope that they will soon be solved.

Communication of Information and Documents

85. The Committee must stress once again the importance of the provision by governments of the information and documents called for by points II and III of the Memorandum adopted by the Governing Body (date of submission, government proposals, copies of the submission documents, decisions of the competent authorities in respect of the instruments submitted to them). Several countries, however, still do not transmit all or most of this information to the Office. The following countries in particular have not supplied the documents relating to the submission of instruments adopted during at least the last ten sessions of the Conference under consideration (47th to 56th): Byelorussian SSR, Hungary, Portugal, Ukrainian SSR, USSR. The Committee trusts that all the governments concerned will take the necessary steps to comply with the Memorandum on Submission.

Special Problems

86. The position in certain countries is still a matter of grave concern to the Committee. In these cases, either no measures have been taken or no information has been supplied as to the actual submission to the competent authorities of the instruments adopted by the Conference at several consecutive sessions. The Committee thus notes with regret that in the following cases no information showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions under consideration (50th to 56th) have in fact been submitted to the competent authorities: Afghanistan, Haiti, Honduras, Laos, Lebanon, Somalia, Yemen.

87. The Committee trusts that all the governments concerned, and more especially those of the countries mentioned above, will take into account the comments made

both in the preceding paragraphs and in its observations and direct requests, so as to ensure full compliance with the fundamental obligation placed on them by article 19 of the Constitution of the ILO.

VII. Reports on a Recommendation

(Article 19 of the Constitution)

88. In accordance with a decision taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 6 and 7, of the ILO Constitution on the Termination of Employment Recommendation, 1963 (No. 119).

89. Of a total of 123 reports requested, 93 have been received (i.e. 75.6 per cent), together with 6 reports concerning non-metropolitan territories. A table showing reports supplied by the various governments is appended to Part Three of the present report (Volume B).

90. The Committee regrets in this connection that for the past five years the following countries have not supplied any of the reports on unratified Conventions and on Recommendations requested under article 19 of the Constitution of the ILO: Burundi, Laos, Nepal, Somalia, Tanzania, Yemen.

91. Part III of this report (Volume B) contains the Committee's general survey of the questions covered by the Recommendation, which is based on the reports supplied by governments. This survey, in accordance with the practice followed in previous years, was prepared on the basis of a preliminary examination by a working party comprising three members of the Committee, chosen by it at its previous session.

* * *

92. The Committee would like to express its appreciation of the invaluable assistance rendered to it by the officials of the ILO, whose competence and devotion to duty make it possible for the Committee to accomplish an increasing volume of work in a limited period of time.

Geneva, 27 March 1974.

(Signed) E. GARCÍA SAYÁN,
Chairman.

E. RAZAFINDRALAMBO,
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 regrets to note once again that the reports due have not been received, and that consequently it has no information as to the progress made towards adopting the Labour Bill, which is intended to put into effect the Conventions ratified by Afghanistan and which, according to the statement of a Government representative to the Conference Committee in 1973, was in its final stages of preparation. The Committee can only recall that the Government has been referring to this Bill since 1958 and that at present, so far as its information goes, there are no legislative texts or regulations which apply Conventions Nos. 13, 41, 45, 95 and 106, with regard to which the Committee must once again make observations. Consequently, the Committee must urge that the necessary steps be taken to apply the Conventions ratified by Afghanistan. It trusts that the Labour Bill takes full account of the obligations resulting from ratified Conventions, that it will be adopted very shortly, and that the text will be sent to the ILO as soon as it is adopted.

The Committee also notes that in 1972 and 1973 the reports which were due on ratified Conventions were communicated during the Conference and that they merely reproduced the reports, drafted in very general terms, which had been sent in 1971. It hopes that future reports will indicate the progress made towards the adoption of the new Labour Act and the provisions of this Act which give effect to the various provisions of the Conventions in question.

Finally, in its observation in 1973, the Committee requested the Government to send, as it had offered to do, copies of the texts of laws and regulations in the two national languages. As these texts have not been received, the Committee would repeat its request.

Argentina

The Committee has taken note of the direct contacts which took place in Argentina from 10 to 19 April 1973 between the competent national services and a representative of the Director-General of the ILO concerning Conventions Nos. 23, 32, 42, 50, 68, 81 and 100, regarding the application of which it had made various observations.

The Committee notes with satisfaction that, as a result of these contacts, three Acts and a Decree have been adopted so as to apply more completely Conventions Nos. 23, 50, 100 and 42 respectively. The Committee notes with interest that, in connection with Conventions Nos. 32, 68 and 81, three resolutions have been adopted which call for the preparation of the necessary provisions to apply Conventions

Nos. 32 and 68, and to ensure more complete application of Convention No. 81. The Committee therefore requests the Government to supply information on the provisions adopted in connection with Conventions Nos. 32, 68 and 81.

Barbados

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Bolivia

The Committee has noted the direct contacts which took place in Bolivia from 18 to 25 October 1973 between the competent national services and a representative of the Director-General of the ILO in connection with Conventions Nos. 5, 14, 42 and 87, concerning the application of which the Committee had made various observations.

The Committee notes with interest that draft decrees have been prepared which would bring the national legislation into closer conformity with the provisions of Conventions Nos. 5, 14 and 42. The Committee therefore hopes that these drafts will be adopted at an early date, and requests the Government to supply information on any steps taken to that end.

The Committee also notes that measures are being envisaged to ensure the fuller application of Convention No. 87, and it would ask the Government for detailed information on the matter.

Burundi

The Committee notes with regret that the reports due, including five first reports (Conventions Nos. 52, 59, 81, 90 and 101), have not been received. Since the Committee has already had to draw attention repeatedly to the Government's failure to supply reports due on the application of ratified Conventions, it urges the Government to take the necessary measures in order to discharge this obligation in future and it trusts that it will reply in its reports to the comments made by the Committee.

Chad

The Committee notes with regret that for the second year in succession the reports due have not been received. It can only express the hope that the Government will be in a position in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Chile

The Committee notes with regret that the reports due including two first reports (Conventions Nos. 100 and 111) have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that these reports will contain information in reply to the comments made by the Committee.

Colombia

The Committee notes with satisfaction that, as a result of the direct contacts which took place in 1972 between the competent national services and a representative of the

Director-General of the ILO, Decrees Nos. 722, 723 and 724 were adopted on 16 April 1973 and ensure the application of Conventions Nos. 3, 8 and 23 respectively.

The Committee hopes that it will soon prove possible to adopt the Bill concerning Convention No. 3 and the draft Decree concerning Convention No. 22, which were also prepared as a result of the direct contacts, and requests the Government to provide information on any action taken in the matter.

Costa Rica

The Committee notes with satisfaction that, as a result of the direct contacts in 1972 between the competent national services and a representative of the Director-General of the ILO, Legislative Decrees Nos. 5311, 5234 and 5313 were adopted on 26 July, 31 July and 14 August 1973 respectively, to give effect more completely to the provisions of Conventions Nos. 96, 29 and 90 respectively.

However, the Committee regrets to note that most of the reports due have not been received. It hopes that in future the Government will not fail to fulfil its obligation to send reports on the application of all ratified Conventions.

Dahomey

The Committee has noted the direct contacts which took place in Dahomey in December 1973 between the competent national services and a representative of the Director-General of the ILO to consider the application of the various Conventions ratified by Dahomey, and more particularly Conventions Nos. 18 and 29, and the steps to be taken by the Government to fulfil its obligations as regards submitting reports.

The Committee notes with interest that, as a result of these direct contacts, all the reports due under article 22 of the Constitution of the ILO have been received. It also notes with interest that the Government is at present studying a number of texts which are intended to bring the national legislation into conformity with the Conventions it has ratified, and in particular Conventions Nos. 6, 18, 29, 33 and 105. It hopes that the necessary action will be taken in the near future.

Democratic Yemen (Aden)

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Dominican Republic

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

Ecuador

The Committee notes with regret that the reports due, including three first reports (Conventions Nos. 86 and 110, on which reports have been due for three years, and Convention No. 118, on which a report has been due for two years), have not been

received. Since the Committee has already had to draw attention repeatedly in recent years to the Government's failure to supply reports due on the application of ratified Conventions, it urges the Government to take the necessary action in order to discharge this obligation in future and trusts that it will reply in its reports to the comments made by the Committee.

Ethiopia

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions.

France

In 1973 the Committee noted with satisfaction that it had been decided to append to the Labour Code the provisions of the international labour Conventions applicable as part of French domestic law. The Committee hopes that it will be possible for a similar decision to be taken in respect of the Social Security Code, published by Decree No. 56-1279 of 10 December 1956, so as to complete the list of international social security Conventions appended to that Code by a reference to the international labour Conventions dealing with social security matters ratified by France. As the Committee has emphasised on several occasions in the past, and in particular in 1958 and 1959, the publication in this way of the provisions incorporated in domestic law by the act of ratification would enable the institutions and individuals concerned—courts of law, administrative authorities, social security institutions and socially insured persons—to be fully aware of any amendments of the national legislation resulting from the ratification of certain Conventions, and would avoid any uncertainty which might exist as to the state of the law applicable.

Gabon

The Committee notes with regret that the reports due have not been received. Since the Committee has already had to draw attention repeatedly in previous years to failures to supply reports due on the application of ratified Conventions, it urges the Government to take the necessary measures in order to fulfil this obligation in future and it trusts that it will reply in its reports to the comments made by the Committee.

Greece

The Committee notes with interest that a draft Decree to bring the labour legislation into conformity with the ratified Conventions, taking account of the Committee's comments, was signed by the Prime Minister on 15 March 1974. It hopes that the text of the Decree will soon be transmitted to the ILO.

Guatemala

The Committee notes with satisfaction that, as a result of the direct contacts which took place in 1972 between the competent national services and a representative of the Director-General of the ILO, Government Orders Nos. 11-73, 14-73 and 28-73 were adopted on 13 March, 12 April and 12 September 1973 respectively, so as to implement fully the provisions of Conventions Nos. 45, 58, 77, 78, 79, 81, 89, 90 and 112.

Jordan

The Committee has noted from the Government's reply to its general direct request of 1973 that owing to the non-approval by Parliament of Temporary Labour Law No. 67 of 1971, Labour Law No. 21 of 1960 remains in force, with the amendments made to it in 1965 and 1972. In these circumstances the Committee again requests the Government to supply the text of Labour Law No. 25 of 1972, to which it has previously referred, and to indicate the effect of this Law on the various Conventions ratified.

Laos

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Lebanon

The Committee notes with regret that for the third year in succession the reports due have not been received. Since the last reports containing new information concerning the application of Conventions were supplied in 1970—the reports communicated to the Conference Committee in 1971 being merely copies of these reports—the Committee can only express its concern at these repeated omissions. It trusts that, in accordance with the assurances given several times, and again recently in 1973, by Government representatives to the Conference Committee, the Government will take the necessary steps to discharge its fundamental obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Mauritania

The Committee notes with regret that the reports due have not been received. Since in 1973 most of the reports due were not received, the Committee can only hope that the Government will be in a position in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Mongolia

The Committee has noted that the Government has supplied in the Mongolian language a copy of the new Labour Act, promulgated in July 1973, which came into force on 1 January 1974, as well as copies of certain other legislative texts which the Committee had asked for in direct requests in 1972 and 1973. The Committee has further noted that the new Labour Act has not yet been translated into one of the working languages of the ILO. It expresses the hope that it will shortly have available a translation of this Act as well as of all the legislative texts mentioned in the Committee's earlier direct requests, which it is repeating this year.

The Committee has also noted with regret that in the report it has sent covering all the Conventions it has ratified the Government merely states that the law and practice are in conformity with these Conventions. The Committee requests the Government to indicate in detail for each Article of the Conventions in question, in accordance with the report forms approved by the Governing Body, the extent to which the new Labour Act ensures their application.

Paraguay

The Committee notes the direct contacts which took place in Paraguay from 29 October to 9 November 1973 between the competent national services and a representative of the Director-General of the ILO concerning Conventions Nos. 52, 59, 60, 77, 78, 79, 81, 89, 90 and 95, regarding the application of which it had made various observations.

The Committee notes with satisfaction that, as a result of these direct contacts, three resolutions have been adopted concerning the application of Conventions Nos. 59, 60, 78 and 81.

The Committee also notes with interest that, as a result of these contacts, a draft legislative decree has been prepared to amend various sections of the Labour Code. Its adoption would bring the labour legislation of Paraguay into more complete conformity with the provisions of the above-mentioned Conventions. It therefore hopes that the draft will be approved at an early date, and it would ask the Government to supply information on any steps taken to that end.

Peru

The Committee notes with satisfaction that, as a result of the direct contacts which took place in 1972 between the competent national services and a representative of the Director-General of the ILO, Supreme Decrees Nos. 006-73-TR and 007-73-TR were adopted on 5 June 1973 for the purpose of applying more completely the provisions of Conventions Nos. 77, 78 and 27.

The Committee hopes that it will soon be possible to adopt the various other draft Supreme Decrees, which were also prepared as a result of the direct contacts, concerning the application of Conventions Nos. 1, 8, 41, 68, 69, 79, 87 and 90. It would ask the Government to supply information on any measures taken in this connection.

The Committee regrets to note that most of the reports due have not been received. It hopes that the Government will not fail in future to fulfil its obligation to send reports on all ratified Conventions.

Portugal

The Committee notes with regret that for the second year in succession the reports due have not been received. It can only reiterate the hope that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Somalia

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Syrian Arab Republic

The Committee notes with regret that only one of the reports due has been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of all ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Tanzania

The Committee regrets to note that once again the reports due have not been received. As regards Tanganyika, the most recent reports were received in 1972 after the Committee's meeting, and in the case of Zanzibar no report has been received since 1965. Since according to a Government representative at the Conference Committee in 1973, a Minister responsible for labour questions was recently appointed in Zanzibar, which ought to facilitate the preparation of the reports, the Committee must insist that the necessary steps be taken to ensure that in future reports on the application of ratified Conventions will be sent regularly as regards Zanzibar as well as Tanganyika and it trusts that they will contain replies to the Committee's comments.

Thailand

The Committee regrets to note that most of the reports due, including three first reports (Conventions Nos. 29, 88 and 122, on which reports have been due for the past three years), have not been received despite the assurances given by a Government representative to the Conference Committee in 1973. Since in recent years the Committee has frequently had to point out that the Government had failed to fulfil its obligation to submit reports on the application of ratified Conventions, it urges the Government to take the necessary action in order to fulfil in future the obligation to supply all the reports due.

Togo

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Trinidad and Tobago

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Turkey

The Committee notes with regret that the reports due have not been received. Since for the last three years most of the reports due had not been received for examination by the Committee, the Committee urges the Government to take the necessary measures in order to fulfil in future its obligation to supply reports on the application of ratified Conventions and it trusts that it will reply in its reports to the comments made by the Committee.

Uganda

The Committee notes the Government's statement—which constitutes the only information supplied on the application of ratified Conventions—that the comments made by the Committee on certain provisions of the Employment Act which are not in conformity with ratified Conventions or on the lack of legislative measures to give effect to certain other ratified Conventions have all been taken into account in the draft Employment Decree which is now in its final stages of completion. It hopes that the amendment thus envisaged will be adopted in the near future.

The Committee must, however, recall that it had also made comments on a number of Conventions whose application is not affected by the Employment Act or the proposed amendments thereto, and that reports were due on these Conventions as well as on certain other Conventions on which no comments were outstanding. It trusts that the Government will not fail in future to discharge its obligation to supply all the reports due on the application of ratified Conventions, to include in these reports the information called for in the relevant forms of report and to reply to all the comments made by the Committee at its present session.

USSR

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

As regards the new Labour Codes of the Union Republics, to which the Committee has had occasion to refer in its previous observations, it notes that in addition to the Code for the Russian Soviet Federative Socialist Republic, the Codes for the Kirghiz and Uzbek Republics, adopted in 1972, have also become available.

The Committee trusts that the Government will provide information as to the adoption of the new Labour Codes in the other Union Republics, will supply copies thereof to the ILO and will indicate in its reports the effect of these Codes on each of the various Conventions ratified by the USSR.

Uruguay

The Committee notes with regret that the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to report on the application of ratified Conventions, and that it will reply in its reports to the comments made by the Committee.

Yemen

The Committee regrets to note that for the third year in succession the first reports on Conventions Nos. 104 and 111 have not been received. Since no report on the application of ratified Conventions has thus so far been received, the Committee urges the Government to take the necessary steps in future to fulfil its obligation to provide reports on the application of ratified Conventions.

Zaire

The Committee notes with regret that the reports due have not been received. Since the Committee has already had to draw attention several times in previous years to failures to supply reports due on the application of ratified Conventions, it urges the Government to take the necessary measures in order to fulfil this obligation in future and it trusts that it will reply in its reports to the comments made by the Committee.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Bangladesh, Bolivia, Burundi, Byelorussian SSR, Cameroon, Central African Republic, Costa Rica, Cuba, Dahomey, Dominican Republic, Ecuador, Guinea, Indonesia, Ivory Coast, Libyan Arab Republic, Mongolia, Niger, Nigeria, Paraguay, Rwanda, Sri Lanka, Upper Volta, Uruguay, Zaire.*

B. INDIVIDUAL OBSERVATIONS

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

Chile (ratification: 1925)

In its earlier observations the Committee pointed out that:

1. Section 25 of the Labour Code contains an exception in the case of persons engaged in tasks which, by their nature, cannot be subject to fixed hours of work; such an exception is not authorised by the Convention.

2. Section 28 of the Code provides that, in work which is not in itself harmful to the workers' health and in special cases approved by the appropriate labour inspectorate, a written agreement may be entered into for overtime up to two hours per day, whereas Article 6, paragraphs 1 (b) and 2, of the Convention states that such overtime may be allowed only as a temporary measure to deal with exceptional pressure of work, and that the maximum of additional hours must be fixed in each instance.

The Committee also notes that Legislative Decree No. 35 of 24 September 1973, which extended the hours of work in the public and private sectors by four hours a week, increasing the total from 44 to 48 hours a week, ceased to be in force on 31 December 1973.

As regards the points mentioned in paragraphs 1 and 2 above, the Committee hopes that the Government will take the necessary steps to bring sections 25 and 28 of the Labour Code into complete conformity with the Convention.

Haiti (ratification: 1952)

The Committee notes with regret that the report contains no reply to its earlier comments.

Article 1 of the Convention. The Committee reiterates its hope that the Government will take the necessary steps to amend section 104 of the Labour Code, which excludes certain undertakings from the scope of the hours of work provisions, and in particular, sea and land transport (covered by Convention No. 1), laundries, hairdressers' shops, chemists' shops, bakeries and grocery shops, in which essential commodities are sold (which are covered by Convention No. 30), which is contrary to Conventions Nos. 1 and 30.

Article 6. The Committee again points out that section 100 of the Labour Code of 1961 permits overtime up to 20 hours a week, whereas Article 6 of Convention No. 1 stipulates that the maximum number of hours of overtime must be laid down in each instance, while Article 7, paragraph 3, and Article 8 of Convention No. 30 require that this maximum shall be fixed per day in the case of permanent exceptions, and per day and per year in the case of temporary exceptions.

The Committee would be grateful if the Government would report what progress has been made in this regard.¹

Romania (ratification: 1921)

Further to its earlier comments, the Committee notes with satisfaction that section 57, as amended, of the Labour Code of 1950, which permitted the Council of

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Ministers to allow the maximum number of hours of overtime to be exceeded without any limits, thus conflicting with the Convention, was repealed by section 191 of the Labour Code of 1972, and that section 119 of the new Code now prescribes a maximum annual limit to the number of hours of overtime which can be authorised by the Council of Ministers.

Uruguay (ratification: 1933)

The Committee notes the information concerning the application of this Convention which was supplied by the Uruguayan Confederation of Workers (CUT) in a letter received by the ILO in 1973. In that letter, reference is made to questions raised in workers' demands concerning payment for work performed beyond the limits of the working day.

The Committee notes that the Government, to which it forwarded the letter for any relevant comments, has made no such comments. The Committee also notes that, according to the information given by the CUT, the national courts have examined a number of cases of this kind and have given decisions on the matter.

The Committee asks the Government to supply detailed information as to the practice of *trabajo contra legem* and as to the steps taken or contemplated to apply effectively the provisions of the Convention so as to put an end to any practices which conflict with the provisions of the Convention and of the national hours of work legislation, which is in conformity with the Convention.

Venezuela (ratification: 1935)

Further to its previous observations, the Committee notes with satisfaction the entry into force on 1 February 1974 of the Regulations under the Labour Act, section 454 of which repeals the Regulations of 30 November 1938, and which no longer contain provisions similar to those of section 56, which was the subject of the Committee's comments (definition of persons employed in a confidential capacity).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Burma, Burundi, Libyan Arab Republic, Nicaragua, Portugal.*

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

Convention No. 2: Unemployment, 1919

Argentina (ratification: 1933)

Article 2 of the Convention. See under Convention No. 88.

Ecuador (ratification: 1962)

The Committee regrets that no report has been received. It notes, however, the information supplied by the Government to the Conference Committee in 1972 to the effect that a basic Bill organising the Ministry of Social Welfare and Labour which provides for the establishment of a Department of Manpower and Employment had been prepared with the technical assistance of the ILO and submitted to the President of the Republic, and would further the application of the Convention. In the absence

of any information as to the progress made, the Committee can only refer once again to the points raised in its earlier observation:

Article 1 of the Convention. It would appear that no statistical or other information on unemployment is available for communication to the Office.

Article 2, paragraph 1. Only two employment agencies would seem to have been set up—in Quito and Guayaquil—and there is no indication whether committees have yet been appointed to advise on the working of those agencies.

The Committee hopes that, as a result of the adoption of the Bill mentioned above, or by some other means, steps will be taken to put into effect the various provisions of the Convention mentioned earlier and to ensure co-ordination (Article 2, paragraph 2) between the operations of the public employment exchanges and those of the free employment exchanges managed by the workers' organisations mentioned in the communication to the Conference.

Sudan (ratification: 1957)

Further to its earlier observation, the Committee notes with interest the information supplied by a Government representative to the Conference Committee in 1972 concerning the composition and functions of the National Manpower and Employment Council. However, this information does not show how this Council co-operates with the free public employment agencies, and the Committee would therefore request the Government to indicate the extent to which the National Manpower and Employment Council, or the Supreme Council the establishment of which was planned according to the Government's report, is consulted on all matters affecting the operation of the free public employment agencies.

Uruguay (ratification: 1933)

The Committee has been informed that a communication was received in 1973 from the Uruguayan Confederation of Workers (CUT) concerning the application of the Convention. In this communication, which was transmitted to the Government for comment, it was stated that the system of specialised labour exchanges established in Uruguay does not comply with the requirements of the Convention. The Committee recalls in this regard that it had noted in its previous observation that, apart from the specialised labour exchanges set up for certain occupations and undertakings, there was so far no system of free public employment agencies under the control of a central authority.

In its reply to the comments of the CUT, the Government states that in its previous reports on the application of the Convention it had been concerned to refer to all the national legislation concerning specialised labour exchanges and unemployment insurance, and that the Manpower and Employment Service is being developed so as to fulfil, *inter alia*, the functions of a national employment service.

In the absence of any other indication that progress has been made in the application of the Convention, the Committee can only once again express the hope that steps will be taken in the near future to establish a system of free public employment agencies in conformity with Article 2 of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Mauritius, Morocco, Nicaragua, Syrian Arab Republic.*

Convention No. 3: Maternity Protection, 1919*Bulgaria* (ratification: 1933)

The Committee notes with satisfaction, in connection with its earlier observations and direct requests concerning Article 3 (c) of the Convention (granting of maternity benefits to women who do not meet the requirements of the qualifying period prescribed by the legislation), that section 156, subsection 2, of the Labour Code was amended by Decree No. 1435 of the Council of State of the People's Republic of Bulgaria (*Official Gazette* No. 53 of 6 July 1973) so as to repeal the condition of a three months' qualifying period, which was formerly required by the legislation, in order to enable women workers to receive maternity benefit.

Colombia (ratification: 1933)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts made between the competent national services and a representative of the Director-General of the ILO, a decree (No. 722) was promulgated on 16 April 1973 whereby section 35 of Decree No. 1848 of 1969 was amended so as to place women in public employment on the same footing as other women workers as concerns nursing breaks (*Article 3 (d) of the Convention*).

The Committee also requests the Government to be good enough to indicate what measures have been taken with respect to the Bill which was drafted—also as a result of the direct contacts of 1972—to amend section 236 of the Substantive Labour Code with a view to granting to all women workers, as required by the Convention, 12 weeks' maternity leave instead of the 8 to which they are entitled at present, and also to ensuring an extension of the pre-natal leave and the payment of benefit when the confinement occurs later than the presumed date (*Article 3 (a), (b) and (c) of the Convention*).

Venezuela (ratification: 1944)

Article 3 (c), last clause. Further to its earlier comments, the Committee notes with satisfaction the adoption of the new Regulations under the Labour Act (Decree No. 1563 of 31 December 1973), which came into force on 1 February 1974 and which makes provision in section 222 for an extension of the pre-confinement leave when the confinement takes place later than the estimated date.

The Committee hopes that the payment of maternity benefit will also be extended in this case, as required by the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Libyan Arab Republic, Nicaragua, Venezuela*.

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

Requests regarding certain points are being addressed directly to *Laos, Nicaragua*.

Convention No. 5: Minimum Age (Industry), 1919*Bolivia* (ratification: 1954)

Further to its earlier observations, the Committee notes with interest that, as a result of the direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, a draft legislative decree has been prepared which would amend section 58 of the General Labour Act in conformity with the provisions of Article 2 of the Convention.

The Committee hopes that this draft will be adopted at an early date and would ask the Government to report any action taken to that end.

Sierra Leone (ratification: 1961)

See under Convention No. 59, Article 4.

Uganda (ratification: 1963)

The Committee notes that according to the Government's report the draft Employment Decree, which takes account of the Committee's previous comments, is in its final stage of completion. The Committee trusts that this Decree will be adopted shortly and will bring the national legislation into conformity with the following provisions of the Convention which were the subject of its previous comments:

The definition of "industrial undertakings" in section 2, subsection 1, of the Employment of Children Act is not in conformity with paragraph 1 (d) of Article 1 of the Convention.

Convention No. 6: Night Work of Young Persons (Industry), 1919*Hungary* (ratification: 1928)

In its earlier comments the Committee pointed out that the exceptions permitted by section 38, paragraph 4, of the Labour Code to the prohibition of night work for young persons between 16 and 18 years of age should be limited to those permitted by the Convention. It also found that such exceptions to the prohibition of night work (in light and heavy industry and in the metal and engineering industries) had been granted in a manner conflicting with the provisions of the Convention.

The Committee notes the information given in the latest report to the effect that the Government is studying the possibility of removing the discrepancies which still exist between the Labour Code and the Convention. It trusts that section 38, paragraph 4, will be amended shortly so as to be in complete conformity with the Convention, and that in the meantime, all necessary steps will be taken to ensure that any exceptions to the prohibition of night work will be restricted to the cases permitted by the Convention.

Romania (ratification: 1952)

The Committee notes the entry into force of the new Labour Code of 1972.

Article 2 of the Convention. Section 50 of the old Labour Code, as amended by the Decree of 15 January 1964, defined the term "night" as a period of 11 consecutive hours (between 9 p.m. and 8 a.m.) in accordance with the provisions of the Convention. The Committee regrets to note that section 115 of the new Labour Code

defines it as the period (of 8 hours) between 10 p.m. and 6 a.m. It hopes that the Government will take the necessary steps to prohibit night work for children for at least 11 consecutive hours, as laid down in the Convention.

Articles 4 and 7. According to section 118 of the Labour Code, exceptions to the prohibition of night work may be authorised in the case of young persons under 18 years of age. According to the Convention, such exceptions can be authorised only for children between 16 and 18 years of age. Please state what steps have been taken or are contemplated to bring the legislation into conformity with the provisions of the Convention on this point.

Republic of Viet-Nam (ratification: 1953)

Further to its earlier observations, the Committee notes from the Government's reply that those observations will be taken into account in the present redrafting of the Labour Code. The Committee would point out that section 168 of that Code prohibits night work only in respect of young manual workers or apprentices, whereas the provisions of the Convention apply to young workers, whether manual or non-manual, in industry, and that section 171 provides for exceptions to the prohibition of night work for children which go beyond those authorised by the Convention.

The Committee trusts that the adoption of the new Code will bring the legislation into complete harmony with the provisions of the Convention, and it would ask the Government to keep it informed of all progress to that end.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Belgium, Burma, Dahomey, Laos, Nicaragua, Portugal, Upper Volta.*

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

Colombia (ratification: 1933)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 16 April 1973 to Decree No. 723, the provisions of which apply the Convention.

Peru (ratification: 1962)

The Committee regrets that it has received no report on the application of the Convention. It would ask the Government to report the measures taken in connection with the draft Supreme Decree which was prepared as a result of the direct contacts in 1972, in order to put into effect the provisions of the Convention.

* * *

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

Convention No. 9: Placing of Seamen, 1920*Colombia (ratification: 1933)*

Further to its earlier observation, the Committee notes with regret that no progress has been made towards applying the provisions of the Convention concerning the establishment and working of employment offices for seamen, but that the proposed expansion of the National Employment Service will come into force during the first quarter of 1974. In these circumstances the Committee would only express once again the hope that steps will be taken in the very near future to ensure the establishment and working of employment offices for seamen, as required by the Convention.

Mexico (ratification: 1939)

Further to its previous observation, the Committee notes the information given by the Government to the Conference Committee in 1973 to the effect that the National Committee for the Co-ordination of Ports is at present making a study with a view to setting up joint advisory committees of shipowners and seamen so as to comply with the provisions of Articles 4 and 5 of the Convention.

The Committee hopes that in the near future this study will lead to the establishment and operation of a system of employment exchanges for seamen, as required by the Convention.

Netherlands (ratification: 1948)

In a communication addressed to the Office in March 1973, the Netherlands Federation of Trade Unions stated that its affiliated seamen's union was of the opinion that the Government did not sufficiently take into account the requirement of Article 4, paragraph 1, of the Convention requiring the organisation and maintenance of an *efficient and adequate* system of seamen's employment offices, in that a national central registration of applicants for employment in the seamen's sector is lacking. The Union indicated that as a result there is no permanent information about the development of unemployment in the seamen's sector, which leads to an unnecessarily high degree of unemployment among Dutch seamen, and that its requests for an improvement in the present situation have not hitherto been complied with.

The Committee notes that in response to this communication, the Government states that a national centre for the placement of personnel on ocean-going merchant vessels and tugs has been instituted at the District Employment Office, Rotterdam, that a national centre for the placement of personnel on coasters has been instituted at the District Employment Office, Groningen, and that the other district employment offices have been instructed to forward to these centres details of all applicants for employment, and all notified vacancies, which cannot be satisfied within the district. While the Government considers that these arrangements satisfy the requirements of the Convention, it leaves open the possibility of improvement in the system followed so far, and indicates that this is at present the subject of discussions with the Federation of Employers' Organisations in Shipping.

The Committee hopes that the Government will supply statistical information illustrating the functioning of the national centres (giving, for example, the number of applicants and vacancies referred to the centres and the number of seamen placed in employment as a result of such referral and indicating the periods of unemployment experienced by such seamen) together with an indication of any measures taken or envisaged to improve the existing system of placement.

Uruguay (ratification: 1933)

The Committee notes that, according to observations by the Uruguayan Confederation of Workers received in the Office in February 1973, a copy of which was sent to the Government for comment, Decree No. 463/968 of 23 July 1968 is not in conformity with the Convention in that it provides that the representatives of seafarers on the managing committees of the Merchant Marine Personnel Registers shall be representatives of occupational organisations having legal personality. According to the Confederation, however, the representative character of an occupational organisation cannot be determined by reference to the fact that it has or has not legal personality.

The Committee recalls that Article 4, paragraph 1, of the Convention specifies that the system of public employment offices for seamen shall be organised and maintained either (a) by representative associations of shipowners and seamen jointly under the control of a central authority or (b) by the State itself. Since the system introduced by Decree No. 463/968 appears to correspond to the first of these alternatives, the Committee hopes that the Government will, as indicated in its letter of June 1973, provide information in its next report on the way in which this Decree is implemented, including especially particulars of the manner in which effect is given in practice to the provisions of Article 4, paragraph 1, of the Convention.

* * *

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

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

Requests regarding certain points are being addressed directly to *France, Guinea.*

Convention No. 11: Right of Association (Agriculture), 1921*Byelorussian SSR* (ratification: 1956)

See under Convention No. 87.

Cuba (ratification: 1935)

See under Convention No. 87.

Ukrainian SSR (ratification: 1956)

See under Convention No. 87.

USSR (ratification: 1956)

See under Convention No. 87.

Venezuela (ratification: 1944)

Further to its previous observations and to the direct contacts which have taken place between the competent national services and a representative of the Director-

General of the ILO, the Committee notes with satisfaction that on 1 February 1974 the Regulations under the Labour Law came into force, section 454 of which repeals the Regulations concerning work in agriculture and stockbreeding which contained certain sections (109, 124, 125, 128 and 136) contrary to the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Ethiopia, Rwanda*.

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

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

Panama (ratification: 1958)

Further to its earlier comments, the Committee notes the Government's statement that workers in non-mechanised agricultural, forestry and cattle-rearing undertakings, seasonal workers and non-permanent workers in agriculture are fully covered by insurance for occupational risks, as are workers in agricultural and mixed agricultural and industrial co-operative societies, in so far as these undertakings enjoy legal status.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Colombia, Malaysia* (States of Malaya, Sarawak), *Nicaragua*.

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

Afghanistan (ratification: 1939)

See the general observation concerning Afghanistan.

The Committee regrets to note that the Government's report simply repeats the information it has been giving since 1968, to the effect that all industrial establishments are controlled by the Government and that the use of white lead is permitted only with the approval of government engineers and in conformity with Article 1 of the Convention. The Committee must repeat the observations it has been making since 1950 concerning the need to adopt legislative provisions or regulations to give effect to the Convention. It repeats the hope that the necessary measures will be taken in the very near future.¹

Chad (ratification: 1960)

The Committee notes with regret that once again the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation which was as follows:

1. The Committee notes from the information communicated to the Conference in 1972 that measures to give full effect to Article 5 I (a) and (b) of the Convention have not yet been taken, but that it is envisaged to adopt the necessary measures in the near future.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

The Committee hopes that the Government will be able to indicate in its next report that measures have been taken to remove any doubt that section 2 of Order No. 718 of 15 February 1957 prohibits the use of white lead, sulphate of lead and products containing these pigments, otherwise than in the form of paste or of paint ready for use, in *all* painting operations (and not only in the application of paint in the form of spray) (Article 5 I (a) of the Convention) and to adopt provisions requiring measures to be taken in order to prevent danger arising from the application of paint in the form of spray (Article 5 I (b)).

2. The Government is requested to indicate whether Order No. 2813 of 7 September 1951 prohibiting the use of white lead and sulphate of lead in painting is still in force in Chad.

* * *

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

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

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

Bolivia (ratification: 1954)

Further to its earlier comments, the Committee notes with interest that, as a result of the direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, a draft legislative decree has been prepared to provide that any workers who, as an exceptional measure, work on the weekly rest day will be entitled to a compensatory rest day, in accordance with Article 5 of the Convention.

The Committee hopes that this draft will be adopted in the near future and would ask the Government to report any action taken to that end.

Thailand (ratification: 1968)

Further to its earlier comments, the Committee notes with satisfaction that the Ministry of Interior Announcement of 16 April 1972 concerning the protection of workers applies various provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Burundi, Iran, Lebanon, Libyan Arab Republic, Portugal*.

Information supplied by the *Byelorussian SSR* and *Ukrainian SSR* in answer to a direct request has been noted by the Committee.

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

Sierra Leone (ratification: 1961)

Further to its earlier observation, the Committee notes from the Government's report that section 55 (2) (b) of the Employers and Employed Act (which authorises the employment of young persons of not less than 16 years of age—instead of 18 as provided for in Article 2 of the Convention—as trimmers or stokers on vessels engaged in coastal trade) has not yet been repealed. It also notes with interest that the

Government contemplates ratifying the Minimum Age Convention, 1973 (No. 138), and has had consultations with workers and employers on the Joint Consultative Committee, and it hopes that a decision on the matter will be reached in the near future.

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

Japan (ratification: 1924)

Further to its direct request of 1972, in which it referred to comments made by the employers' and workers' organisations concerned in regard to the practical application of the Convention, the Committee notes with interest from the Government's report that the number of medical practitioners entrusted with the signing of medical certificates is increasing year by year, and that these medical practitioners have been given instructions to the effect that the examinations should be carried out more carefully.

Somalia (ratification: 1960)

Further to its earlier comments, the Committee notes with satisfaction that the Labour Code (Act No. 65 of 18 October 1972) contains provisions respecting the medical examination of young workers.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia, Guinea, Panama, Sri Lanka, Sweden*.

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

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

Argentina (ratification: 1950)

The Committee notes the information supplied by the Government in response to its earlier observation and direct requests and notes with interest that, in accordance with Act No. 18037 of 1968, the victims of industrial accidents who suffer *permanent total incapacity* (66 per cent or over), or their survivors, *in the event of death*, are entitled to compensation in the form of a pension as prescribed by this provision of the Convention, as required by Article 5 of the Convention.

As regards the victims of industrial accidents who suffer *permanent partial incapacity* and who, as a rule, receive compensation in the form of a lump sum in accordance with Act No. 9688, as amended, the Committee would ask the Government whether the competent authority—in this case the Industrial Accidents Fund—receives some guarantee that the sum will be properly utilised, as required by Article 5 of the Convention.

Burma (ratification: 1956)

Further to its earlier observations, the Committee notes the information supplied by the Government in its reports for 1971-72 and 1972-73 and to the Conference Committee in 1973.

I. *Social Security Scheme*

1. The Committee notes with satisfaction the Government's statement to the effect that section 65 (2) of the administrative regulations under the Social Security Act of 1954 has been amended to bring it into harmony with *Article 10 of the Convention*, so that there is no longer any maximum limit to the cost of supplying and renewing the necessary artificial limbs and surgical appliances. The Committee would ask the Government to send a copy of the text of this amendment with its next report.

2. The Committee also notes with interest that, in virtue of the amendment of 1970 to section 3 (A) of the Act in question, the social security scheme now covers industrial undertakings employing more than five workers, instead of ten, as was hitherto the case. The Committee hopes that this scheme will soon be extended to cover all industrial and commercial establishments in the country, irrespective of the number of workers they employ, and also to cover the whole territory of the country, as is the declared intention of the Government.

The Committee would ask the Government to continue to report the progress made in this matter.

II. *Compensation Scheme Based on Employers' Liability*

1. The Committee also notes with interest that a new Act concerning compensation for industrial accidents and occupational diseases is being drafted by the Committee on Labour Legislation, which will have before it the observations made earlier concerning the application of Articles 5 and 10 of the Convention. The Committee hopes that this Act will be drafted in the near future and will prescribe:

- (a) in accordance with *Article 5 of the Convention*, that compensation payable in the case of death or permanent incapacity will be paid to the victim or to his dependants in the forms of periodical payments, and that payment in a lump sum will be permitted only in exceptional circumstances, when the competent authority is satisfied that it will be properly utilised. (Paragraphs 6 and 7 of section 8 of the present Act on the subject, and section 10 of the administrative regulations, which the Government mentions, are not adequate to guarantee application of the Convention);
- (b) in accordance with *Article 10*, that no maximum figure will be laid down for the supply and normal renewal of such artificial limbs and surgical appliances as have been recognised as necessary.

2. In reply to the Committee's observations concerning *Article 11 of the Convention* regarding the steps to be taken to ensure the payment of compensation in *all circumstances* and to protect the victims of industrial accidents or their dependants against the possible insolvency of the employer or insurer, the Government states that the question no longer arises, since the State has taken over the insurance scheme. The Committee notes this statement, but in view of the fact that its observations on this matter referred to compensation which was the direct responsibility of the employer, it would ask the Government to state whether section 14 of the present Act concerning compensation for industrial accidents, which permits insurance through private companies, has been amended (and, if so, to supply the text of this amendment).

Burundi (ratification: 1963)

Further to its earlier comments, the Committee has been informed of the adoption of Legislative Decree No. 501/67 of 5 April 1972 to establish a social security scheme and has noted with satisfaction that, according to the Legislative Decree, apprentices will from now on be covered by the industrial accidents compensation scheme and that medical care will be granted without any time-limit (Articles 2 and 9 of the Convention).

Cuba (ratification: 1928)

The Committee has taken note of the information supplied by the Government in response to its earlier comments and has noted the forms of assistance and protection given to the dependants of insured persons who are no longer in receipt of benefits under sections 63 (f) and 64 (g) of the Social Security Act No. 1100 of 1963 (beneficiaries undergoing a term of imprisonment and therefore being maintained at public expense).

As regards the absence from the national legislation of any clause providing, as required by *Article 7 of the Convention*, for the grant of additional compensation to victims of industrial accidents whose incapacity is such that they must have the constant help of another person, the Government again refers to the general protective measures granted to all victims of industrial accidents and states that they receive higher cash benefits in addition to medical care and other benefits in kind. The Government adds, however, that the matter is still being studied by the competent national bodies and services. The Committee notes this statement and trusts that the necessary steps will be taken in the near future to apply the Convention completely on this point, as was the case under the earlier Decree No. 2687 (section XVI) of 1933, which was repealed by the legislation at present in force.

Kenya (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 5 of the Convention. The Government states that, in order to give effect to this Article of the Convention, it continues, even on a wider scale, to rely on the arrangements made earlier with the Savings Bank of the East African Postal and Telecommunications Administration. Under these arrangements, compensation in respect of industrial accident was paid to beneficiaries periodically when deemed necessary. The Committee, while recognising that such administrative arrangements provided a guarantee for the beneficiaries, nevertheless considers that, since the payments are made only "when deemed necessary" and are not continued once the maximum amounts prescribed by national legislation have been reached, the arrangements cannot be deemed to give full effect to this provision of the Convention. The Convention provides that, in the event of permanent incapacity or death, compensation must be paid in the form of periodical payments and that, as an exceptional measure, it may be wholly or partially paid in a lump sum, but only when the competent authority is satisfied that it will be properly utilised. The Committee hopes, therefore, that the Government will consider, in accordance with the intentions which it manifested in earlier reports, what steps should be taken to ensure the full application of the Convention on this point in particular since, according to the statistical information supplied by the Government, the number of persons involved in occupational accidents has almost doubled in the period covered by the report.

Articles 9 and 10. The Committee—as in its earlier observations—requests the Government to indicate whether the maximum figures laid down in section 32 of the Workmen's Compensation Act, 1962, for medical expenses and the supply of artificial limbs and surgical appliances have been raised or eliminated, since the Convention does not specify any limit in this respect.

Article 11. The Committee noted that, according to the Government's reply to its earlier requests, recourse was never had in practice to the provision of section 26 (i) of the Workmen's Compensation

Act concerning compulsory insurance for certain types of undertakings. The Committee nevertheless feels that a system of compulsory insurance or, failing that, the establishment of a guarantee fund in which all undertakings would share, would be one of the most suitable means of ensuring in all circumstances the payment of compensation to beneficiaries and would safeguard them against the risk of insolvency of the employer or the insurer. The Committee hopes that the Government will re-examine this question and that it will take the necessary steps to ensure the full application of this Article of the Convention.

Malaysia (States of Malaya) (ratification: 1957)

Article 2 of the Convention (scope). The Committee notes with interest, from the Government's reply to its earlier comments, that the Social Security Act of 1969, which came into force in 1971, has been extended to additional pilot centres and now covers a larger number of workers. The Committee also notes that workers employed in the wood and saw-milling industries are now covered by the Act, the period which had been laid down for their exemption having now expired.

The Committee hopes that the progressive extension of the Act to cover all workers in the country will take place in the near future—as indeed is the Government's intention according to its report—and that workers employed in undertakings employing *fewer than five persons* will also be brought within the social security scheme as regards compensation for industrial accidents, and also *nomadic native workers*, to whom the Committee drew attention in its observations in 1971 and 1972.

The Committee also notes with interest that the Government contemplates extending the scheme of compensation for industrial accidents to the States of Sabah and Sarawak during 1974; in this connection the Government might also consider formally extending the ratification of the Convention to those States.

New Zealand (ratification: 1938)

Article 5 of the Convention. Further to its earlier observations, the Committee notes with satisfaction that a new Accident Compensation Act was adopted on 20 October 1972, and that this Act, the entry into force of which is fixed for 1 April 1974, also covers industrial accidents and occupational diseases and provides that compensation in the event of permanent incapacity or death will henceforth be paid to the victims or their survivors, as the case may be, in the form of periodical payments. The Committee also notes that, according to the terms of the Act, payment of the compensation as a lump sum is possible only in very exceptional circumstances and at the discretion of the Accidents Compensation Board, established under section 6 of the Act.

Philippines (ratification: 1960)

Article 5 of the Convention. In reply to the Committee's earlier observations and requests, the Government states in its report that a draft decree has been drawn up and submitted to the President of the Republic which prescribes the payment, as from 1 January 1976, of the compensation due in respect of permanent incapacity or death as the result of an industrial accident in the form of a pension and without any time-limit, as required by the Convention. The Committee notes this information and hopes that the draft will be adopted in the near future. It would ask the Government to report any progress towards this end.

Article 7. The Committee considers that the provisions of sections 13 and 23 of the Industrial Accidents Compensation Act No. 3428, as amended, to which the Government again refers and which provide for a possible claim for the services of a

nurse and for rehabilitation measures until the victim recovers his physical fitness, do not adequately ensure the application of this Article of the Convention. The Committee would point out that the Article in question calls for additional compensation for injured workmen who require the constant help of another person in meeting their day-to-day needs. The Committee hopes that a provision along the lines of the Convention can be added to the text of the proposed decree.

Rwanda (ratification: 1962)

The Committee regrets to note from the Government's reply to its earlier comments that the Bill to amend the Social Security Act of 15 November 1962 has not yet been adopted. This Bill was intended, inter alia, to bring the national legislation into conformity with Article 7 of the Convention, which provides for additional compensation for victims of industrial accidents whose incapacity is such that they need the constant help of another person.

The Committee trusts that the Bill will be adopted in the very near future and that the Government will report any progress in the matter.

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government has not supplied a report and that accordingly no information is available on the measures which may have been taken to ensure the full application of Articles 5 and 11 of the Convention, which was the subject of its previous requests.

The Committee is accordingly compelled to raise the question once again in a further direct request and hopes that the Government will not fail to indicate the measures taken or contemplated in this regard.

Tanzania (ratification: 1962)

The Committee regrets to note that, for the second year in succession, no report has been received. It therefore feels bound to repeat the comments made in its previous direct requests.

Article 5 of the Convention. The Government stated in its report for 1967-69 that the National Provident Fund has not so far been able to cover the whole working population, and thus the proposal to grant compensation for industrial accidents in the form of pensions was still under consideration. The Committee hopes that the necessary action will be taken to give effect to this proposal and to ensure the full application of this Article of the Convention, which prescribes that the compensation payable where permanent incapacity or death results from the injury shall be in the form of periodical payments; it authorises payment in the form of a lump sum only in certain cases and when the competent authority is satisfied that it will be properly utilised.

Articles 9 and 10. The Committee also hopes that the Government will indicate the measures taken or contemplated to increase or abolish the maximum amounts set by the national legislation for medical aid and the supply of the necessary artificial limbs and surgical appliances, since the Convention does not provide for the limitation of these benefits.

Uganda (ratification: 1963)

The Committee notes with regret that for the third consecutive year the Government has not supplied a report and that accordingly no information is available on

the measures which may have been taken to ensure the full application of Article 5 of the Convention, which was the subject of its previous requests.

The Committee is accordingly compelled to raise the question once again in a further direct request and hopes that the Government will not fail to supply a report and indicate the measures taken in this regard.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Barbados, Chile, Colombia, Egypt, Guinea, Iraq, Malaysia* (States of Malaya), *Mauritius, Mexico, Netherlands, Nicaragua, Panama, Poland, Portugal, Sierra Leone, Somalia, Uganda, United Kingdom, Uruguay.*

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

Colombia (ratification: 1933)

Further to its earlier comments, the Committee notes the information supplied by the Government in its latest report, to the effect that the Bill to amend Order No. 191, of 1965, of the Colombian Social Security Institute, will be submitted shortly to the Governing Board of the Institute.

The Committee hopes that the Bill in question will be adopted soon, thus completing the schedule of occupational diseases and ensuring the automatic presumption of the occupational origin of these diseases in accordance with the provisions of the Convention.

Dahomey (ratification: 1960)

Further to its earlier observations, the Committee notes with interest that, as a result of the direct contacts made between the Government and a representative of the Director-General of the ILO, a Bill is being prepared to amend the existing provisions and thus apply fully Article 2 of the Convention. The Committee hopes that the draft will be adopted shortly and will bring the schedule of occupational diseases appended to Ordinance No. 10/SLM of 22 March 1959 into full conformity with that in Article 2 of the Convention as regards *poisoning by lead, its alloys or compounds, poisoning by mercury, its amalgams and compounds and anthrax infection.*

Egypt (ratification: 1960)

The Committee notes, from the Government's reply to its earlier comments, that a draft decree has been prepared by the General Insurance Council in order to amend item No. 21 of the schedule of occupational diseases appended to Act No. 63 of 1964 establishing the Social Insurance Code, by including among the operations liable to cause *anthrax infection* the "loading and unloading or transport of merchandise". The Committee hopes that the draft will be adopted in the very near future and that the Government will make a point of reporting progress in the matter.

Guinea (ratification: 1959)

Since 1964 the Committee has been pointing out that the list of occupational diseases contained in section 136 of the Social Security Code is not in conformity with that given in Article 2 of the Convention in that, in the first place, it does not mention

poisoning by the alloys or compounds of lead or by mercury, its amalgams and compounds and, in the second place, it does not contain a list of the operations liable to cause those poisonings or to cause anthrax infection, as is required by the Convention.

In its earlier observations the Committee pointed out that, by listing the processes liable to cause these diseases, the Convention automatically established a presumption of occupational origin for any workers employed on these processes who contracted any of the diseases in question.

In its report in 1967 the Government referred to a draft Order which included a schedule of occupational diseases and the corresponding operations which was in conformity with that of the Convention. As this draft was not adopted, the Government stated in 1972 that the Convention would be implemented after the adoption of the new Social Security Code, which had already been submitted to the National Assembly.

However, the most recent report from the Government on this Convention contains no reply on the subject; nevertheless it appears from its report on the Employment Injury Benefits Convention, 1964 (No. 121), which has also been ratified by Guinea, that the Code has not yet been adopted.

The Committee can only, therefore, raise the question once again and hope that the Code in question will be adopted soon and that it will fully implement the Convention. (Cf. also the direct request concerning Convention No. 121, under Article 8.)

Luxembourg (ratification: 1928)

In its earlier comments concerning Convention No. 42 (which was automatically denounced on the entry into force of Convention No. 121 for Luxembourg), the Committee drew the Government's attention, *inter alia*, to the absence from the schedule of occupational diseases appended to the Regulations of 25 May 1965, of any list of occupations, industries or processes liable to cause these diseases. The information given by the Government in its reports would seem to confirm that, under the system of compensation at present in force, a worker who contracts one of the diseases listed in the above-mentioned schedule may be required to supply proof that his disease was occupational in origin, and this is contrary to the Convention. The right-hand column of the schedule in Article 2 of the Convention enumerates the industries and processes liable to cause the diseases listed in the left-hand column, and the Convention thus automatically establishes a presumption of occupational origin of the disease in the case of workers employed in these industries or operations.

Since this problem also arises in connection with Convention No. 18, which is still in force for Luxembourg, the Committee hopes that the necessary measures will be taken in the near future to comply completely with the Convention on this point, either by legislation or by administrative measures (for example, by issuing the necessary instructions to the competent services of the insurance organisations, so that they automatically consider as occupational the diseases occurring to workers employed in the industries or engaged in the operations listed in the Convention).

Portugal (ratification: 1931)¹

The Committee regrets to note that the Government's report has not been received and that it therefore has no reply to the questions it raised in its comments in 1972.

¹ For the scope of the Committee's mandate in regard to the application of Conventions in the various territories under Portuguese administration, see paras. 68-71 of Part One of this report.

However, the Committee has been informed that the list of occupational diseases was revised by Decree No. 434/73 of 25 August 1973; it hopes, therefore, that the Government will make a point of supplying full information concerning the application of the Decree and will state whether the legislation previously in force in its overseas provinces has also been amended. (If so, please send copies of the relevant texts.)

Sri Lanka (ratification: 1952)

The Committee regrets to note once again, from the information given by the Government in its latest report and its communication to the Conference Committee in 1973, that the draft amendment to the existing Ordinance concerning compensation for industrial accidents and occupational diseases has not yet been submitted to Parliament. However, the Government states, as it did in the report received in 1971, that every effort will be made to submit the draft to Parliament without further delay. The Committee is therefore obliged to raise the question again and trusts that the draft will be adopted in the very near future and will bring the national legislation into complete conformity with the Convention by adding to the schedule of occupational diseases *poisoning by the amalgams and compounds of mercury*, and to the list of processes corresponding to anthrax infection the operations of *loading and unloading or transport of merchandise* in general.¹

Switzerland (ratification: 1927)

The Committee notes from the Government's reply to its earlier comments that a committee of experts has been set up to revise the accident insurance system, and that it has proposed the extension of compulsory insurance to practically every branch of the economy, including agriculture. According to this proposal, wage earners employed in any undertakings covered by the scheme would thus be entitled to the same protection in respect of industrial accidents as for occupational diseases. The Committee notes this information and trusts that the proposed reform, which is to replace the revision of the Agriculture Act of 3 October 1951, to which the Government has referred in its previous reports, will be carried through shortly and will make it possible to include agricultural workers in the system of compensation for occupational diseases also.

Tunisia (ratification: 1959)

Further to its earlier observations and requests concerning the restrictive nature of the schedule of pathological manifestations due to poisoning by lead and its alloys, mercury and its amalgams and by compounds of these products, and concerning the absence, in the list of processes liable to cause anthrax infection, of any mention of "the loading and unloading or transport of merchandise" in general, the Committee regrets to note that, despite the assurances given by the Government in its earlier reports and by its representative to the Conference Committee in 1973, the Decree to amend the schedule of occupational diseases appended to Act No. 57/73 of 11 September 1957 has still not been adopted.

In view of the fact that the draft of the Decree in question was prepared as long ago as 1966, the Committee trusts that it will be adopted in the very near future (as indeed the Government stated in its last report) and that it will bring the national legislation into complete conformity with the Convention on the points mentioned above.¹

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Upper Volta (ratification: 1960)

For several years past the Committee has been drawing attention to the fact that the schedule of occupational diseases appended to Act No. 3—59/ACL of 3 January 1959 is not in conformity with the Convention on the following points: (a) it gives a restrictive list of certain pathological indications of lead poisoning, whereas the Convention covers in general terms *all* poisoning by lead, its alloys or compounds; (b) it does not mention poisoning by mercury, its amalgams and compounds; (c) it mentions, among the operations liable to cause anthrax infection, the loading, unloading and transport of certain merchandise connected with animal remains, whereas the Convention, being worded in general terms on this point, covers all such operations irrespective of the type of merchandise transported.

In its latest report the Government states that the Social Security Code—which it had mentioned earlier—has been adopted, but that the decree provided for by section 43 of the Code and intended to contain a schedule of occupational diseases and the corresponding operations has not yet been drafted. It adds, however, that the decree will take account of the Committee's observations.

The Committee notes these statements and hopes that the decree in question will contain a schedule of occupational diseases and the corresponding operations which will be in conformity with the Convention, and that it will be adopted in the very near future.

* * *

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

Convention No. 19: Equality of Treatment (Accident Compensation), 1925*Algeria* (ratification: 1962)

The Government having failed to reply to the previous direct requests on the application of this Convention, the Committee must take up the matter once again in a new direct request and it hopes that the Government will make every effort to supply the information requested.

Cameroon (ratification: 1962)

The Committee regrets to note, from the Government's report for the period 1972-73, that the repeal of section 57 of Order No. 59/100 of 31 December 1959, which the Government has announced in all the reports it has submitted on this Convention since 1964, is still under consideration. The Government confirms that this section, which permits discrimination between nationals and foreigners who are non-resident, is not applied in practice. Consequently, it should not be difficult to bring the legislation into complete conformity with Article 1 (2) of the Convention on this point. The Committee would once again ask the Government to state what steps have been taken to implement the reform which it has announced.¹

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Chile (ratification: 1931)

The Committee regrets to note that the Government's report has not arrived. It would point out that the latest report from the Government contained no reply to its earlier comments. The Committee therefore feels obliged to raise the question in a further direct request, and it hopes that the Government will make a point of supplying the information asked for.

Gabon (ratification: 1962)

As regards Article 1, paragraph 2, of the Convention, the Committee regrets to note that, for the second year in succession, no report has been received and that, in the information it supplied to the Conference Committee in 1973, the Government, although mentioning the Social Security Agreement concluded between the member States of OCAM, gave no information as to the adoption of the Social Security Code which was intended to contain an express guarantee of equality of treatment between its nationals and the citizens of any other State which had ratified the Convention, even in the case of residence, or transfer of residence, abroad. The Committee would recall that, according to the legislation at present in force (Decree No. 57.245 of 24 February 1957), foreigners who have suffered an industrial accident, or their dependants, are as a rule entitled, if they cease to live in Gabon, to a lump sum equal to three times the pension, and the dependants of a foreign worker who were not resident in Gabon at the time of the accident receive no compensation whatsoever. The Committee trusts that the draft Social Security Code to which the Government has been referring in its reports since 1967 will be adopted in the very near future.¹

Poland (ratification: 1928)

Further to its previous comments in connection with the observations presented by the General Confederation of Labour of Israel, the Committee notes that, under the Decree of 9 January 1969, the pensions due under the Act of 23 January 1968 (Text No. 8) in respect of industrial accidents which have occurred in a socialised establishment are suspended in all cases of residence abroad irrespective of the nationality of the beneficiary, as are the pensions due under the Act of the same date (Text No. 6) in respect of industrial accidents which have occurred in a private establishment. The Committee can only note that in these circumstances the strict equality of treatment provided for by the Convention is not contravened.

Rwanda (ratification: 1962)

Further to its earlier comments, the Committee notes that the draft to amend the Social Security Act of 15 November 1962 and, in particular, to bring the legislation formally into conformity with the Convention by expressly assimilating foreigners to nationals, had been submitted to the National Assembly, but that, on account of unforeseen circumstances, it could not be adopted up to the time at which the report was sent. The Committee would express the hope that the Government will be able, in its next report, to announce the adoption of this Act.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Central African Republic, Chile, France, Gabon, Iran, Madagascar, Mauritania, Portugal, Syrian Arab Republic, Upper Volta, Yugoslavia.*

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

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

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

Brazil (ratification: 1965)

Further to its direct request of 1972, the Committee notes the information given by the Government in its report and also the observations which were appended to it, made by the National Confederation of Workers in Maritime, River and Air Transport and by the Stevedores' Union, according to which the application in Brazil of paragraph 4 of Article 3 of the Convention (understanding by the seaman of the provisions of the agreement) and of paragraph 2 of Article 9 (requiring notice in writing) does not raise any problem. On this latter point, however, the Committee expresses the hope that, when an opportunity arises, as was suggested by the Government in its report for the period 1969-1971, it should be clearly stated in the legislation that, as regards seamen at least, it is compulsory to give notice in writing.

Article 5, paragraph 2. The Committee notes with interest that the Ministry of the Marine has issued instructions to the competent authorities that in future there should be no statement as to the quality of the seaman's work in the document which is issued to him.

Colombia (ratification: 1933)

Further to its earlier observations, the Committee notes the information supplied by the Government in its latest report, to the effect that Bill No. 37 concerning seamen's articles of agreement has been submitted to the National Congress. The Committee notes that, although this Bill contains certain provisions which are in conformity with the Convention, its adoption would not give effect to all its provisions.

The Committee further notes that the Government's latest report makes no reference to a draft decree which was prepared as a result of direct contacts in 1972 and which was intended to apply all the provisions of the Convention.

The Committee requests the Government to indicate what steps are being taken in connection with those two texts to bring the national legislation into full conformity with all the provisions of the Convention.

Federal Republic of Germany (ratification: 1930)

Further to its earlier observation, the Committee notes with interest from the Government's report that a Bill to amend section 63, subsection 3, of the Seamen's Act of 1957 so as to bring it into conformity with Article 9, paragraph 1, of the Convention, is at present being studied by the organisations of employers and workers concerned.

The Committee hopes that a decision will be taken soon as to the proposed amendments.

Japan (ratification: 1955)

Further to its direct request of 1972, in which the Committee referred to the comments of the employers' organisation which suggested that "a more simplified procedure of certification should be applied" in the application of the Mariners' Act,

the Committee notes with interest from the Government's report that it has simplified the form of the documents by amending the regulations under the Act.

Mexico (ratification: 1934)

Article 5, paragraph 2, of the Convention. Further to its earlier observations to the effect that the seaman's book should not contain any statement as to the quality of his work, the Committee duly notes from the Government's report that this question has again been submitted to the Shipping Department for study and decision. The Committee trusts that the decision will ensure complete application of this provision of the Convention.

Article 9, paragraph 1. Further to its earlier comments on this point, the Committee notes that the Government still considers that there is no divergence between the existing legislation and this provision of the Convention. It quotes section 209 of the Federal Labour Act, on which the Committee has already made observations; it considers that it is the duty of the national legislator to protect the worker, and if a seaman is put ashore in a foreign port he may meet very serious difficulties in getting back to his own country; it also considers that the staying of a ship in a foreign port is an exceptional circumstance determined by the national legislation in accordance with paragraph 3 of Article 9 of the Convention.

With regard to a seaman's right to repatriation if the agreement is terminated, the Government refers to Article 4 of Convention No. 23 and points out that the circumstances mentioned therein include discharge but not the termination of an agreement for an indefinite period, which, if decided upon by the master, could have serious consequences for the worker. In this connection the Committee would point out that in the context of Article 4, the term "discharge" or "dismissal" must be interpreted as meaning any cessation of the employment relationship which is not due to some default on the part of the seaman. This implies that if the master terminates an agreement for an indefinite period in accordance with Article 9, paragraph 1, of Convention No. 22, the seaman will not on this account lose his right to repatriation, which in any case would appear to be covered by section 196 of the Federal Labour Act (right of the worker to be brought back to the specified port or to the place where he was engaged). If, on the other hand, it is the seaman who takes the initiative in terminating the agreement, the problem arising out of the above-mentioned paragraph is not that of his right to repatriation but that of the right to give notice in any port that suits him, whether in his own country or abroad. With regard to this point, and the authorities' desire to protect the seaman, as stressed by the Government, the Committee would refer to its individual observations of 1956 and 1960 and its general observation of 1964, in which it pointed out that if the fact that a seaman is assured of his agreement being terminated only in a home port may be regarded as representing a certain advantage, this is counterbalanced by the serious disadvantage that the seaman does not enjoy the right granted by the Convention, to terminate his agreement for an indefinite period in any port where the vessel loads or unloads, which is a guarantee to the seaman of freedom of choice and movement. The Committee would also point out that several countries have already amended their legislation so as to bring it into conformity with the Convention on this point.

With regard to the Government's comments as to the scope of paragraph 3 of Article 9 of the Convention, which provides that national law must determine the exceptional circumstances in which notice will not terminate the agreement, the Committee must recall that the presence of a vessel in a foreign port cannot be considered an "exceptional circumstance".

The Committee trusts, therefore, that the Government will be able to reconsider the problem in the light of the observations which the Committee has been making for more than ten years and will bring the national legislation into complete conformity with the basic provisions of Article 9, paragraph 1, of the Convention.

Article 9, paragraph 2. Further to its earlier comments, the Committee has duly noted that the Government has brought to the notice of Congress the desirability of supplementing the Federal Labour Act by a provision specifying that notice must be given in writing.

Pakistan (ratification: 1932)

Further to its earlier observation concerning the application of Article 1 of the Convention, the Committee notes from the Government's report that the measures to amend the Merchant Shipping Act of 1923 have not so far materialised. It trusts that they will be adopted in the near future, since the application of the provisions of the Convention to seamen engaged on Pakistani ships in ports outside Pakistan is at present governed by transitional measures—namely administrative instructions of 8 October 1969, sent by the Minister of Defence to certain maritime authorities.

Peru (ratification: 1962)

The Committee notes with regret that the Government's report contains no reply to its earlier comments. It is bound, therefore, to repeat its previous observation, which was as follows:

Article 9, paragraph 1, of the Convention. In reply to the comments made by the Committee in repeated direct requests, the Government has stated that section 673 of the Harbour Masters and National Merchant Marine Regulations stipulates that an agreement for an indefinite period may be terminated only in the port in which the seaman was engaged, that this provision constitutes a guarantee that a seaman cannot be left in any other port, and that it is not considered desirable, from the shipowner's point of view, for a seaman to be able to leave the vessel during the voyage.

While appreciating the reasons put forward by the Government, the Committee can only repeat that this provision of the Convention is of fundamental importance in that it guarantees freedom of choice and movement to seamen, by granting them the right to terminate an agreement for an indefinite period in any port at which the vessel loads or unloads, on condition that the agreed notice is given. Since agreements for an indefinite period are authorised by law, it should be possible to terminate these agreements under the conditions laid down in the Convention.

The Committee therefore hopes that the Government will consider the possibility of revising the relevant legislation in the light of the foregoing comments.

Somalia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Further to its previous observations, the Committee notes from the Government's report that steps have been taken to include the relevant provisions of the Convention in the draft revised Maritime Code before this draft is finally approved by the competent authority.

The Committee recalls that its earlier comments dealt with the following points:

Article 6, paragraph 3 (10) (c), of the Convention. The national legislation does not provide that, where an agreement has been made for an indefinite period, it must indicate the conditions which entitle either party to rescind it and also the required period of notice, which must not be less for the shipowner than for the seaman.

Article 9, paragraph 1. The Maritime Code provides that an agreement for an indefinite period may not be rescinded by the seaman except in the port of destination of the vessel, whereas the Convention provides that such an agreement may be terminated by either party in any port where the vessel loads or unloads, provided that the required notice has been given.

Article 9, paragraph 2. The national legislation does not require notice to be given in writing.

Articles 4, 8, 13 and 14. The national legislation contains no provisions to give effect to these Articles of the Convention.

The Committee trusts that the necessary provisions will be included in the Maritime Code in the near future.

Spain (ratification: 1931)

According to the Ordinance of 20 May 1969 respecting employment in the merchant marine, all seamen other than temporary or casual personnel are engaged for an indefinite period which may be brought to an end only on a ground provided for by law (section 9). Under section 91 of the Ordinance, such engagements may be terminated by the seamen, by notice, only on one or the other of a limited number of specified grounds, such as attainment of retiring age, the availability of an opportunity to obtain other employment in a higher grade, change of ownership of the vessel, ill treatment, non-payment of remuneration or other failure to meet obligations towards the seaman, etc.

In its previous comments, the Committee had drawn attention to the fact that these provisions are incompatible with Article 9, paragraph 1, of the Convention, according to which an agreement for an indefinite period should be subject to termination, by notice, in any port where the vessel loads or unloads. In reply, the Government has stated that the enumeration of the grounds for termination of the agreement in section 91 of the Ordinance of 1969 is so broad as to cover all eventualities. The Government has expressed the view that section 91 (*b*)—which permits termination of the agreement if the seaman can prove to the shipowner or the shipowner's representative that, as a result of circumstances which have arisen after his signing on, he has special reasons for leaving the ship—embodies such a flexible formula as to cover all grounds not specifically enumerated in the section.

The Committee, however, considers that section 91 (*b*), which requires the seaman to provide proof to his employer of the existence of special reasons for termination, does not give the seaman the right to terminate an agreement for an indefinite period at will (subject only to giving the requisite notice, as laid down in Article 9, paragraph 1, of the Convention) and that the principle underlying section 91—namely, that a seaman may terminate his agreement only if any of the prescribed circumstances exist—is inconsistent with that right.

The Committee expresses the hope that the Government will take the necessary measures to bring the provisions of the Ordinance of 20 May 1969 relating to termination of engagements of indefinite duration by seamen into conformity with Article 9 of the Convention.

Venezuela (ratification: 1944)

Further to its earlier observation, the Committee notes the information supplied by the Government in its report, which was received after its meeting in 1973.

Article 6, paragraph 3 (10) (c), and Article 9, paragraph 1, of the Convention. According to Article 6, an agreement made for an indefinite period must specify the conditions which shall entitle either party to rescind it, as well as the required period of notice. If one or more of these conditions is fulfilled and the required period of notice observed, this type of agreement may, according to Article 9, be terminated in any port where the vessel loads or unloads. The Committee notes that, although the national legislation (sections 31 and 32 of the Labour Act, and section 675 of the Commercial Code) lists the causes which justify the termination of a contract in general, it does not appear to have prescribed that, the contract being for an indefinite

period, it must expressly specify these causes. Moreover, the legislation (section 28 of the Labour Act) provides that a contract for an indefinite period may be terminated by either party at any time, but not in *any place*, as required by the Convention; in fact, another text (section 289 of the 1938 Regulations under the Labour Act still in force) prohibits termination of the agreement when the vessel is in foreign waters.

Article 8. The Committee notes that, according to the Government's report, the trade unions and the shipowners are in the habit of providing seamen with copies of collective agreements. The Committee recalls however that the Convention provides that the measures to be taken to enable clear information to be obtained by the crew on board as to their conditions of employment must be laid down by national law.

Article 13, paragraph 1 and Article 14, paragraph 2. The Committee notes from the report that there are no provisions in the national legislation corresponding to these Articles of the Convention, which provide respectively that a seaman may, in specified circumstances, claim his discharge and that he shall at all times have the right to obtain a separate certificate as to the quality of his work.

In view of the gaps in the national legislation which have been pointed out above, the Committee considers that steps should be taken to fill them, either by amending and completing the existing legislation or by speeding up the procedure for the adoption of the Shipping Bill which the Government has mentioned on various occasions over several years. The Committee trusts that the necessary measures will be taken in the very near future.¹

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In addition, requests regarding certain points are being addressed directly to the following States: *Bangladesh, France, Ghana, Iraq, Malta, Mauritania, Mexico, Nicaragua, Panama, Peru, Sierra Leone, Tunisia, United Kingdom.*

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

Convention No. 23: Repatriation of Seamen, 1926

Argentina (ratification: 1950)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 17 May 1973 to Act No. 20401, which brings into effect the following provisions of the Convention: Article 3, paragraph 4 (conditions under which a foreign seaman engaged in a country other than his own has the right to be repatriated), Article 4, paragraph (b) (expenses of seamen's repatriation in case of shipwreck), and Article 5, paragraph 1 (expenses for the maintenance of repatriated seamen up to the time of departure and during the journey).

Colombia (ratification: 1933)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts between the competent national services and a representa-

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

tive of the Director-General of the ILO, Decree No. 724 to apply this Convention was adopted on 16 April 1973.

Ireland (ratification: 1930)

Since 1964 the Committee has been pointing out that section 32 of the Merchant Shipping Act of 1906 (which does not grant the right to repatriation: (a) when a seaman is landed in a Commonwealth country; (b) when a foreign seaman is engaged in a foreign port and landed in another foreign port) is not in conformity with Article 3, paragraph 1, of the Convention. The Government had referred to a draft codification of the merchant shipping legislation under preparation and stated that this would provide an opportunity for taking account of the Committee's comments, but according to the information given to the Conference Committee in 1973, it is not possible yet to foresee when the amendment of the relevant legislation, still under preparation, is likely to take place.

In view of the fact that, also according to the Government's reply of 1973, national practice is in conformity with the Convention, the Committee can only reiterate the hope that the legislation will be amended in the near future so as to give effect to the Convention in respect of the points mentioned above.¹

Philippines (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Further to its earlier comments concerning the application of Article 3 (obligation to repatriate any seaman, whether a national or a foreigner, who is landed during or at the end of his engagement) and Article 4 (free repatriation for a seaman who has been left behind for any of the reasons listed in this Article) of the Convention, the Committee notes with interest from the Government's report for the period 1969-71 that the Legal Service of the Department of Labour has also found that it was necessary to amend the existing legislation in order to bring it into conformity with these provisions of the Convention, and that the Government is now taking steps to this end. The Committee hopes that the Government will indicate the progress made in this matter.

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In addition, requests regarding certain points are being addressed directly to the following States: *Mexico, Panama, Peru, Tunisia, Uruguay, Yugoslavia*.

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

Colombia (ratification: 1933)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 2 of the Convention. Further to its previous comments the Committee notes with interest that, during the direct contacts which took place in Colombia, the Director-General of the Colombian Social Insurance Institute handed to the representative of the Director-General of the ILO a letter in which it is stated that the Institute will pursue its programme for the orderly expansion of social insurance with a view to extending the benefits provided under it to all the regions of the country and all groups of the population, as is provided for by Legislative Decree No. 433 of 1971.

¹ The Government is asked to report in detail for the period ending 30 June 1974.

The Committee hopes that in its future reports the Government will continue to supply information on the measures being adopted to ensure that the sickness insurance scheme is made applicable in fact to all the categories of workers covered by the Convention throughout the national territory.

Article 4, paragraph 1. In its previous comments the Committee drew the Government's attention to the fact that Article 7 of the General Sickness and Maternity Insurance Regulations—which lays down a qualifying period of five weeks' contributions as a condition for the grant of medical assistance—is not in conformity with the Convention, which does not subordinate medical assistance, nor the supply of medicines and appliances, to a qualifying period. The Committee notes with interest in this regard that section 34 of the draft General Insurance Regulations, handed by the Director-General of the Colombian Social Insurance Institute to the representative of the Director-General of the ILO, provides that workers who join a social insurance scheme again shall not be subject to a qualifying period of contributions. The Committee has also taken note of the note handed by the Director-General of the Colombian Social Insurance Institute to the representative of the Director-General of the ILO in which it is stated that the Institute will continue to examine the possibility of reducing the aforesaid period still further and, if possible, of eliminating it entirely, taking into account its methods of insurance and its financial situation.

The Committee hopes that the above-mentioned draft regulations will be adopted shortly, and that the Government will continue to supply information on the measures taken to bring national legislation and practice into conformity with the provisions of the Convention.

Ecuador (ratification: 1962)

The Committee regrets to note that the Government's report has not been received. However, it noted from the information given by the Government to the Conference Committee in 1973 that the Social Security Code announced in its previous report had been adopted by Decree No. 51 of 14 January 1972, but that its implementation has been adjourned until certain amendments had been made.

With reference to its earlier comments, the Committee was interested to note, in connection with *Article 4 of the Convention*, that the Social Security Code does not require a qualifying period for entitlement to medical treatment. On the other hand, it regretted to note that certain categories of foreign workers are not required to be compulsorily insured, which conflicts with *Article 2*, which does not authorise any exclusion based on nationality. The Committee trusts that the postponement of the coming into force of the Code will be utilised to amend the provisions concerning its scope (section 6) so as to remove all references to nationality.

Haiti (ratification: 1955)

Further to the comments which it has been making since 1957, the Committee notes with concern that the Acts of 12 September 1951 and 18 September 1967, which both provided for the establishment of sickness insurance, have still not been applied. In its report, the Government simply states that it is not in a position to reply to the Committee's latest observation because a Decree of February 1972, the purpose of which it does not explain, has not so far been applied.

The Committee trusts that, in the very near future, the Government will take the necessary steps to fulfil the international obligations which it accepted by ratifying this Convention as long ago as 1955. It would ask to be informed of any progress in the matter.¹

Peru (ratification: 1945)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Article 2 of the Convention. Further to its previous comments the Committee expresses the hope that these efforts will continue so as to ensure that the legislation will apply, as required by the Convention, to the whole national territory. It requests the Government to report any further progress in this matter.

Article 4. With reference to its previous observations and direct requests, the Committee notes with regret that no action has yet been taken to abolish the qualifying conditions (payment of a certain number of contributions) required for the granting of medical care in the manual workers' insurance scheme (section 29 of Act No. 843 of 12 August 1936, as amended by section 15 of Act No. 8509 of 23 February 1937) and in the salaried employees' insurance (section 66 (a) of Act No. 13724 of 18 November 1961). The Committee feels obliged to bring this matter once again to the notice of the Government. It hopes that the Government will, in the near future, be able to report on the steps taken or contemplated to bring its legislation on this point into harmony with the Convention, which does not prescribe any qualifying period for the granting of medical care.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Romania (ratification: 1929)

Article 3, paragraphs 2 and 3, of the Convention. Further to its earlier comments, the Committee notes with interest from the information supplied by the Government at the Conference in 1972 and expanded in its report for 1971-73 that a text is being drafted to abolish the withholding of cash benefits, as provided for in section 25 of Decision No. 880/1965 of the Council of Ministers, during the first five or seven days of sick leave if the wage-earner has been absent without justification during the 30 days preceding the sick leave. The Committee notes that this withholding of benefit is applied only in isolated cases. It would, however, stress that benefit is withheld for longer than the waiting period of three days authorised by Article 3 (2) of the Convention, and that the reasons, which the report describes as disciplinary, do not correspond to the cases permitted by paragraph 3 of the Article. The Committee hopes that the Government will soon be able to report that the reform has been adopted.

Uruguay (ratification: 1933)

The Committee notes with regret that the Government's report for the period ending 30 June 1973 has not been received and that a report, received in January 1973, for the period ending 30 June 1972 contained no reply to its comments. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

For some years the Committee has been drawing attention to the fact that there is no general sickness insurance scheme and that the various laws which have set up special schemes for certain categories of workers either do not cover large numbers of workers covered by the Convention or do not give full effect to its provisions. In its various reports on the application of the Convention, the Government referred to a number of Bills designed to introduce a general scheme, and the Committee examined these Bills and made appropriate comments on them.

In its report for 1969-71, the Government refers to two new Bills communicated to the Office in May 1971, and on which it asks for the Committee's views. The Committee believes that the Bills in question are the Bill for the creation of the National Social Security Institute and the National Health Service Bill (which also provides for sickness benefits).

As regards the National Health Service Bill, the Committee examined it in 1968 and made comments on it in its observation of 1968 (repeated in 1970 and 1971), to which it draws the Government's attention.

As regards the Bill for the creation of the National Social Security Institute, the Committee notes that this Bill is designed to bring about the progressive co-ordination and centralisation of the administration of all the social insurance schemes, including the sickness scheme, but that it does not contain provisions corresponding to those of the Convention. In any event, the Government indicates in its supplementary report received in February 1972 that it has not yet been possible for these Bills

to be adopted in view of the renewal of the national Parliament, but that once the new legislature is installed it will take action in regard to them.

The Committee trusts that the necessary measures will be taken to ensure the full application of the Convention as regards both its scope (Article 2) and certain other provisions mentioned in its previous observations (Article 3: waiting period of three days and limitation of the grounds for suspending benefits to the cases set out in paragraph 3 of this Article; Article 4: grant of medical, pharmaceutical and therapeutic care until the expiry of the period prescribed for the grant of financial benefit, i.e. a minimum period of twenty-six weeks). The Committee requests the Government to indicate the progress made to this end.¹

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

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

Colombia (ratification: 1933)

See under Convention No. 24.

Haiti (ratification: 1955)

See under Convention No. 24.¹

Peru (ratification: 1960)

See under Convention No. 24.

Uruguay (ratification: 1933)

See under Convention No. 24.¹

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

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

Bolivia (ratification: 1954)

The Committee notes from the Government's reply to its observation of 1973 that the Committee which was set up in 1968 to study and make proposals concerning minimum wage fixing has ceased to exist, and that another committee, also tripartite, undertook a general survey of the wages position during the period 1971 to 1973, after which a Section for Wage Studies was set up in the Ministry of Labour and Trade Union Affairs and was made responsible for studying all aspects of minimum wage fixing. The Government states that it hopes the studies which have been made will

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

make it possible in the near future to establish minimum wage-fixing methods in conformity with the provisions of the Convention.

In view of the fact that for more than ten years the Committee has been pointing out that no method of minimum wage fixing exists in Bolivia which guarantees, as required by the Convention, the consultation and participation of employers, workers and their organisations, the Committee trusts that the studies referred to above will, in the very near future, lead to the adoption of concrete measures to establish such methods and bring them into action.

Burundi (ratification: 1963)

The Committee notes with regret that the latest report merely refers to the preceding one, with regard to which the Committee had pointed out that it contained no fresh information in response to its direct request of 1971. It hopes that the Government will indicate whether the National Wages Board has again been consulted on the draft Ordinance to regulate the fixing of minimum wages on the basis of a general classification of jobs, which was first submitted to it in 1969, and what decisions have been taken on the matter.

The Committee further notes that, as far as the available information goes, the last adjustment of minimum wages would appear to have taken place in 1963, and that since then the financial and budgetary difficulties of the country have prevented any adaptation of minimum wage rates to the changes that have since occurred in the cost of living. It would once again ask the Government to indicate, in accordance with Article 5 of the Convention, any steps that may have been taken to revise minimum wages so as to take account of the rise in the cost of living.

Dahomey (ratification: 1960)

The Committee notes from the Government's report that the central trade union organisations, such as the General Union of Workers of Dahomey, the General Union of Trade Unions of Dahomey, the National Federation of Workers in Commerce and Industry and other autonomous trade union bodies, have submitted to the Government a request for a revision of the guaranteed interoccupational minimum wage, and that the matter has been referred to the National Labour Council for it to make proposals to the Government. It hopes that the Government will indicate, as required by Article 5 of the Convention, the measures taken in response to this request.

Rwanda (ratification: 1962)

The Committee duly notes the information, given by the Government in reply to its direct request of 1973, on the application of Article 3, paragraph 2 (1) and (2), of the Convention.

Articles 1 and 5 of the Convention. The Committee notes that the most recent report of the Government contains no fresh information on the progress of the procedure for the adoption of the draft presidential Order to prescribe the occupational groups covered and fix the corresponding minimum wages. In view of the fact that no minimum wages have so far been fixed in accordance with the Labour Code of 1967, the Committee trusts that the draft Presidential Order in question will be adopted in the near future, and that the text will be communicated.

Article 3, paragraph 2 (3), and Article 4, paragraph 1. The Committee notes that penalties in the form of fines are prescribed for employers who fail to comply with the

statutory minimum wages. It hopes that the Government will send a copy of the statutory provisions determining these penalties.

Tanzania (ratification: 1962)

Zanzibar.

The Committee notes with regret that once again no report has been received on the application of the Convention in Zanzibar. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The legislation of Zanzibar does not give effect to the Convention in the following respects:

Article 2 of the Convention. The Minimum Wage Decree of 1935 makes no provision for employers' and workers' organisations to be consulted prior to the application of the minimum wage-fixing machinery in a trade or part of a trade. The Committee requests the Government to indicate whether such consultation does take place in practice, and under what conditions.

Article 3, paragraph 2 (1) and (2). Section 3 of the 1935 Decree provides that the Minister may appoint advisory boards for consultation on the fixing of minimum wage rates, whereas according to the Convention representatives of the employers and workers concerned, including representatives of their respective organisations, must be consulted on the application of the minimum wage-fixing machinery and be associated in its operation on an equal footing. The Committee requests the Government to indicate whether advisory boards have been appointed when minimum wage rates have been fixed for certain trades or parts of trades and, if so, to supply copies of any rules regulating the meeting and procedure of these boards that may have been issued in pursuance of section 6 of the 1935 Decree.

Article 4, paragraph 1. The 1935 Decree makes no reference to measures for ensuring that employers and workers are informed of the minimum wage rates in force. The Committee requests the Government to indicate what measures have been taken or are contemplated in this respect.

Moreover, the Government has never supplied in respect of Zanzibar information concerning the practical application of the Convention as required by Article 5 of the Convention (which calls, for instance, for a list of trades in which minimum wage-fixing machinery exists and a statement giving the approximate numbers of workers covered, the minimum wage rates fixed, etc.).

The Committee trusts that the next report will contain the detailed information requested above on the application of the Convention to Zanzibar and that the Government will not fail to take the necessary steps to give full effect to the Convention.

Venezuela (ratification: 1944)

Further to its earlier observations, the Committee notes with interest that a Committee on Minimum Wages for Home Work in the area of the capital was set up by Decree No. 1129 of 8 November 1972 for the purpose of studying conditions in that sector and making proposals for establishing minimum wage rates, and that the members of the Committee were appointed by Resolution No. 100 of 30 April 1973. The Committee hopes therefore that minimum wage rates for persons working at home will be fixed for the area of the capital, and that similar steps will be taken in the near future for other parts of the country. The Committee would be grateful if the Government would in future supply information on the steps taken or contemplated to set up minimum wage committees for other industries or branches of industries in which no effective system exists for fixing minimum wages by collective agreement or otherwise, and in which wages are exceptionally low.

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In addition, requests regarding certain points are being addressed directly to the following States: *Burma, Cameroon, Chile, Italy, Japan, Lebanon, Madagascar, Niger, Tanzania (Tanganyika), Uruguay, Zaire.*

Convention No. 27: Marking of Weight (Packages Transported by Vessels), 1929*Cuba* (ratification: 1954)

The Committee has taken note of the information supplied by the Government in reply to its earlier comments. It notes with satisfaction that by Decision No. 00137 of 1 June 1973 regulations have been introduced which are designed to give effect to Article 1, paragraph 4, of the Convention.

Peru (ratification: 1962)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, Supreme Decree 007-73-TR, which brings into effect the provisions of the Convention, was approved on 5 June 1973.

Convention No. 28: Protection against Accidents (Dockers), 1929*Luxembourg* (ratification: 1931)

The Committee notes with regret that once again the Government's report has not been received. The Committee is bound, therefore, to repeat its observation made in 1973, which was as follows:

In its previous reports the Government had indicated that having regard to the canalisation of the Moselle and the construction of a port at Mertert in 1966 measures would be taken to adopt provisions giving effect to the requirements of the Convention and to extend the system of labour inspection to inland navigation. The Committee notes from the statement made by a Government representative to the Conference in 1972 that the necessary measures to apply fully the Convention were being prepared and would be put into effect very shortly. It regrets, however, that in the absence of a report on this Convention this year, no further information has been received regarding the adoption of these measures.

As it has been calling attention to the necessity of adopting provisions to give effect to the detailed requirements of this Convention since 1965, the Committee trusts that the necessary measures will be adopted in the near future.¹

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

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

By virtue of Article 2, paragraph 2 (c), of the Convention, its provisions do not apply to "any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations".

In its general survey of forced labour of 1968 (paragraph 79), the Committee referred to arrangements existing in certain countries under which selected prisoners

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

might voluntarily accept employment with private employers, subject to guarantees as to the payment of normal wages and social security contributions, consent of trade unions, etc. The Committee indicated that, provided the necessary safeguards existed to ensure that the persons concerned offered themselves voluntarily, such employment did not fall within the scope of the Convention.

The Committee wishes to draw attention to the fact that the provisions of Article 2, paragraph 2 (c), of the Convention which prohibit convict labour from being hired to or placed at the disposal of private individuals, companies or associations are not limited to work outside penitentiary establishments, but apply equally to work in workshops which may be operated by private undertakings inside prisons. Accordingly, the use of the labour of convicted persons in such workshops would be compatible with the Convention only if it were subject to the consent of the prisoners concerned and to safeguards of the kind mentioned above.

The Committee would be glad if governments of countries bound by the Convention would supply information in their next report on the present position of law and practice regarding the use of convict labour by private individuals, companies or associations, with due regard to the indications set out above.

Argentina (ratification: 1950)

Further to its previous observations, the Committee notes with satisfaction that the Civil Defence Act (No. 17192) of 2 March 1967, under which all inhabitants over 14 years of age might be called up not only in circumstances of emergency as defined in Article 2, paragraph 2 (d), of the Convention, but more generally for work to preserve the welfare of the community and the normal and full functioning of the nation, was repealed by Act No. 20509 of 27 May 1973.

The Committee recalls that the National Defence Act (No. 16970) of 6 October 1966 permits the call-up of inhabitants to meet the needs of national security (sections 47, 49 and 52) and that "national security" is defined by section 2 of this Act in an extensive manner so as to cover all measures taken to protect the vital interests of the nation from substantial interference and disturbance. The Committee notes the statement in the Government's last report that national legislation should be interpreted with due regard to its historical antecedents and purposes. It recalls, however, that the memorandum accompanying Act No. 16970 explained the need for new legislation, inter alia, on the ground that earlier legislation had been applicable only in case of war and did not take account of the interdependence of the security and development of the nation. The Committee accordingly once more expresses the hope that Act No. 16970 will be amended to bring it into conformity with the Convention, either by redefining the concept of "national security" in a strict sense (to the exclusion of activities aimed at economic objectives) or by limiting the power of call-up of labour pursuant to sections 47, 49 and 52 of the Act to circumstances of emergency as defined in Article 2, paragraph 2 (d), of the Convention.

Byelorussian SSR (ratification: 1956)

1. *Direction to employment of certain persons.* In previous observations, the Committee drew attention to the fact that the Ukase of the Presidium of the Supreme Soviet of the Byelorussian SSR of 15 May 1961 to intensify the campaign against persons evading useful work and leading an anti-social, parasitic way of life, as amended by Ukase of the Presidium of the Supreme Soviet of the Byelorussian SSR of 30 March 1970, permits the direction to employment of certain persons by decision

of the Executive Committee of a Soviet of Working People's Deputies in conditions incompatible with the Convention.

The Committee notes the Government's statement that measures under the above-mentioned legislation may be taken only against persons who evade socially useful work and live on unlawful means of subsistence, and that a person who lives on lawfully acquired funds (such as savings from work or earned income of other members of his family) cannot be regarded as leading an anti-social, parasitic way of life.

The Committee also notes the Government's view that an assignment to employment by decision of the Executive Committee of a Soviet of Working People's Deputies does not conflict with the Convention; the Government considers that such work does not take place under the menace of a penalty within the meaning of the definition of "forced or compulsory labour" in Article 2, paragraph 1, of the Convention, and states that, if the person is brought before a court for disobeying the assignment to employment, the court itself decides whether or not he should be punished or acquitted.

The Committee must once more point out, however, that under section 2 of the Ukase of 15 May 1961 (as amended in 1970), the person concerned is directed to specific employment by the decision of the Executive Committee, and that under section 204 of the Penal Code of the Byelorussian SSR (inserted by Ukase of the Presidium of the Supreme Soviet of the Byelorussian SSR of 30 March 1970), refusal to obey such a decision is punishable with imprisonment or corrective labour for up to one year. Accordingly, work undertaken in pursuance of such a direction of an Executive Committee is forced or compulsory labour within the meaning of the Convention, namely "work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The Committee also recalls that work undertaken pursuant to a decision of an Executive Committee of a Soviet of Working People's Deputies does not fall within the exception provided for in Article 2, paragraph 2 (c), of the Convention relating to labour exacted as a consequence of a conviction in a court of law.

The Committee must consequently once more express the hope that measures will be taken at an early date to bring the above-mentioned legislation into conformity with the Convention.

2. Obligations in regard to agricultural production. The Committee regrets that the Government has provided no new information in answer to its comments concerning the obligations with regard to agricultural production imposed on collective farms by the Order of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR of 20 March 1964 relating to the planning of agricultural production. The Government has stated in previous reports that the relationship between collective farms and the State as regards production and distribution of agricultural commodities is based on contractual agreements concluded on equal terms by the collective farms and the state purchasing agencies, that according to the Order of 20 March 1964, the planning of production is to be carried out by the collective farms themselves, including decisions as to the areas to be sown, yields, etc., and that this situation is confirmed by clause 14 of the Model Collective Farm Rules.

While noting that, under the Order of 20 March 1964, the internal organisation of production on collective farms is left to the farms themselves, the Committee observes that section 3 of the Order of 1964 places upon them the obligation, in planning their production, to ensure fulfilment of the state plan for agricultural products. The preamble to the Order states that collective farms must be given an assignment for the

quantities and types of products they are to sell to the State, while being left to decide how to fulfil the state plans. The Committee notes, moreover, that non-compliance by the management of a collective farm with the obligations imposed by the Order of 20 March 1964 would be punishable under section 168 of the Penal Code of the Byelorussian SSR relating to the non-performance or improper performance of duties by an official (as defined in section 166).

As the Committee pointed out in the general survey of forced labour in its report of 1968 (paragraph 61), except in emergencies, all forms of compulsory cultivation—whether imposed by reference to prescribed areas of land or the production of prescribed quantities of commodities, and whether affecting persons already holding land or persons directed to undertake cultivation—are incompatible with the Convention. It hopes that appropriate measures will be taken to ensure the observance of the Convention in this connection.

3. *Termination of membership of collective farms.* The Committee regrets that the Government has provided no new information in answer to its comments concerning the restrictions imposed upon the possibility of terminating membership in a collective farm. The Committee had noted that, by virtue of article 3 of the Fundamental Principles of Labour Legislation of the USSR and the Union Republics adopted on 15 July 1970, the labour of collective farm members is regulated by the collective farm rules adopted on the basis of and in conformity with the Model Collective Farm Rules and the Legislation of the USSR and the Union Republics relating to collective farms. Under clause 7 of the Model Collective Farm Rules adopted on 28 November 1969, a member's application to leave the collective farm must be submitted to the management committee and the general meeting of the collective farm.

In a previous report, the Government stated that departure by a member of a collective farm without the consent of the general meeting would not prevent him from taking up work under a contract of employment in any undertaking. The Committee notes, however, that under the passport regulations approved by Ordinance of the Council of Ministers of the USSR of 21 October 1953, the system for delivery of passports is—except in certain specified districts—not applicable to rural areas (sections 1 and 3); persons wishing to move from one place to another place are required first to obtain a passport from the authorities of the former area of residence (section 3); for this purpose a certificate concerning the person's last work has to be produced (section 9); the engagement as a wage or salary earner of a person not having a passport is prohibited (section 34). Furthermore, under the legislation governing work books (Order of 20 December 1938 and instructions of 9 July 1958), persons taking up employment as wage earners or salaried employees for the first time, including persons who have previously been members of a collective farm, are obliged to submit a certificate concerning their last activity, failing which they may not be taken into employment.

In the light of the foregoing indications, it would appear that a member of a collective farm may terminate his membership only with the consent of the management committee and the general meeting of the collective farm and that, if such consent is refused, he remains bound by all the obligations resulting from his membership of the collective farm (including obligations regarding work). The respect of these obligations would be ensured by the fact that, so long as he remained a member of the collective farm, he would not obtain a passport, nor be able to produce a certificate concerning his last activity as required by the legislation relating to work books, and would thus be deprived of the possibility of taking employment elsewhere as a wage or salary earner.

The Committee indicated in its general survey of forced labour in 1968 (paragraph 70) that statutory restrictions which prevent the termination by notice of a contract of employment of indefinite duration have the effect of turning a contractual relationship based on the will of the parties into service by compulsion of law and are accordingly incompatible with the Convention. It considers that the above-mentioned restrictions on the right of a member of a collective farm to terminate that membership and take up employment elsewhere are similarly contrary to the Convention. The Committee accordingly hopes that measures will be taken to amend the existing provisions so as to permit a member of a collective farm freely to terminate such membership, subject only to a reasonable period of prior notice.

4. *Supply of legislation.* Since 1964, the Committee has requested the Government to supply copies of the Administrative Code of the Byelorussian SSR, of any regulations issued in application of this Code, and of any laws or regulations governing the performance of communal services, which had been mentioned by the Government in an earlier report. It notes with regret that these texts have still not been supplied, and can only urge the Government once more to make them available.

Central African Republic (ratification: 1960)

In previous observations, the Committee had noted that the authorities might impose forced or compulsory labour, contrary to the Convention, by virtue of Ordinance No. 66/04 of 8 January 1966 concerning the repression of idleness, Ordinance No. 66/38 of 3 June 1966 concerning the control of active citizens, and Act No. 60/109 of 27 June 1960 for the development of the rural economy.

The Committee notes that Ordinance No. 4 of 1966 has been amended by Ordinance No. 72/083 of 18 October 1972. Following these amendments, the position with regard to the application of the Convention appears to be as follows:

1. *Legislation concerning the repression of idleness.* By Ordinance No. 66/04 of 1966, as amended in 1972, all persons of either sex, aged between 18 and 55 years and not physically incapacitated, must prove that they are engaged in a normal occupation or pursue studies at a school or university. Any person who is unable to provide such proof is deemed an idle person and is punishable with imprisonment from one to three years.

The Committee notes that, although a provision originally contained in the Ordinance of 1966 under which the persons concerned were to be directed to work of general interest has been repealed by the amending Ordinance of 1972, the general obligation to give proof of being engaged in a normal activity has been maintained, and the penal sanctions for failure to discharge this obligation have been strengthened (the maximum prison term having been increased from one to three years).

The Committee considers it necessary to draw attention to paragraph 56 of the general survey of forced labour in its report of 1968, where it pointed out that legislation which defines vagrancy offences in an unduly extensive manner (for example, which punishes persons by the mere fact of their not being in employment) may be used as a means of direct or indirect compulsion to labour and is incompatible with the Convention. The Committee notes that the Penal Code already contains more narrowly defined provisions for the punishment of vagrancy (section 166). It also notes the statement by a Government representative to the Conference Committee in 1973 that the Ordinance on the repression of idleness had been adopted with the aim of intimidation. The Ordinance, as amended, is still capable of being used in this manner, and is not in conformity with the Convention.

The Committee hopes that the Government will re-examine Ordinance No. 66/04 of 1966, as amended, with a view to its repeal.

2. *Legislation concerning the control of the active population.* Ordinance No. 66/38 of 1966 provides that any person aged from 18 to 55 years who cannot prove that he belongs to one of eight categories of the active population is to be directed to cultivate a parcel of land designated by the administrative authorities and, if found outside his home district, is liable to imprisonment.

This Ordinance is not affected by Ordinance No. 72/083, nor is any reference made to it in the Government's report. The Committee hopes that measures will be taken for its repeal.

3. *Legislation concerning the development of the rural economy.* Section 28 of Act No. 60/109 of 1960 provides for the fixing of individual minimum areas of land for each rural community. The Committee notes the statement made by a Government representative to the Conference Committee in 1973 that it was proposed to repeal this section, and hopes that such action will be taken at an early date.

Chad (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which read as follows:

1. *Forced labour for recovery of taxes.* In its previous comments the Committee had referred to section 260bis of the General Code of Direct Taxes, inserted by Act No. 28-62 of 28 December 1962, by virtue of which labour may be exacted for the recovery of taxes, contrary to Article 10 of the Convention.

The Committee notes from the Government's statement to the Conference Committee in 1972 that it was envisaged to insert in the General Code of Direct Taxes a new section 260bis. The Committee hopes that the necessary amendments to ensure the observance of the Convention will be adopted at an early date.

2. *Exaction of labour from persons subject to restriction on residence.* In its previous comments the Committee had noted that, under section 2 of Act No. 14 of 13 November 1959, the administrative authorities were empowered to exact forced labour for works of public utility from persons subject to restriction on residence following completion of a sentence. It notes the Government's statement to the Conference Committee in 1972 that in practice no form of forced labour was exacted from such persons. The Committee hopes that, to ensure the observance of the Convention, section 2 of the Act of 1959 will be repealed.

Costa Rica (ratification: 1960)

1. In previous comments, the Committee noted that section 2 (a) of Act No. 3550 of 2 October 1965 contained an extensive definition of vagrancy which might be applied even to involuntarily unemployed persons and, according to the Government, was intended to cover all situations deriving from unemployment or underemployment. Since these provisions might be used as a means of compulsion to work, the Committee requested the Government to take measures with a view to adoption of a more restricted definition of vagrancy.

The Committee notes with satisfaction that, following direct contacts between the competent national services and a representative of the Director-General of the ILO, section 2 (a) of Act No. 3550 has been amended by Act No. 5324 of 31 July 1973 so as to apply only to persons without known lawful means of subsistence who fail without just cause to work in a useful occupation for which they are fit and which is compatible with their age, sex, state and condition.

2. In previous comments, the Committee noted that, in areas where there was no judicial officer appointed under the Judicial Powers Act, offences under Act No. 3550 of 2 October 1965 and under the Police Code might be tried, and sentences involving compulsory labour imposed, by officers of the Rural Assistance Guard, a force exercising police functions. It pointed out that the imposition of sentences involving compulsory labour in such circumstances was not the consequence of a conviction *in a court of law*, within the exception permitted by Article 2, paragraph 2 (c) of the Convention, and was therefore contrary to the Convention.

The Committee regrets that no information has been provided on the measures taken with a view to bringing the national legislation into conformity with the Convention on this point. It is once more addressing detailed comments on this matter to the Government in a direct request, and hopes that the necessary measures will be taken at an early date.

Cuba (ratification: 1953)

With reference to its previous observations, relating to the powers granted by Act No. 1231 of 16 March 1971 to impose security measures and imprisonment, involving compulsory labour, on able-bodied men between 17 and 60 years who are not connected with a work centre without just cause or abandon their work, the Committee notes from the Government's last report that new legislation concerning the organisation of the judicial system and penal procedure was adopted in June 1973 (Acts Nos. 1250 and 1251) and will affect the application of the legislation of 1971. It requests the Government to supply copies of Acts Nos. 1250 and 1251. Pending examination of these texts, the Committee reserves further comment on the entire matter.¹

Czechoslovakia (ratification: 1957)

The Committee notes with interest the Government's statement, in answer to the Committee's previous observations, that it had decided on 12 June 1973 to propose the repeal of Order No. 40 of 1953 respecting civilian labour service, in connection with a Bill to amend the Labour Code. The Committee hopes that the Order of 1953 will be repealed at an early date.

Dahomey (ratification: 1960)

The Committee notes with interest from the Government's report that, following a recommendation made by the Minister of Labour, in agreement with the Minister of Rural Development and Co-operation, the Council of Ministers has submitted to the National Council of the Revolution proposals for the repeal of the following legislation which had been the subject of observations by the Committee:

- (a) Act No. 62-21 of 14 May 1962 concerning the call-up of unemployed persons;
- (b) Decree No. 239 of 1 June 1962, concerning collective village fields;
- (c) Ordinance No. 62/PR/MDRC of 29 December 1966 requiring all able-bodied men to work full time in the priority zones.

The Committee hopes that this legislation will be repealed in the near future.

Ecuador (ratification: 1954)

In its previous observation concerning the observance of the conditions laid down in Article 2, paragraph 2 (c), of the Convention in regard to prison labour, the

¹ The Government is asked to report in detail for the period ending 30 June 1974.

Committee had noted from the Government's report for the period 1969-71 that the administration of prisons and agricultural penal colonies had been reorganised by Decree No. 1053 of 29 December 1970, section 3 (c) of which provides for the issue of regulations governing the operation of prisons and penitentiaries. The Committee also had noted, from the information submitted by the Government to the Conference Committee in 1971, that provisions concerning prison labour were being studied by a group of experts with a view to ensuring the observance of the Convention.

The Committee notes with regret that the Government's report has not been received. It hopes that the Government will be able to supply in the near future copies of the provisions adopted to regulate the work of prisoners in penitentiaries, agricultural penal colonies and prisons.

Gabon (ratification: 1960)

In observations made since 1964 the Committee has pointed out that under Ordinance No. 50/62 of 21 September 1962 every citizen who is physically fit and has completed his eighteenth year, and cannot prove that he has an occupation or is registered at an educational establishment, may be required, subject to penal sanctions, to accept any employment assigned to him by the authorities. The Committee has pointed out that these provisions, which grant extensive powers to the authorities to impose forced or compulsory labour, are incompatible with the Government's obligations under the Convention.

The Committee notes from the information communicated by the Government to the Conference Committee in 1973 that the repeal of Ordinance No. 50/62 had been expressly provided for in section 230 of the new draft Labour Code submitted to the National Assembly for a second reading at the end of May 1973. It also notes the statement made by the Government delegate at the ILO African Regional Conference in December 1973 that the new Labour Code had been approved by the Labour Advisory Committee.

The Committee hopes that Ordinance No. 50/62 will be repealed in the near future.¹

Guinea (ratification: 1961)

The Committee notes the statement in the Government's report (received on 15 November 1973) that it had denounced this Convention. The Committee refers in this respect to the letter addressed by the Director-General of the ILO to the Minister of State for External Affairs on 26 November 1973 in which it was pointed out that, in accordance with Article 30 of the Convention, this instrument could be denounced only at five-yearly intervals, that the last period when it was open to denunciation ran from 1 May 1972 to 1 May 1973, and that, as no decision to denounce the Convention had been communicated during that period, Guinea remained bound by the Convention.

For matters of substance arising in connection with the application of the Convention, the Committee refers to its observation concerning Convention No. 105.²

Haiti (ratification: 1958)

Article 2, paragraph 2 (c), of the Convention. In observations and direct requests addressed to the Government for a number of years the Committee has pointed out

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

² The Government is asked to report in detail for the period ending 30 June 1974.

that section 230 of the Penal Code—according to which persons convicted of vagrancy are required, after having served their sentence, to reside in a place designated by the public prosecutor and to work on state works—provides for the imposition of forced or compulsory labour in circumstances not permitted by the Convention. In its latest report the Government indicates that this is not an additional penalty but a means for the State to protect society by improving the moral character of its members.

The Committee feels bound to point out once more that the above provision, which empowers administrative authorities to exact labour for an unlimited period from persons who have completed a sentence imposed by judicial decision, is not in conformity with the Convention. It draws attention to the fact that, while it may be appropriate in some cases to place persons under the supervision of the authorities for a certain time after they have served their sentence, these measures can be applied without subjecting the persons concerned to forced or compulsory labour.

The Committee accordingly hopes that measures will be taken at an early date to bring section 230 of the Penal Code into conformity with the Convention.

Article 25. In its earlier comments the Committee noted that the legislation does not prescribe any penalties for the illegal exaction of forced or compulsory labour. In its latest report the Government refers in this connection to sections 4 and 13, paragraph 6, of the Labour Code, which provide that no citizen may be compelled to work except after being sentenced by a court before which he was legally brought, and that, in the absence of any texts precisely applicable to the matter in dispute, the texts to be applied are, *inter alia*, the Conventions and Recommendations adopted by the International Labour Conference, in so far as they do not conflict with national social legislation.

The Committee would point out, however, that even if section 13 of the Labour Code was intended to make the provisions of the Convention directly applicable under national law, Article 25 of the Convention requires national legislation to specify the penalties which may be imposed in the case of illegal exaction of forced labour. The Committee would therefore once again ask the Government to take the necessary steps to introduce into the national legislation the penalties prescribed by Article 25 of the Convention.

Honduras (ratification: 1957)

In its previous observations the Committee noted:

- (a) that the Police Act of 8 February 1906 granted the police extensive powers to compel persons to perform labour against their will, contrary to the Convention;
- (b) that offences against the Police Act were tried not by courts of law but by officials and agents of the police, and that the penalties which might be imposed included imprisonment, involving by virtue of section 98 of the Penal Code and section 70 of the Prison Regulations Act an obligation to perform labour, contrary to Article 2, paragraph 2 (c), of the Convention, which permits the exaction of such labour only as a consequence of a conviction *in a court of law*;
- (c) that, under section 98 of the Penal Code, persons sentenced to penal servitude may be required to perform work for private employers, contrary to the requirement in Article 2, paragraph 2(c), of the Convention, that convicts shall not be hired to or placed at the disposal of private persons, companies or associations.

In the information communicated to the Conference Committee in 1973 and in its latest report the Government has once more expressed the view that the provisions of

the Police Act mentioned by the Committee are in conflict with later legislation, including the national Constitution, and to that extent must be considered to have been repealed or amended. The Government has recognised that the official text of the Police Act published in 1963 still contained these provisions and merely reproduced express amendments to the Act. It has however undertaken that in any new edition of the Act, all repeals and amendments resulting from the Constitution, the Labour Code and other laws will be indicated.

The Committee hopes that, in order to make the legal position clear to all concerned, measures will be taken either to repeal expressly the various sections of the Police Act to which the Committee had previously referred or to reissue, in the official gazette, an up-to-date edition of the Act with an indication of all the changes resulting either from express repeals or amendments or from subsequent contrary legislation.

The Committee also notes the Government's statement that a new Penal Code is likely to be adopted in the near future and that the necessary amendments to section 98 will be made to ensure conformity with the Convention.

The Committee trusts that the measures required to ensure the full observance of the Convention will be taken at an early date.

Indonesia (ratification: 1950)

The Committee notes with regret that the Government's report contains no information in answer to previous direct requests, in which it had asked for:

- (a) copies of the laws and regulations governing the treatment of prisoners and detainees who have not been the subject of a conviction in a court of law; and
- (b) information concerning the conditions regulating the performance of labour by such detainees.

In view of the Government's failure to furnish this information, the Committee is unable to satisfy itself of the observance of the Convention in the treatment of the above-mentioned persons. It urges the Government to supply the information requested in this regard.¹

Iraq (ratification: 1962)

In its previous observation the Committee had noted that, under section 3 (11) of Act No. 20 of 1970 regulating internal and foreign trade, the Council for Regulating Internal and Foreign Trade may when necessary, with the approval of the President, summon labourers for employment in public services producing and providing manufactured and semi-manufactured goods. Penal sanctions for non-compliance with such a summons and for refraining from working in a factory, workshop or trading establishment taken over by the said council are laid down in section 10 (1) and 16 of the Act.

The Committee had observed that the above-mentioned provisions permit the exaction of forced labour, contrary to the Convention. It regrets to note that the Government's report contains no information on measures taken or envisaged to repeal these provisions, and once more expresses the hope that they will be repealed in the near future.¹

Kenya (ratification: 1964)

In previous comments, the Committee had noted that, under sections 13 to 18 of the Native Authority Act (Cap. 128), able-bodied male Africans between 18 and 45

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

years of age might be required to perform any work or service in connection with the conservation of natural resources. The Government had stated that these provisions were in practice used for carrying out minor communal services of an ephemeral nature in the area of the community concerned. The Committee had however observed that the powers granted by these provisions were not confined to minor communal services as defined—and excluded from the Convention—by Article 2, paragraph 2 (*e*) of the latter. It noted in particular that section 14 of the Act authorised the exaction of labour for up to 60 days in any year, even for works involving the removal of workers from their place of residence. The Committee therefore requested the Government to take measures to amend the Native Authority Act so as to limit the exaction of labour explicitly to minor communal services within the meaning of Article 2, paragraph 2(*e*), of the Convention.

The Committee regrets that, for the second time in succession, the Government has provided no indication of the measures which it has taken or proposes to take to bring its legislation into conformity with the Convention. The Committee again expresses the hope that measures to this end will be taken in the near future.¹

Liberia (ratification: 1931)

The Committee has noted the statement in the Government's report that the new Labour Code has been submitted to the Legislature for adoption, that immediate action was to be taken on it as soon as the Legislature convened in January 1974, and that the Code would ensure the full application of the Convention. The Committee has also taken note of the more detailed information on some of the points raised in its previous observations which the Government provided to the Conference Committee in 1973.

1. *Local public works.* In its previous observations the Committee noted that, according to information provided to a representative of the ILO in the course of direct contacts in 1972:

- (a) the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, are still regarded by the Ministry of Local Government, Rural Development and Urban Reconstruction as the basis for local administration, and are used as such by the Officials of the Ministry in the various areas of the country;
- (b) the above-mentioned Laws and Administrative Regulations contain provisions permitting the exaction of forced labour for public works, compulsory portorage, the supply of compulsory labour by tribal chiefs to persons engaged in prospecting, mining and farming, compulsory female labour, and compulsory cultivation by tribesmen;
- (c) almost the entire programme of local works (construction of roads, bridges, markets, schools, clinics, etc.) is carried out on a "self-help" basis, involving the supply of unpaid labour by the local inhabitants;
- (d) the maintenance of tribal roads and bridges remains an obligation upon tribesmen.

The Committee noted that conflicting statements had been made by representatives of the public authorities as to whether and to what extent compulsory labour was still being used for local public works. It observed that, in order to eliminate all doubt in the matter and to provide clear guidance as to their rights and obligations to

¹ The Government is asked to report in detail for the period ending 30 June 1974.

officials of local government, tribal authorities and citizens, it was important that new regulations concerning the operation of local government—which would specifically repeal and replace the Revised Laws and Administrative Regulations of 1949—should be enacted. It appeared from information provided to the ILO representative in 1972 that such revised regulations were already under consideration.

The Committee notes the statement made by a Government representative to the Conference Committee in 1973, to the effect that works involved in local self-help schemes are undertaken voluntarily by the members of the community concerned and that, as self-help projects are carried out as permitted under Article 2, paragraph 2 (*e*), of the Convention, no measures to change the situation are contemplated.

The Committee considers that the following measures are still necessary to clarify the present situation:

(i) So long as the Revised Laws and Administrative Regulations Governing the Hinterland, 1949, are used as the basis of local administration, the possibility of the application of the provisions relating to exaction of compulsory labour remains. The Committee hopes that the new regulations which in 1972 were stated to be under consideration will be issued at an early date and will unambiguously eliminate the powers to exact labour still appearing in the text currently in use.

(ii) If the Government wishes to avail itself of the provisions of Article 2, paragraph 2 (*e*), of the Convention (which except from the Convention certain *compulsory* minor communal services) whether for the maintenance of tribal roads and bridges or for other minor local works, it should specifically provide for this possibility and regulate the imposition of such services in a manner complying with the conditions stated in Article 2, paragraph 2 (*e*).

The Committee trusts that appropriate measures on this question will be taken at an early date.

2. *Prohibition of forced labour.* The Committee recalls that the national legislation does not prescribe penal sanctions for the illegal exaction of forced or compulsory labour, as required by Article 25 of the Convention. It trusts that the necessary provisions for this purpose will be included in the new Labour Code, and that these provisions will be enacted at an early date.

3. *Legislation relating to vagrancy.* The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1973 that agreement had been reached to delete from section 346 of the Penal Code the provision which states that an idle person who is offered employment and who refuses is deemed a vagrant, and that this change was to be reflected in the new Criminal Code to be submitted to the Legislature at its current session. The Committee trusts that this amendment—recommended in 1963 by the Commission of Inquiry appointed under article 26 of the ILO Constitution—will be enacted in the near future.

4. *Enforcement of the prohibition of forced or compulsory labour.* The Committee has in previous observations stressed the need, in addition to the adoption of a legislative prohibition of forced labour (as mentioned in point 2 above), of ensuring the strict observance of such legislation, in accordance with Articles 24 and 25 of the Convention. In this connection, the Committee has had to note the insufficiency of labour inspection, particularly in the agricultural sector, where some of the major difficulties in the application of the Convention had occurred. It had requested the Government to provide information in future reports on the measures taken to ensure the observance of the Convention, including copies of the annual reports of the

Ministry of Labour and Youth and the Ministry of Local Government, Rural Development and Urban Reconstruction.

The Committee notes the statement by a Government representative to the Conference Committee in 1973 that the annual reports of the above-mentioned ministries would be communicated. It regrets however that neither these reports nor any other indications concerning labour inspection or other measures aimed at securing the observance of the Convention have been supplied. It can only express the hope that these shortcomings, which it regards with concern, will be made good at an early date.

5. *Compulsory cultivation for tribal chiefs.* In its previous observations the Committee had noted that, according to the annual reports for 1969-70 and 1970-71 of the Department of Internal Affairs (now the Ministry of Local Government, Rural Development and Urban Reconstruction), "it is an established fact that the chiefs continue to extort their tribesmen by collecting over and above the quantity of rice allowed them by Regulations, and that they continue to have their tribesmen make large rice farms for them for little or no pay". It had requested the Government to indicate the measures taken to eliminate this form of compulsory labour, including particulars of sanctions imposed.

The Committee regrets that the Government has not furnished any information on this matter, and repeats its previous request.

6. *Employment of labour by certain concession companies.* In previous observations the Committee had noted that certain concession agreements, formally approved by Act of the Legislature, still contained clauses under which the Government undertook to provide assistance in securing and maintaining an adequate labour supply (namely, the agreements of the Liberian Mining Company and the Liberian Agricultural Corporation). In the report for the period ending October 1972, the Government stated that it had appointed a committee headed by the Minister of Finance to review all concession agreements with respect to clauses providing for government assistance in securing and maintaining labour supply and to make recommendations for the abrogation of such clauses to comply with Convention No. 29.

The Committee notes that no further information on this question has been provided by the Government, either in its statement to the Conference Committee in 1973 or in its last report. As the matter has been outstanding for many years, the Committee can only express the hope once more that the necessary action will be taken at an early date.

7. *Prison labour.* In previous observations the Committee had referred to sections 733 and 734 of the Criminal Procedure Law (under which every person sentenced to imprisonment is required to perform hard labour and may be put to work in any part of Liberia and outside the precinct of any prison) and had observed that the legislation did not provide—as required by Article 2, paragraph 2 (c), of the Convention—that work of convicted persons should be performed under the supervision and control of a public authority and that prisoners should not be hired to or placed at the disposal of private individuals, associations or companies. The Government has indicated that provisions designed to ensure observance of the guarantees laid down in Article 2, paragraph 2(c), of the Convention are to be included in the new Labour Law. The Committee hopes that the necessary provisions will be adopted at an early date.

8. *Incorporation of ILO Conventions in the Liberian Code of Laws.* Action remains outstanding to implement the recommendation made in 1963 by the Commission of

Inquiry appointed under article 26 of the ILO Constitution that ILO Conventions ratified by Liberia (which, according to the Government, became part of the law of Liberia upon publication) should be incorporated in the Liberian Code of Laws. The Government has indicated that the texts of the Conventions in question are to be appended to the new Labour Law. The Committee accordingly hopes that the above-mentioned action will be taken at an early date.¹

Madagascar (ratification: 1960)

The Committee notes the information supplied by the Government in reply to its earlier comments.

1. *Prison labour.* In its previous comments the Committee referred to the fact that the hiring out of prisoners to private undertakings or persons was permitted by Decree No. 59-121 of 27 October 1959 concerning the organisation of prison services. The Committee notes the Government's statement, in its last report and to the Conference Committee in 1973, that the hiring out of prison labour had been abolished. In this connection the Government has referred to amendments to the above-mentioned Decree No. 59-121 made by Decrees Nos. 60-153 of 22 June 1960, 63-167 of 6 March 1963 and 65-656 of 22 September 1965. The Committee notes, however, that Decree No. 59-121, as amended by these texts, still permits the hiring out of prison labour to private employers, contrary to Article 2, paragraph 2 (c) of the Convention.

The Committee regrets to note also that Decree No. 63-167 of 6 March 1963 amended section 68 of Decree No. 59-121 of 27 October 1959 so as to make prison labour compulsory not only for persons sentenced to imprisonment, but also for those in custody pending trial, which is incompatible with the Convention.

The Committee requests the Government to take the necessary steps to bring the above-mentioned legislation into conformity with Article 2, paragraph 2 (c) of the Convention and to provide information on the action taken for this purpose.

2. *Forced labour in connection with failure to pay taxes.* With reference to its earlier observations concerning the provisions of the Labour Code and of Ordinance No. 62-065 permitting the imposition of labour as a means of recovering taxes and as a penalty imposed by administrative decision in the event of non-payment of taxes, the Committee notes with interest the Government's statement in its last report and to the Conference Committee in 1973 that as from 1973 there would no longer be any forced labour for the payment of taxes, since the minimum tax had been abolished and the provisions of the above-mentioned Ordinance No. 62-065 no longer applied. The Committee requests the Government to indicate the legislative measures by which these changes were made.

3. *Development work by the "fokonolona" (local communities).* The Committee notes that Ordinance No. 62-004 of 24 July 1962 to determine the tasks, responsibilities and powers of the *fokonolona*, to which it had previously referred, was repealed by Ordinance No. 73-009 of 24 March 1973 concerning the organisation of the rural population so as to enable the people to control their own development; however, the new Ordinance has not eliminated the possibility of requiring the members of the *fokonolona* to participate in works decided upon by the *fokonolona*. The Committee is addressing a number of questions to the Government on this subject in a direct request.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Mali (ratification: 1960)

Article 2, paragraph 2 (c) of the Convention. The Committee notes with satisfaction that, following its earlier direct requests, sections 62 and 64 of Act No. 59-17 of 23 January 1959 concerning prison services were amended by Order No. 47/CMLN of 6 November 1972 so as to provide that prisoners may not, under any circumstances, be hired out to or placed at the disposal of private individuals or undertakings.

Norway (ratification: 1932)

In previous comments, the Committee had taken note of indications provided by the Government concerning the scope and purpose of the Temporary Act of 21 June 1956 concerning compulsory service for dentists (as amended), under which, subject to penal sanctions, newly qualified dentists might be called up for service for a specified period (since 1969, not exceeding twelve months) in the public dental service. The Government had emphasised that this legislation was of a temporary nature and was intended to deal with an exceptional situation involving the well-being of the populations in remote regions. It had also supplied information on measures taken with a view to increasing the availability of dentists for the public dental service and thus making unnecessary further recourse to the legislation in question.

The Committee notes with interest, from the Government's last report, that the validity of the above-mentioned Act expired on 30 June 1973.

Pakistan (ratification: 1957)

1. *Restrictions on termination of employment.* In previous observations the Committee has pointed out that, under the Pakistan Essential Services (Maintenance) Act, 1952, it is an offence punishable with imprisonment for up to one year for any person in employment (of whatever nature) under the Central Government to terminate his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination by notice (sections 2, 3 (1) (b) and explanation 2, and section 7 (1)). Pursuant to section 3 of the Act, these provisions may be extended to other classes of employment. Persons to whom the Act applies may also be ordered, subject to penal sanctions, not to leave specified areas (sections 4, 5 (c) and 7 (1)). Similar provisions are contained in the West Pakistan Essential Services (Maintenance) Act, 1958, as regards persons in employment under the West Pakistan Government or any agency set up by it or a local authority or any service relating to transport or civil defence.

The Committee has pointed out that, by prohibiting workers from terminating their employment without the employer's consent, even by notice, the above-mentioned legislation permits the exaction, subject to penal sanctions, of labour for which the persons concerned no longer offer themselves voluntarily, and which accordingly constitutes forced or compulsory labour within the meaning of Article 2, paragraph 1, of the Convention.

The Government has stated in its latest report that the provisions in question would have to be left intact until the current state of emergency in the country was lifted in March 1974 and that the exaction of work or service in cases of emergency was excluded from the scope of the Convention by virtue of Article 2, paragraph 2 (d).

The Committee again recalls that the operation of the Pakistan Essential Services (Maintenance) Act and the West Pakistan Essential Services (Maintenance) Act is not limited to cases of emergency within the meaning of Article 2, paragraph 2 (d), of the Convention. These Acts make it possible at all times to retain employees in the

services concerned against their will, subject to penal sanctions, and are therefore incompatible with the Convention.

The Committee accordingly trusts that measures will be taken either to repeal the Acts in question or to amend them so as to limit their application to cases where the imposition of compulsory service is essential to meet an emergency within the meaning of Article 2, paragraph 2(d), of the Convention.

2. *Direction of labour.* The Committee had previously noted that, although the emergency which had occasioned the promulgation of the Control of Employment Ordinance, 1965, had been terminated in February 1969, the provisions of this Ordinance and the regulations issued thereunder which permitted the imposition of compulsory labour continued in force. It had expressed the hope that these provisions would be repealed.

Subsequently, following the declaration of a state of emergency in November 1971, further provision for the imposition of compulsory labour was made by the Defence of Pakistan Ordinance, 1971, and the Defence of Pakistan Rules, 1971.

Having regard to the Government's statement, in its latest report, that the current state of emergency was to be lifted in March 1974, the Committee trusts that the Government will be in a position to indicate in the next report that the powers to impose compulsory labour contained in the Defence of Pakistan Ordinance and Rules have lapsed and that the Control of Employment Ordinance, 1965, and the regulations issued thereunder have been repealed.

3. *Article 25 of the Convention.* With reference to allegations of recourse to coercion by certain labour recruiters, the Government previously indicated that stringent legal action had been taken against the persons involved under the existing laws and that further information was being collected from the provincial governments concerned. In its latest report the Government states that, according to information from the provincial governments, the news about forced labour camps had been found to be highly exaggerated, although some cases had occurred where overtime work was taken from workers for low wages which were not paid regularly. The Government also states that the provincial governments concerned had found the labour inspection services to be inadequate to implement the requirements of the labour laws and that they had recommended that the officers of the departments involved should maintain a strict vigil over the conditions prevailing in the labour camps.

The Committee notes that the annual reports on the working of labour laws in Pakistan supplied by the Government in accordance with the requirements of the Labour Inspection Convention, 1947 (No. 81) do not give any information concerning inspection of labour camps or the investigation of any complaints about conditions in such camps. The Committee had also understood that the stringent legal action previously mentioned by the Government had been initiated by the police authorities, and that an inquiry into conditions in the labour camps had been ordered. The Committee accordingly hopes that the Government will provide further particulars of the nature and results of any inquiries on this matter which have been conducted and of any prosecutions initiated, having regard to its obligation under Article 25 of the Convention to ensure that the penalties imposed by law for the illegal exaction of forced labour are strictly enforced. The Committee also trusts that in future reports the Government will provide full information on the activities of the labour inspection services in supervising the conditions of engagement of workers by labour contractors.

Sierra Leone (ratification: 1961)

In previous observations the Committee had expressed the hope that the provisions of the Chiefdom Act (Cap. 61) concerning compulsory cultivation would either be repealed or amended so as to permit the imposition of compulsory cultivation only in cases of emergency as defined in Article 2, paragraph 2(d), of the Convention.

The Committee notes with regret that no report has been received. It has however noted the statement by the Government delegate to the Fourth ILO African Regional Conference in November 1973 that steps were being taken to regularise the situation.

The Committee accordingly hopes that measures will be taken at an early date to bring the above-mentioned legislation into conformity with the Convention.

Switzerland (ratification: 1940)

In earlier comments the Committee had noted that, under the legislation of the majority of cantons, decisions for the placement in labour institutions of vagrants and other categories of persons leading an anti-social life were taken by administrative authorities. It had pointed out that the obligation to perform labour imposed in these circumstances was not compatible with the Convention, since Article 2, paragraph 2 (c), excepts such labour from the scope of the Convention only when it is exacted as a consequence of a conviction in a court of law.

The Committee had also noted that in a circular sent to the cantonal governments on 6 July 1970, the federal Government had drawn their attention to the Committee's comments and had requested those cantons whose legislation or practice was contrary to the provisions of Article 2, paragraph 2 (c), of the Convention to amend their legislation or practice so as to vest competence to order internment in a judicial authority in all cases where the person interned was obliged to work. In its previous observation the Committee noted with satisfaction that in some cantons provisions contrary to the Convention had already been repealed, and expressed the hope that the Government would be in a position to report further progress in bringing the relevant cantonal legislation into conformity with the Convention.

The Committee notes that in its last report the Government has provided only limited information on the progress made in this matter. The Committee is addressing a further direct request to the Government on the subject, and hopes that the Government will indicate in its next report the measures taken or contemplated in the various cantons concerned to bring their legislation into conformity with the Convention.

*Tanzania (ratification: 1962)**Tanganyika.*

The Committee notes with regret that no report has been received, and that accordingly no information is available in answer to its previous observations, in which it had noted that forced labour might be exacted under the following legislative provisions, contrary to the Convention:

- (a) section 52 (1), paragraph 45, of the Local Government Ordinance (as amended by Act No. 64 of 1962) and section 121 (e) of the Employment Ordinance (as amended by Act No. 82 of 1962) permit the imposition of compulsory cultivation by local authorities. The Committee had noted that a considerable number of by-laws imposing such obligations had been made by local authorities and approved by the competent minister;

- (b) Part X of the Employment Ordinance also permits the exaction of forced labour for public purposes;
- (c) section 6 of the Ward Development Committees Act, 1969, empowers Ward Development Committees to make orders requiring all adult citizens resident within the area of the ward to participate in the implementation of any scheme for agricultural or pastoral development, the construction of roads or public highways, the construction of works or buildings for the social welfare of residents, the establishment of any industry, or the construction of any work of public utility.

In view of the Government's repeated assurances that measures would be taken to bring national legislation into conformity with the Convention, the Committee trusts that the above-mentioned provisions will be repealed in the very near future.

Zanzibar.

The Preventive Detention Decree, 1964, which authorises the detention of persons by administrative decision, provides in section 5 that regulations may be made applying to such detainees any of the provisions of the Prisons Decree relating to convicted prisoners. Notwithstanding the requests repeatedly made by the Committee since 1966, the Government has failed to supply information on the regulations which have been made in this regard. The Committee is accordingly not in a position to satisfy itself that the terms of Article 2, paragraph 2 (c), of the Convention (which permits the exaction of labour only from persons *convicted in a court of law*) are being respected in the case of persons detained under the Preventive Detention Decree.¹

Tunisia (ratification: 1962)

The Committee notes with regret that, for the third year in succession, no report has been supplied on this Convention and that accordingly no information is available on the measures taken or contemplated to bring the following provisions into conformity with the Convention:

- (a) Legislative Decree No. 62-17 of 15 August 1962 regarding rehabilitation through work, under which certain persons may be directed to a government work site by a decision of an administrative nature, contrary to Article 1 and Article 2, paragraph 2 (c), of the Convention;
- (b) the Decree of 17 December 1942 regarding the employment of penal labour outside penitentiary establishments, under which prisoners may be hired out to private employers, contrary to Article 2, paragraph 2 (c), of the Convention;
- (c) the Decree of 7 August 1936 on civil requisitions, the Decree of 29 September 1938 on the organisation of the nation in time of war (section 19 of which permits the requisitioning of labour also in peacetime) and Orders of 17 December 1942 and 25 February 1943 issued thereunder, and section 4 of the Decree of 28 January 1946 on the operation of commercial ports, all of which permit the call-up of workers in circumstances not limited to cases of emergencies as defined in Article 2, paragraph 2 (d), of the Convention.

As the above-mentioned matters have been the subject of comments since 1965, the Committee hopes that measures will be taken at an early date to bring the legislation in question into conformity with the Convention.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session, and to report in detail for the period ending 30 June 1974.

Ukrainian SSR (ratification: 1956)

1. *New Labour Code.* Referring to its previous observations, the Committee notes with satisfaction that the Labour Code adopted by the Supreme Soviet of the Ukrainian SSR on 10 December 1971 contains no provisions corresponding to section 11 of the previous Labour Code, which permitted the call-up of labour in exceptional cases, including cases of shortage of labour for carrying out important state work.

2. *Supply of legislation.* In its first report on the Convention, presented in 1958, the Government provided certain extracts from the Administrative Code of the Ukrainian SSR relating to compulsory service in cases of emergency. Since 1959 the Committee has requested the Government to supply a copy of the full text of this Code. It notes with regret that this text has still not been supplied, and can only urge the Government once more to make it available.

3. *Direction to employment of certain persons.* In previous observations, the Committee referred to the Ukase of the Presidium of the Supreme Soviet of the Ukrainian SSR of 12 June 1961 to intensify the campaign against persons evading socially useful work and leading an anti-social, parasitic way of life, as amended by Ukase of the Presidium of the Supreme Soviet of the Ukrainian SSR of 18 March 1970. Under this legislation, persons may be compulsorily directed to employment by decision of the Executive Committee of a Soviet of Working People's Deputies; wilful non-compliance with such a decision is punishable with imprisonment or corrective labour for up to one year, under section 6 of the Ukase of 1961 (as amended) and section 214 of the Penal Code of the Ukrainian SSR (inserted by Ukase of the Presidium of the Supreme Soviet of the Ukrainian SSR of 18 March 1970). The Committee pointed out in its previous observations that work undertaken pursuant to compulsory direction to employment by the Executive Committee of a Soviet of Working People's Deputies under the above-mentioned legislation was labour performed under the menace of a penalty and for which the person concerned had not offered himself voluntarily and that such work accordingly fell within the definition of "forced or compulsory labour" contained in Article 2, paragraph 1, of the Forced Labour Convention, and was not covered by the exception provided for in Article 2, paragraph 2 (c), of the Convention relating to labour exacted as a consequence of a conviction in a court of law.

In its latest report the Government states that, since under article 12 of the Ukrainian Constitution every able-bodied citizen is under an obligation to work, and since the country is run by the workers themselves through the Soviets of Working People's Deputies, the above-mentioned legislation is in the workers' interest. It also states that any action taken under this legislation lies in the realm of administrative law and has nothing to do with employer-worker relations.

The Committee must point out that the Convention applies to "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". Accordingly, the fact that exaction of work or service takes place under administrative law or in pursuance of constitutional provisions does not prevent it from constituting forced or compulsory labour within the scope of the Convention. Nor can the legislation in question be considered as creating more favourable conditions to the workers concerned than those provided for in the Convention.

The Committee must consequently once more express the hope that measures will be taken at an early date to bring the above-mentioned legislation into conformity with the Convention.

4. *Obligations in regard to agricultural production.* In previous comments, the Committee had referred to the obligations with regard to agricultural production imposed on collective farms by the Order of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR of 20 March 1964 relating to the planning of agricultural production. The Government has stated that the relevant legislative provisions are based on the fact that collective farms are managed in accordance with a plan approved by the general meeting of their members, and that the relationship between the State and the collective farms as regards production and distribution of agricultural commodities is based on a contractual agreement concluded on equal terms by the collective farms and the state purchasing agencies. While noting that, under the Order of 20 March 1964, the internal organisation of production on collective farms is left to the farms themselves, the Committee has pointed out that section 3 of the Order of 1964 places upon them the obligation, in planning their production, to ensure fulfilment of the state plan for agricultural products. The preamble to the Order states that collective farms must be given an assignment for the quantities and types of products they are to sell to the State, while being left to decide how to fulfil the state plans. The Committee notes, moreover, that non-compliance by the management of a collective farm with the obligations imposed by the Order of 20 March 1964 would be punishable under section 167 of the Penal Code of the Ukrainian SSR relating to the non-performance or improper performance of duties by an official (as defined in section 164).

As the Committee pointed out in the general survey of forced labour in its report of 1968 (paragraph 61), except in emergencies, all forms of compulsory cultivation—whether imposed by reference to prescribed areas of land or the production of prescribed quantities of commodities, and whether affecting persons already holding land or persons directed to undertake cultivation—are incompatible with the Convention. It hopes that appropriate measures will be taken to ensure the observance of the Convention in this connection.

5. *Termination of membership of collective farms.* In previous comments the Committee noted that, by virtue of article 3 of the Fundamental Principles of Labour Legislation of the USSR and the Union Republics adopted on 15 July 1970, the labour of collective farm members is regulated by the collective farm rules adopted on the basis of and in conformity with the Model Collective Farm Rules and the Legislation of the USSR and the Union Republics relating to collective farms. It had also noted that, under clause 7 of the Model Collective Farm Rules adopted on 28 November 1969, a member's application to leave the collective farm must be submitted to the management committee and the general meeting of the collective farm, and had sought clarification of the legal consequences of this requirement.

In its latest report the Government states that a member of a collective farm is free to leave the farm even though the management may not have considered his application to leave; that he will incur no liability in so doing; that he is then free to go from one place to another, as he may see fit, and take up any form of productive work; that, whether or not his notice of withdrawal has been considered by the management of the collective farm, the local Soviet of Working People's Deputies is obliged, in accordance with the Order of 12 April 1968 on the procedure for examination of citizens' proposals, petitions and complaints, to give him within one month a certificate of his identity, civil status and assets.

The Committee has taken note of the above indications, but considers that the legal position requires further clarification. It has noted that, under the passport regulations approved by Ordinance of the Council of Ministers of the USSR of 21 October 1953, the system for delivery of passports is—except in certain specified

districts—not applicable to rural areas (sections 1 and 3); persons wishing to move from one place to another place are required first to obtain a passport from the authorities of the former area of residence (section 3); for this purpose a certificate concerning the person's last work has to be produced (section 9); the engagement as a wage or salary earner of a person not having a passport is prohibited (section 34). Furthermore, under the legislation governing work books (Order of 20 December 1938 and instructions of 9 July 1958), persons taking up employment as wage earners or salaried employees for the first time, including persons who have previously been members of a collective farm, are obliged to submit a certificate concerning their last activity, failing which they may not be taken into employment.

In the light of the foregoing indications, it would appear that a member of a collective farm may terminate his membership only with the consent of the management committee and the general meeting of the collective farm and that, if such consent is refused, he remains bound by all the obligations resulting from his membership of the collective farm (including obligations regarding work). The respect of these obligations would be ensured by the fact that, so long as he remained a member of the collective farm, he would not obtain a passport, nor be able to produce a certificate concerning his last activity as required by the legislation relating to work books, and would thus be deprived of the possibility of taking employment elsewhere as a wage or salary earner.

The Committee indicated in its general survey of forced labour in 1968 (paragraph 70) that statutory restrictions which prevent the termination by notice of a contract of employment of indefinite duration have the effect of turning a contractual relationship based on the will of the parties into service by compulsion of law and are accordingly incompatible with the Convention. It considers that the above-mentioned restrictions on the right of a member of a collective farm to terminate that membership and to take up employment elsewhere are similarly contrary to the Convention. The Committee accordingly hopes that measures will be taken to amend the existing provisions so as to permit a member of a collective farm freely to terminate such membership, subject only to a reasonable period of prior notice.

USSR (ratification: 1956)

The Committee regrets that no report has been received, and that consequently no new information is available on the following matters which have been the subject of observations or direct requests for a number of years:

1. *Direction to employment of certain persons.* In previous observations, the Committee had drawn attention to the fact that the Ukase of the Supreme Soviet of the RSFSR of 4 May 1961 to intensify the campaign against persons evading socially useful work and leading an anti-social, parasitic way of life (as amended by Ukase of 25 February 1970) permitted the direction to employment of certain persons by decision of the Executive Committee of a Soviet of Working People's Deputies in conditions incompatible with the Convention.

In its report for the period ending 30 June 1972, the Government expressed the view that assignment to employment by decision of the Executive Committee of a Soviet of Working People's Deputies did not conflict with the Convention; it considered that such work did not take place under the menace of a penalty within the meaning of the definition of "forced or compulsory labour" in Article 2, paragraph 1, of the Convention, and stated that, if the person was brought before a court for disobeying the assignment to employment, the court itself decided whether or not he should be punished or acquitted.

The Committee is bound to point out once more that, under section 2 of the Ukase of 4 May 1961 (as amended in 1970), the person concerned is directed to specific employment by the decision of the Executive Committee and that, under section 209 of the Penal Code of the RSFSR (inserted by Ukase of the Presidium of the Supreme Soviet of the RSFSR of 25 February 1970), refusal to obey such a decision is punishable with imprisonment or corrective labour for up to one year. Accordingly, work undertaken in pursuance of such a direction of an Executive Committee is forced or compulsory labour within the meaning of the Convention, namely "work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The Committee also recalls that work undertaken pursuant to a decision of an Executive Committee of a Soviet of Working People's Deputies does not fall within the exception provided for in Article 2, paragraph 2 (c), of the Convention in respect of labour exacted as a consequence of a conviction in a court of law.

The Committee once more expresses the hope that the above-mentioned legislation—and the corresponding provisions in force in the other Union Republics—will be brought into conformity with the Convention.

2. *Obligations in regard to agricultural production.* In previous comments, the Committee had referred to the obligations with regard to agricultural production imposed on collective farms by the Order of the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR of 20 March 1964 relating to the planning of agricultural production. The Government has stated in previous reports that, according to this Order, the planning of production is to be carried out by collective farms themselves, including decisions as to the areas to be sown, yields and indices for development of animal husbandry. While noting that the internal organisation of production on collective farms is thus left to the farms themselves, the Committee has pointed out that section 3 of the Order of 1964 places upon them the obligation, in planning their production, to ensure fulfilment of the State plan for agricultural products. The preamble to the Order states that collective farms must be given an assignment for the quantities and types of products they are to sell to the State, while being left to decide how to fulfil the state plans. The Committee has also noted that non-compliance by the management of a collective farm with the obligations imposed by the Order of 20 March 1964 would be punishable under section 172 of the Penal Code of the RSFSR relating to the non-performance or improper performance of duties by an official (as defined in section 170) and the corresponding provisions of the Penal Codes of other Union Republics.

As the Committee pointed out in the general survey of forced labour in its report of 1968 (paragraph 61), except in emergencies, all forms of compulsory cultivation—whether imposed by reference to prescribed areas of land or the production of prescribed quantities of commodities, and whether affecting persons already holding land or persons directed to undertake cultivation—are incompatible with the Convention. It hopes that appropriate measures will be taken to ensure the observance of the Convention in this connection.

3. *Termination of membership of collective farms.* In previous comments, the Committee referred to the restrictions upon the possibility of terminating membership in a collective farm resulting from the following provisions:

- (a) By virtue of article 3 of the Fundamental Principles of Labour Legislation of the USSR and the Union Republics adopted on 15 July 1970, the labour of collective farm members is regulated by the collective farm rules adopted on the basis of and

in conformity with the Model Collective Farm Rules and the legislation of the USSR and the Union Republics relating to collective farms.

- (b) Under clause 7 of the Model Collective Farm Rules adopted on 28 November 1969, a member's application to leave the collective farm must be submitted to the management committee and the general meeting of the collective farm.
- (c) Under the passport regulations approved by Ordinance of the Council of Ministers of the USSR of 21 October 1953, the system for delivery of passports is—except in certain specified districts—not applicable to rural areas (sections 1 and 3); persons wishing to move from one place to another place are required first to obtain a passport from the authorities of the former area of residence (section 3); for this purpose a certificate concerning the person's last work has to be produced (section 9); the engagement as a wage or salary earner of a person not having a passport is prohibited (section 34).

It appears from the above-mentioned provisions that a member of a collective farm may terminate his membership only with the consent of the management committee and the general meeting of the collective farm and that, if such consent is refused, he remains bound by all the obligations resulting from his membership of the collective farm (including obligations regarding work). The respect of these obligations would be ensured by the fact that, so long as he remained a member of the collective farm, he would not obtain a passport and would thus be deprived of the possibility of taking employment elsewhere as a wage or salary earner.

The Committee indicated in its general survey of forced labour in 1968 (paragraph 70) that statutory restrictions which prevent the termination by notice of a contract of employment of indefinite duration have the effect of turning a contractual relationship based on the will of the parties into service by compulsion of law and are accordingly incompatible with the Convention. It considers that the above-mentioned restrictions on the right of a member of a collective farm to terminate that membership and to take up employment elsewhere are similarly contrary to the Convention. The Committee accordingly hopes that measures will be taken to amend the existing provisions so as to permit a member of a collective farm freely to terminate such membership, subject only to a reasonable period of prior notice.

Upper Volta (ratification: 1960)

With reference to its earlier observations, the Committee notes with satisfaction that, in order to bring the national legislation into conformity with the Convention:

- (a) Act No. 6/73/AN of 5 June 1973 repealed Act. No. 6/63/AN of 29 January 1963 which permitted the call-up of labour for work of national interest, and also section 14 of Act No. 25/60/AN of 3 February 1960 which permitted forced labour for the recovery of taxes;
- (b) Act No. 9/73/AN of 7 June 1973 amended section 2 of the Labour Code so as to prohibit the placing of prisoners at the disposal of private employers;
- (c) Decree No. 73-59 PMFPT of 21 March 1973 removed from Order No. 642 APAS of 4 December 1050, regulating conditions in prisons, the provisions concerning the placing of prisoners at the disposal of private persons.

Venezuela (ratification: 1944)

In its previous comments the Committee noted that decisions under the Act of 16 August 1956 concerning vagrants and rogues—which may include internment in a rehabilitation and labour institution, in an agricultural corrective camp or in a labour

camp—are taken by administrative authorities according to sections 17, 21 and 23 of the Act. The Committee had observed that these provisions were contrary to Article 2, paragraph 2 (c), of the Convention, which permits the imposition of such labour only as a consequence of a conviction in a court of law.

The Committee notes from the Government's report that the draft Penal Code, which would transfer competence to try the offences in question to judicial authorities, is still pending before the National Congress. As reference has been made to these legislative proposals since 1970, the Committee hopes that the national legislation will be brought into conformity with the Convention in the near future.

Republic of Viet-Nam (ratification: 1953)

1. *Article 2, paragraph 2 (c), of the Convention.* In direct requests addressed to the Government for a number of years, the Committee had asked for explanations concerning the provisions governing the work of prisoners who had not been convicted by a court of law. The Committee regrets to note that, despite the assurances given by the Government in its earlier reports, the texts transmitted by the Government—namely, Decree No. 148-SL/AN of 11 October 1967 concerning the prison system (section 2) and Order No. 424-ND/NV of 24 April 1972 to set up rehabilitation centres (section 81)—show that persons who have not been convicted by a court of law but who are placed under observation in rehabilitation centres by an administrative decision are obliged to perform prison labour.

The Committee hopes that the Government will, in the near future, take steps to ensure, as required by the Convention, that no forced or compulsory labour can be imposed on prisoners who have not been convicted by a court of law.

2. The Committee notes that the National Assembly has not yet examined the draft amendment to section 8 of the Labour Code which is intended to specify that work required in the course of compulsory military service must be strictly military in character and to abolish the exception concerning work and services arising out of fiscal obligations. The Committee recalls that these amendments have been envisaged for a number of years, and it hopes that the Government will soon be able to indicate the provisions adopted in the matter.

Zaire (ratification: 1960)

1. The Committee regrets to note that for the past four years the Government has provided no information on a number of points raised by the Committee in its comments.

2. For a considerable number of years the Committee has referred, in observations and direct requests, to sections 71 and 73 of the Decree of 10 May 1957, under which able-bodied adult men could be obliged to do agricultural work or engage in public works subject to penal sanctions provided for in section 98 of the Decree. The Government stated in its report for 1967-69 that that text had been repealed, but it has not replied to the Committee's requests to the Government to indicate the text which repealed the provisions in question. The Committee has, however, noted the provisions of Legislative Ordinance No. 69/012 of 12 March 1969 concerning the organisation of local communities which, although formally repealing the above-mentioned Decree of 10 May 1957, maintains all the provisions providing for the imposition of compulsory agricultural work and public works, subject to penal sanctions (sections 58, 60 and 87 of Legislative Ordinance No. 69/012). The Committee hopes that the Government will take the necessary measures concerning

these provisions in order to ensure that no forced or compulsory labour may be imposed for agricultural work or public works, except in the circumstances defined in Article 2, paragraph 2 (*d*) and (*e*), of the Convention, and that it will indicate the measures taken or contemplated to this end.

3. In its earlier direct requests, the Committee raised a certain number of questions dealing, inter alia, with forced labour imposed by administrative authorities as a means for recovering taxes, with compulsory civic service and with the repeal of old legislation permitting the requisition of civilians, the exaction of labour for extraordinary works from the inhabitants of villages and the exaction of penal labour from prisoners who have not been sentenced by a court. The Committee hopes that the Government will not fail to supply detailed information on these matters in the near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Austria, Brazil, Bulgaria, Burma, Burundi, Cameroon, Chad, Chile, Colombia, Congo, Costa Rica, Cuba, Czechoslovakia, Dahomey, Denmark, Ecuador, Egypt, Finland, Gabon, Federal Republic of Germany, Ghana, Greece, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Israel, Ivory Coast, Kenya, Khmer Republic, Kuwait, Laos, Libyan Arab Republic, Luxembourg, Madagascar, Malaysia (Sarawak), Mauritania, Morocco, Netherlands, Nicaragua, Nigeria, Pakistan, Panama, Paraguay, Peru, Portugal, Romania, Singapore, Sri Lanka, Sudan, Switzerland, Syrian Arab Republic, Tanzania, Togo, Zaire, Zambia.*

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

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

Chile (ratification: 1935)

Further to its earlier comments, the Committee would ask the Government what measures have been taken or are contemplated to bring sections 108, paragraph 2, and 131 of the Labour Code into conformity with the Convention on the following points:

1. Section 108, paragraph 2, of the Code contains an exception for persons employed elsewhere than in commercial or industrial establishments and states that they shall enjoy the rights and advantages concerning their contracts of employment in so far as this is compatible with the nature of their functions and the institutions in which they work; no such exception is permitted by the Convention.

2. Section 131 of the Code prescribes that the parties to the contract of employment will enter into a written agreement as to the cases in which the working day may exceed the statutory maximum because of special circumstances or reasons, and that the working day may in no case exceed ten hours, even if overtime is paid, whereas Article 7 of the Convention states that such overtime may be permitted only as exceptions under paragraphs 1 and 2 of that Article, to be determined by regulations which must fix a maximum number of hours in the day and the year.

Haiti (ratification: 1952)

Articles 1, 7 (paragraph 3), and 8 of the Convention. See under Convention No. 1.

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

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932*Argentina* (ratification: 1950)

Further to its earlier comments, the Committee notes with interest that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, Ministerial Resolution M.T. No. 183 was adopted on 27 April 1973 and set up a special commission to consider and draft a Bill to bring the national legislation into harmony with the Convention.

The Committee hopes that the commission's work will lead to positive results and to the early adoption of the necessary provisions to ensure full compliance with the Convention. It would ask the Government to keep it informed of any progress made in this matter.

Chile (ratification: 1935)

The Committee regrets to note from the Government's report for 1970-1972 that no action has been taken to give effect to the comments which it has been making from 1963 onwards. It must once again point out to the Government that Decree No. 655 of 7 March 1941 does not meet the requirements of the Convention as regards the following points: Article 2, paragraph 2 (3); Article 3, paragraph 3; Article 5, paragraphs 2, 3, 4 and 6; Article 9, paragraph 2 (1), (3), (4), (7), (8) and (9); Article 11, paragraphs 3 to 7; Article 12 and Article 14.

The Committee is obliged once again to express the hope that the Government will find it possible in the very near future to adopt the necessary provisions to ensure the complete application of the Convention.

Italy (ratification: 1933)

The Committee refers to the statement made by a Government representative to the Conference Committee in 1973, which was largely a recapitulation of the information supplied earlier to the effect that the Bill concerning safety and health which had lapsed because of the dissolution of Parliament in 1972 was to be submitted again to Parliament within two or three months. The Committee notes, however, that the Government's latest report makes no mention of this Bill, but refers once again to the draft general regulations—mentioned for the first time in 1959—on accident prevention in dock work, which are to replace at the national level all the regulations made by local port authorities and which will give full effect to the Convention. In these circumstances, the Committee can only reiterate the hope that the Government will take the necessary steps as speedily as possible to ensure that the Convention is fully applied.¹

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¹ The Government is asked to supply full information to the Conference at its 59th Session.

In addition, requests regarding certain points are being addressed directly to the following States: *Byelorussian SSR, Honduras, Panama, USSR.*

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

Requests regarding certain points are being addressed directly to the following States: *Chad, Dahomey, Niger.*

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

Chile (ratification: 1935)

The Committee notes with regret that the Government's report has not been received. The Committee recalls that in its previous observation it noted the measures being taken by the Government to abolish—as soon as the National Employment Service is in a position to take over their activities—the employment agencies catering for domestic servants and for salaried employees and professional staff; it also noted that the Government intended to regulate the activities of these agencies pending their abolition and expressed the hope that the necessary measures would be taken for the abolition, within a limited period of time, of the existing categories of employment agencies conducted with a view to profit, and for their supervision, pending abolition, in accordance with Article 3, paragraph 4, of the Convention.

The Committee trusts that the Government will not fail to provide information on the measures taken or envisaged to give effect to the Convention in the above-mentioned respects.

* * *

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

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

France (ratification: 1939)

The Committee draws attention to the observations it has been formulating for a number of years on the subject of the “supplementary allowance”, which, under Articles L.685 and L.707 of the Social Security Code, is paid only to French nationals and to foreigners who are nationals of countries signatories to an international convention on reciprocity.

This allowance which supplements old-age insurance and invalidity benefits cannot be considered an assistance benefit, as its payment, though subject to a means test, does not depend on a discretionary assessment but is granted as of right to applicants fulfilling the prescribed conditions. The Committee further notes the repeal by an Act of 21 December 1973 of the requirement, on which the Government relied in classifying this allowance as an assistance benefit, that in assessing the beneficiaries'

means account should be taken of the aid which could be provided by persons bound to provide maintenance under the Civil Code. Accordingly, enjoyment of the supplementary allowance should be extended either to all foreign workers pursuant to paragraph 2 of Article 12 of the Convention or to workers who are nationals of States bound by it and who thus fulfil the conditions of reciprocity authorised by paragraph 3 of the same Article, in accordance with the development of the manner of financing this benefit under the different social security systems to which the Convention is applicable.

The Committee trusts that the Government will wish to reconsider its position accordingly, unless it prefers to ratify—accepting the sections on old age and invalidity—the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), which revises Conventions Nos. 35 to 38 in particular. The Committee has noted with interest in this regard, from a declaration made by a government representative to the 1973 Conference, that this ratification is being contemplated.¹

* * *

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

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

France (ratification: 1939)

Article 12 of the Convention. See under Convention No 35.¹

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

France (ratification: 1939)

Article 13 of the Convention. See under Convention No. 35 (Article 12).¹

* * *

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

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

France (ratification: 1939)

Article 13 of the Convention. See under Convention No. 35 (Article 12).¹

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

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

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Convention No. 41: Night Work (Women) (Revised), 1934*Afghanistan* (ratification: 1939)

See General Observation concerning Afghanistan.

In its earlier comments the Committee noted the information supplied by the Government to the effect that the application of Conventions Nos. 41 and 45 was guaranteed by religious standards and by custom. The Committee also noted the need to adopt legislative measures to give effect to these two Conventions, and also the fact that since 1958 the Government had been referring to an early adoption of a draft Labour Law which would be in conformity with these Conventions.

The Committee hopes that the Government will, in the very near future, either through the Labour Law or through any other legislative measure, take the necessary steps to apply completely the above Conventions, and will report on the progress made.

Central African Republic (ratification: 1960)

The Committee notes from the reply to its earlier comments that the Government intended, in the very near future, to consider a draft decree to repeal General Order No. 3759 of 25 November 1954, which permitted exceptions to the prohibition of night work for women in industry because of particularly serious economic circumstances, which is contrary to the provisions of the Convention.

The Committee hopes that the decree in question will be adopted in the near future.

Hungary (ratification: 1936)

Further to its earlier observations, the Committee notes the statement of a Government representative to the Conference Committee in 1973, according to which collective agreements concluded or extended in 1973 provide for the complete or partial prohibition of night work for women in industry, that the number of women working at night continues to decrease, and organisational measures to promote this were to be undertaken under the Five-Year Plan.

The Committee would reiterate the hope that appropriate measures would soon be taken to prohibit the employment of women at night, as required by the Convention.

Peru (ratification: 1945)

The Committee regrets that it has not received a report on the application of the Convention. The Committee requests the Government to be good enough to indicate what action has been taken in connection with the draft Presidential Decree prepared as a result of the direct contacts made in 1972 with a view to giving effect to the provisions of this Convention.

* * *

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

**Convention No. 42: Workmen's Compensation (Occupational Diseases)
(Revised), 1934***Algeria* (ratification: 1962)

Further to its earlier comments, the Committee notes the information supplied by the Government to the effect that the complete application of the Convention will be

guaranteed as a result of the reorganisation of the social security schemes which is at present being carried out. The Committee hopes that this reorganisation will take place soon and that, as a result, the Order of 22 March 1968 concerning the schedule of occupational diseases will be brought into complete conformity with the Convention on the following points: (a) *the restrictive character of the list of pathological manifestations* given in the left-hand column of the tables in the above Order will be done away with; and (b) the tables will be completed according to the Convention so as to include *poisoning caused by any of the compounds of arsenic* (the present legislation mentions only compounds of arsenic with oxygen or sulphur and arsenious hydrogen), *poisoning caused by any of the halogen derivatives of hydrocarbons of the aliphatic series* (the legislation mentions only tetrachlorethane, tetrachloride of carbon, the di- and tri-chlorethylenes and tetrachlorethylene, methyl bromide and methyl chloride), *poisoning caused by phosphorus and any of its compounds* (the national legislation explicitly mentions only white phosphorus and sesquisulphide of phosphorus), and also, among the processes liable to cause anthrax infection, the *loading and unloading or transport of merchandise* in general (the national legislation stipulates that the merchandise which is loaded, unloaded or transported should be "liable to have been contaminated by infected animals or by the carcasses of such animals").

The Committee would ask the Government to report any progress in this matter.

Argentina (ratification: 1950)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 15 May 1973 to Decree No. 4389/73, which contains a list of occupational diseases and of trades, industries and processes liable to cause those diseases, in conformity with the schedule in Article 2 of the Convention.

Australia (ratification: 1959)

Further to its previous observations, the Committee notes with satisfaction the passing in *South Australia* on 9 November 1972 and in *Victoria* on 15 August 1973 of proclamations according to which work in connection with "loading, unloading or transport of merchandise" in general has been added to the list of work which may involve infection with anthrax drawn up by these States in relation to occupational diseases.

The Committee has, moreover, noted with interest the information provided by the Government to the effect that steps have been taken or are contemplated in the majority of the other States of the Commonwealth (Capital Territory, Northern Territory, New South Wales, Western Australia and Tasmania) to bring the legislation of these States (including the Commonwealth Workers' Compensation Act) into full conformity with the Convention as regards those matters which had been the subject of the Committee's previous observations.

The Committee hopes that these steps will come to fruition in the near future and that the necessary measures will also be taken in Queensland in order to formally ensure the full application of the Convention on the various matters indicated in the latest direct request.

Bolivia (ratification: 1954)

Further to its earlier observations, the Committee notes with interest that, as a result of the direct contacts which took place between the competent national services

and a representative of the Director-General of the ILO, a draft Legislative Decree has been drawn up which contains a schedule of occupational diseases and of trades, industries and processes likely to cause these diseases; the schedule corresponds to that in Article 2 of the Convention.

The Committee hopes that the draft will be adopted at an early date, and requests the Government to report any action taken in the matter.

Cuba (ratification: 1936)

In reply to the Committee's earlier comments, the Government states once again that the competent official services are studying the points raised thereby in conjunction with their regular task of revising and improving the existing legislation. The Committee hopes that this examination will soon lead to a revision, along the lines of the Convention, of the list of occupational diseases in Act No. 1100 of 1963 and the supplementary Resolution No. 4615, so that the list can be completed in respect of: (a) poisoning by lead (as a metal) and its alloys, and mercury poisoning; (b) primary epitheliomatous cancer of the skin caused by bitumen, mineral oil, paraffin, or their compounds, products or residues; (c) tuberculosis in association with silicosis. The Committee also hopes that a list of the operations liable to cause the diseases covered by the Convention will be added to the legislation in question so that these diseases will automatically be presumed to be of occupational origin and compensation paid when they occur to workers engaged in those operations.

The Committee also notes the Government's statement that in practice all workers who fall victims to those diseases are adequately protected; it would ask the Government to provide details on this point as required by Point V of the report form adopted by the Governing Body.

France (ratification: 1948)

Further to its earlier comments, the Committee notes the information supplied by the Government in its supplementary note, received in April 1973, and in its reply to the Conference Committee in June 1973. It has also studied Decrees No. 72-1010 of 2 November 1972 and 73-215 of 23 February 1973, which revised and supplemented the schedules in Decree No. 46-2959 of 1946.

As regards the *restrictive nature* of the list of pathological manifestations contained in the French legislation, the Committee regrets to note that the Government merely confirms its earlier attitude by referring once again to the way in which the presumption of the occupational origin of a disease is established under French law. The Committee feels obliged to point out once again that it has never questioned—at least as regards the diseases contained in the schedules of the French legislation—the automatic nature of this presumption, which is the same principle as is laid down in the Convention. The Committee's comments are directed against the restrictive enumeration of the pathological manifestations shown for each of the poisonings or diseases listed in the French schedules and also in the Convention. The Committee considers that this enumeration establishes a system of more limited coverage than that required by the Convention, the wording of which is deliberately wide, so as to make it possible to ensure compensation for any affection, even if atypical or new, which might occur to a person in contact with any of the chemical or physical agents covered by the Convention.

The Committee must therefore once again strongly urge the Government to reconsider its position and take the necessary steps to give the list of the various pathological manifestations corresponding to each of the diseases in the schedules of

its national legislation an indicative character, as is the case in that legislation as regards the list of processes liable to cause these diseases. Thus, the pathological manifestations, which are not shown in the schedules in question but which may be caused by the harmful substances or agents indicated in the Convention, would also be considered as occupational diseases giving entitlement to compensation when they affect workers employed in the industries or engaged in the occupations listed in these schedules and covered by the Convention. The Committee hopes that the Government will apply the Convention completely as regards this point.

As regards the *other points of divergence* between the national legislation and the Convention, the Committee notes with interest that the Decrees of 1972 and 1973, which were mentioned above, improved the application of the Convention by adding new diseases to the schedule of occupational diseases appended to the Decree of 1946, more particularly as regards the halogen derivatives of hydrocarbons of the aliphatic series and epitheliomatous cancer of the skin. The Committee hopes that these schedules can be completed to conform to the Convention (and cover also all compounds of phosphorus) as soon as the new studies entrusted to the Committee on Industrial Health—to which the Government refers—have been completed.

Haiti (ratification: 1955)

In response to the requests and observations which the Committee has been making since 1966 regarding the lack of any statistical data by which one could judge the degree to which the Convention was applied in practice, the Government states that the absence of such data is due to the tendency of the employers to lump together under the heading "industrial accidents" all cases which are sent to the "François Duvalier" Hospital of the Occupational Accident, Sickness and Maternity Insurance Office.

In this connection the Committee would venture to point out that section 172 of the Act of 18 September 1967 requires every worker whose disease is diagnosed as occupational to inform his employer immediately of the fact, and that the employer in turn must notify the Occupational Accident, Sickness and Maternity Insurance Office by sending to it, within five days, a special form duly filled in by the parties concerned. The above-mentioned office must also have a service for statistics and actuarial calculations, the duties of which are defined in detail by section 118 of the 1967 Act; the office must, according to section 174 of the Act, keep the General Labour Inspectorate currently informed of any occupational diseases which have been noted. Consequently, the Committee trusts that the Government will have no difficulty in compiling and transmitting the statistical data called for by Point V of the report form adopted by the Governing Body, indicating, *inter alia*, the industries and occupations causing occupational diseases, the number of workers employed in them, the number of cases of such diseases reported, the amount of compensation paid, etc.¹

Luxembourg (ratification: 1958)

Further to its earlier comments concerning the schedule of occupational diseases, the Committee notes that Luxembourg has ratified the Employment Injury Benefits Convention (No. 121) of 1964 and that, consequently, Convention No. 42 was automatically denounced when the new Convention came into force for Luxembourg.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Malta (ratification: 1965)

Further to its earlier comments, the Committee notes with satisfaction that Act No. XXXI of 1973 amended section 28 of the National Insurance Act of 1956 so as to assimilate the effects of tuberculosis to those of pneumoconiosis in cases where this latter disease was accompanied by tuberculosis.

New Zealand (ratification: 1938)

The Committee notes the amendments made to the legislation concerning industrial accidents and occupational diseases, and also the new Accidents Act which was passed on 20 October 1972 and whose proclamation is fixed for 1 April 1974.

The Committee finds, however, that, notwithstanding certain improvements, the new legislation does not contain a schedule of occupational diseases and the corresponding operations, as required by the Convention.

As the Committee has been pointing out since 1960, the Convention, by using the system of a "dual list", automatically establishes a presumption of occupational origin of the disease in the case of workers employed in the industries or occupations listed in the right-hand column of the schedule in Article 2 when they contract one of the diseases listed in the left-hand column of the schedule. The Committee has also pointed out that compliance with the Convention could be ensured either by legislative action or by regulation (more particularly by rules or administrative circulars sent to the competent insurance bodies).

The Committee therefore trusts that the Government will not fail to take the necessary measures within the framework of the new Accidents Act, either through the powers granted to the Commission for Accident Compensation or through regulations issued under section 181 of the Act.¹

Rwanda (ratification: 1962)

For several years past the Committee has been drawing attention to the fact that the schedule of occupational diseases appended to the Order of 16 November 1949, the Decree of 28 March 1957 and the Ordinance of 8 April 1959 (which, according to the Government, remained in force after the country became independent pending the promulgation of the Presidential Order provided for by section 31 of the Social Security Act of 1962) is not in conformity with the Convention in that it does not mention *silicosis with pulmonary tuberculosis, poisoning by the halogen derivatives of hydrocarbons of the aliphatic series and the operations likely to cause them*, or, among the *operations likely to cause anthrax infection*, the "loading and unloading or transport of merchandise" in general.

Since 1964, the Government has stated in its reports that the draft order under the Social Security Act of 1962 is being prepared and that it will take account of the Committee's comments. In its latest report the Government stated that the draft in question had been prepared but that it had not been possible to submit it to the competent authority for adoption because of the reforms introduced in 1973 in the constitution of the higher organs of the country. It added, however, that a special regulation concerning occupational silicosis, based largely on the provisions of the Convention, had been submitted to the Head of State for assent, and that the text would be published in a few months in the Official Journal of the Republic.

¹ The Government is asked to report in detail for the period ending 30 June 1974.

The Committee, while noting this statement, hopes that the text in question will also take into account the other discrepancies mentioned above and that it will be adopted in the near future.¹

United Kingdom (ratification: 1936)

In reply to the Committee's earlier comments, the Government states that the Industrial Injuries Advisory Council, which is the competent body in this matter, has not yet been able to undertake a general review of the list of prescribed diseases, but that when such a review becomes possible the observations of the Committee will be laid before the Council.

In those circumstances the Committee can merely raise the question again and express the hope that the Government will make every effort to ensure that this review will, in the very near future, be placed on the agenda of the Council so that the schedule of occupational diseases can thus be supplemented to meet the requirements of the Convention as regards *anthrax infection, poisoning by the halogen derivatives of hydrocarbons of the aliphatic series and manifestations due to radiations*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia, Barbados, Brazil, Burma, Guyana, Mexico, Norway, Panama, Poland*.

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

Convention No. 44: Unemployment Provision, 1934

Algeria (ratification: 1962)

Further to the comments which it has been making since 1965 concerning the absence of any provisions to ensure the application of the Convention, the Committee notes from the Government's report that steps are being taken to denounce the Convention.

Cyprus (ratification: 1965)

1. *Article 3 of the Convention*. Further to its earlier comments, the Committee notes with satisfaction that the conditions for granting unemployment benefit have been liberalised by section 18 (1) of the Social Insurance Act of 1972 so as to permit the payment of benefit to partially unemployed persons whose employment has been reduced by at least two days in any period of six days.

Article 11. Further to its earlier comments, the Committee notes with satisfaction that the right to benefit for a minimum period of 78 days is guaranteed by section 18 (2) of the Social Insurance Act of 1972 to unemployed persons who have completed the prescribed qualifying period.

2. Further to its earlier observations concerning the non-payment of unemployment benefit to Turkish Cypriot workers, the Committee notes the information

¹ The Government is asked to report in detail for the period ending 30 June 1974.

supplied by the Government and by the Federation of Turkish Trade Unions in Cyprus to the Conference in 1972. It also notes from the Government's report for 1971-73 that in May 1973 the Government proposed a new formula for reintegrating Turkish Cypriots in the social security scheme at some future date to be agreed upon by the parties, while leaving for a later stage the question of the payment of contributions and benefits in respect of earlier periods. The Committee also notes the comments on the Government's report which have been sent by the Federation of Turkish Trade Unions in Cyprus and which refer to the checking of the amount of former contributions and benefits and the conditions for becoming entitled to benefits after reintegration. These comments were transmitted to the Government for its observations.

The Committee, while pointing out that the difficulties mentioned in the above comments about the entitlements and obligations in respect of the period preceding reintegration would appear to affect mainly branches of social security other than unemployment insurance, would once again express the hope that the various parties concerned will consider every possibility calculated to lead to an agreed solution of this problem. It requests the Government to continue to keep it informed of all developments in the matter.¹

Peru (ratification: 1962)

Further to its earlier comments, the Committee has noted from the Government's report that the Government does not envisage the possibility of introducing unemployment insurance in the foreseeable future and that it intends to denounce the Convention.

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

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

Afghanistan (ratification: 1937)

See under Convention No. 41.

Guatemala (ratification: 1960)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the national services concerned and a representative of the Director-General of the ILO, approval was given on 12 September 1973 to Government Agreement No. 28-73, which prohibits the employment of women on underground work in mines, in conformity with the provisions of the Convention.

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

Hungary (ratification: 1937)

Further to its earlier observations and direct requests concerning the applicability of the Convention in the absence of bilateral agreements, irrespective of the nature of

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

the migratory movements in question, and recalling the observations made earlier by the General Confederation of Labour of Israel, the Committee notes the statement made by the Government in its report that it will continue to examine the possibility of implementing the Convention. The Committee would be grateful if the Government would indicate any developments in this connection.

Poland (ratification: 1938)

The Committee notes with regret that for the fourth year in succession, no report has been received. It is compelled to repeat its previous comments relating to the obligation to provide, in conformity with *Article 10 of the Convention*, benefits the right to which have been acquired in Poland if the beneficiaries are resident in the territory of a State which is bound by the Convention, irrespective of their nationality, and if they are nationals of such State, irrespective of their place of residence.

The Committee can, however, only note the denunciation of the Convention, which will take effect on 10 August 1974. The Committee wishes in this regard to draw the attention of the Government to *Article 22*, pursuant to which the denunciation of the Convention by a Member does not affect the liabilities of its insurance institutions in respect of claims which have matured before the denunciation has taken effect.

In particular, further to its previous comments relating to the observations made by the General Confederation of Labour of Israel on the distressing situation of invalids resident in Israel whose pensions due under Polish legislation are not paid, the Committee points out that the maintenance of rights acquired in Poland before the denunciation of the Convention has taken effect must be ensured and continue to be so after that date, even in the absence of a bilateral agreement with the State concerned.

Yugoslavia (ratification: 1946)

Further to its earlier comments concerning the application of the Convention in relation to States Members which have not concluded a bilateral agreement with Yugoslavia, the Committee notes with satisfaction, as regards *Part III of the Convention (Maintenance of Acquired Rights)*, that invalidity, old-age and survivors' benefits are now payable in the event of residence abroad, both to foreigners and to Yugoslav nationals, under the provisions of section 60, paragraph 6, of the Federal Act of 29 June 1972 concerning basic rights under pensions insurance, when arrangements to that effect are provided for, not only in reciprocal agreements, but also in an international Convention. The Committee would ask the Government to provide information as to how these benefits are paid in practice, in accordance with *Article 10* of this Convention, to persons residing in the territory of a State which has ratified it, irrespective of their nationality, and to persons who are nationals of such a State, irrespective of their country of residence, more especially in the case of States with which Yugoslavia has not concluded a bilateral agreement.

The Committee would also refer to the observations made earlier by the General Confederation of Labour of Israel concerning the payment of pensions to beneficiaries who fulfil the conditions of entitlement to a pension under Yugoslav legislation and who have transferred their residence to Israel, and notes the Government's statement that the competent insurance services have not received any claims from Israeli citizens who were formerly Yugoslav nationals.

* * *

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

Convention No. 50: Recruiting of Indigenous Workers, 1936

Argentina (ratification: 1950)

The Committee notes with satisfaction that, following its earlier comments and the direct contacts which took place between the Government and the ILO in 1973, Act No. 20400 of 17 May 1973 has prohibited operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment, at a federal or provincial employment office or at a private employment agency authorised by law and supervised by the competent authority.

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In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Burundi, Cameroon* (Western Cameroon), *Tanzania* (Zanzibar).

Convention No. 52: Holidays with Pay, 1936

Burma (ratification: 1954)

The Committee notes that in its last report the Government repeats its earlier statements that the comments of the Committee of Experts had been transmitted to the National Committee on Labour Legislation, which was studying the Act of 1951 concerning leave and holidays. The Committee would point out that, since 1959, the Government has been referring to the adoption of new legislation or regulations to give effect to the Convention as regards the various points which have been raised since 1957 in the Committee's earlier comments concerning the following Articles of the Convention: Article 1 (scope), Article 2, paragraph 2 (longer annual holiday with pay for young workers), Article 2, paragraph 3 (exclusion from the calculation of the annual holiday of public holidays and interruptions of work due to sickness) and Article 4 (restriction of the right to postpone the annual holiday).

The Committee must once again urge the Government to make every effort to take the necessary steps in the very near future.¹

Byelorussian SSR (ratification: 1956)

Further to its earlier comments, the Committee notes the information sent by the Government in its report, that the new Labour Code came into force on 1 October 1972.

Articles 2 and 4 of the Convention. The Committee notes that section 74 of the new Code provides that the *annual* holiday must be postponed when the worker is engaged on national or social duties, and that it may, in exceptional cases, be carried forward to the following year if the grant of a holiday to the worker during the current year

¹ The Government is asked to report in detail for the period ending 30 June 1974.

could have unfortunate consequences for the work of the undertaking, whereas Article 2 of the Convention provides that every person covered is entitled to an annual holiday of at least six working days, and Article 4 states that any agreement to relinquish the holiday is void. The Committee hopes that the Government will take the necessary steps to ensure that in all circumstances the persons covered by the Convention have a minimum holiday of six working days every year, thus bringing the legislation into conformity with the Convention, and it would ask the Government to report any progress made in the matter.

Cuba (ratification: 1953)

Further to its earlier observations, the Committee notes that, in its latest report, the Government refers back to the information given in its previous report to the effect that in practice the postponement of the paid holiday was authorised only in exceptional cases. The Committee would point out that, according to section 1, paragraphs F and G, of Resolution No. 111 of 1965, postponement of the paid annual holiday may result in a worker being granted a paid holiday only after 16½ months of service (section 1, paragraph F) or even after more than 16½ months (section 1, paragraph G, of Resolution No. 111), whereas according to Article 2, paragraph 1, of the Convention, every person covered is entitled, after one year of continuous service, to a paid annual holiday of at least six working days. The Committee trusts that the Government will report what measures have been taken or are contemplated to guarantee that in all circumstances the worker is entitled to an annual holiday of at least six working days, as prescribed by the Convention.

Finland (ratification: 1949)

Further to its earlier comments, the Committee notes with satisfaction that section 7, paragraph 4, of the Paid Holidays Act No. 272/73, which came into force on 1 April 1973, provides that during vacations, benefits in kind which form a part of the remuneration shall be enjoyed in full, and that, if the worker does not avail himself of such benefits during his vacation he shall be entitled to receive instead compensation in cash in accordance with Article 3 (a) of the Convention.

Italy (ratification: 1952)

With reference to its earlier observation the Committee was informed that a Bill concerning hours of work which contains new provisions on holidays with pay has been placed before the Legislature by the Government.

Articles 2 and 4 of the Convention. The Committee hopes that under these new provisions persons covered by the Convention will have in any case to take a minimum of six working days' leave each year when the vacation is split up (Articles 2 and 4) and that leave taken because of illness will not be counted as part of annual leave (Article 2 (3) (b)).

The Committee requests the Government to indicate any progress made in this matter.

Paraguay (ratification: 1966)

Further to its earlier comments, the Committee notes with interest that, as a result of the direct contacts made between the competent national services and a representative of the Director-General of the ILO, a Legislative Decree has been drafted to amend sections 219, 224, and 225 of the Labour Code so as to bring them into

conformity with the provisions of Articles 2, paragraphs 3 (b) (interruptions of attendance at work due to sickness) and 4 (dividing up of the annual holiday), of the Convention. The Committee hopes that this draft will be adopted at an early date, so as to bring the national legislation on those points into conformity with the Convention, and it would ask the Government to report any action taken to this end.

Peru (ratification: 1960)

The Committee regrets that the Government's report contains no new information in reply to its earlier observation.

Article 2, paragraph 3 (b), of the Convention. Although section 7 of Supreme Decree No. 17 of 24 October 1961 provides that absences due to sickness will be counted as days of attendance for the purpose of calculating the period of service carrying entitlement to a holiday, and section 32 of Act No. 13.724 of 1961 prohibits the dismissal of an employee while he is in receipt of social security benefits, the Committee hopes that, when the relevant legislation is next amended, it will expressly provide that interruptions of work due to sickness will not be counted as part of the annual holiday in accordance with this Article of the Convention.

Article 3 (a). The Committee would point out that, according to the provisions in force (Supreme Decree of 24 October 1961, sections 8 and 9), remuneration during holidays consists only in the cash equivalent of the food supplied. It would hope once again that steps will be taken to include expressly in holiday remuneration the cash equivalent of *all* remuneration in kind.

Article 4. The Committee would point out that the single section of Supreme Decree No. 4DT of 26 November 1957 and section 13 of Supreme Decree No. 17 of 24 October 1961 permit the holiday due to be carried forward over a period of two consecutive years, whereas, according to this provision of the Convention, persons covered are entitled to an annual holiday of at least six working days, which is binding on both parties. Please state what steps have been taken or are contemplated to guarantee that in all circumstances the worker is entitled to an annual holiday of at least six working days, as prescribed by the Convention.

Ukrainian SSR (ratification: 1956)

Further to its earlier comments, the Committee notes the information given in the Government's report that the new Labour Code came into force on 1 June 1972.

Articles 2 and 4 of the Convention. The Committee notes that section 80 of the new Code provides that the annual holiday must be carried forward when the worker is performing his national or social duties, and that carrying the holiday forward to the following year may be authorised, in exceptional cases, when the granting of a holiday to the worker during the current year may have unfortunate consequences for the working of the undertaking, whereas, according to Article 2 of the Convention, every person covered is entitled to an *annual* holiday of at least six working days, and, according to Article 4, any agreement to relinquish the right to an annual holiday is void. The Committee hopes that the Government will take the necessary steps to ensure that, in all circumstances, the persons covered by the Convention have a minimum holiday of six working days every year, thus bringing the legislation into harmony with the Convention. It would ask the Government to report any progress made in the matter.

USSR (ratification: 1956)

The Committee regrets to note that no report has been received from the Government.

1. It recalls that section 74 of the new Labour Code of the RSFSR provides that the annual holiday must be carried forward when the worker is performing national or social duties, and that it can be carried forward to the following year when, in exceptional cases, the granting of a holiday to the worker during the current year might have unfortunate consequences for the working of the undertaking, whereas Article 2 of the Convention prescribes that every person covered is entitled to an annual holiday of at least six working days, and, according to Article 4, any agreement to relinquish the right to an annual holiday is void. The Committee hopes that the Government will take the necessary steps to ensure that, in all circumstances, the persons covered by the Convention receive a holiday of at least six working days every year, thus bringing the legislation into conformity with the Convention on this point, and it would ask the Government to report any progress made in this direction.

2. In its earlier comments the Committee also drew attention to the need to amend section 19 of the Regulations of 30 April 1930 so as to guarantee, as required by the Convention, that when a holiday is divided into parts, one part must be equal to the minimum prescribed by the Convention. The Committee would be grateful if the Government would provide information as to how the provisions of the new Labour Code of the RSFSR affect the question of dividing up the holiday.

3. The Committee would also like to have information as to the position in the other federated republics with regard to the points mentioned above.

4. The Committee hopes that the Government will supply the information and will take the necessary steps in the near future.

* * *

In addition, requests regarding certain other points are being addressed directly to the following States: *Central African Republic, Chad, Czechoslovakia, Egypt, Gabon, Guinea, Ivory Coast, Kuwait, Lebanon, Libyan Arab Republic, Madagascar, Mali, Morocco, Panama, Syrian Arab Republic, USSR, Upper Volta.*

Convention No. 53: Officers' Competency Certificates, 1936*Finland (ratification: 1947)*

The Committee notes the information supplied in the Government's report regarding the changes made by Decree 36-72 of 14 January 1972 and Decree 563-72 of 11 July 1972 in certain provisions of the existing legislation concerning masters and officers on merchant ships. It also notes in this connection the statement of the Finnish Union of Ships' Officers (*Suomen haivanpäällystöliitto*), reproduced in the report, which expresses the concern of the Union at the growing number of exemptions, which has almost doubled from 1963 to 1972, granted to masters and officers who do not possess the necessary competence. The Committee hopes that the new legislation will limit the exceptions strictly to cases of *force majeure*, as prescribed by paragraph 2 of Article 3 of the Convention.

Liberia (ratification: 1960)

The Committee notes that the Government's report does not reply to its previous observation, in which it had noted, from the Government's report, that the Deputy Commissioner of Maritime Affairs had been requested to provide information on the number and nature of contraventions reported and the action taken on them, and that this information would be transmitted to the ILO when received.

The Committee trusts that the Government will not fail to supply this information and will continue to include in its future reports information as to the practical application of the Convention, as called for by point V of the report form.

Philippines (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. Referring to the report sent in 1973, it notes that the Philippine Coast Guard is still in the process of updating the Merchant Marine Regulations, for consideration and incorporation of appropriate provisions regarding inspection and enforcement, as provided for in Articles 5 and 6 of the Convention. The Committee hopes that the necessary measures will be taken soon and that the Government will supply the text of the provisions adopted.

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In addition, requests regarding certain points are being addressed directly to the following States: *Cuba, Israel, Mauritania, Panama, Peru, Spain*.

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

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936*Liberia* (ratification: 1960)

The Committee regrets to note that the Government's report contains no reply to its comments. It therefore finds itself obliged to repeat its earlier observation which was worded as follows:

The Committee hopes that the Maritime Law of 1956, as revised in 1964, can be amended shortly so as to ensure formally the application of the following Articles of the Convention: *Article 1, paragraph 2* (application of the Convention to vessels of over 25 and less than 75 tons), *Article 2, paragraph 1* (protection in case of illness occurring away from the ship, otherwise than in the course of duty) and *Article 6, paragraph 2 (d)* (approval by the competent authority of repatriation to a port other than that where the seaman was engaged or the voyage commenced).

The Committee hopes that the Government will do everything possible to take the necessary measures in the very near future.

Mexico (ratification: 1939)

The Committee notes with satisfaction that section 204 of the Federal Labour Act of 2 December 1969 makes it compulsory for the shipowner to provide food, accommodation and medical care to seamen in the event of sickness of any kind (*Article 4 of the Convention*). It regrets to note, however, that advantage was not taken of the opportunity offered by the adoption of this new Act to incorporate also in the legislation an obligation upon the shipowner to pay the wages of a sick or injured seaman and to pay funeral expenses, in accordance with *Articles 5 and 7*, even when the

sickness, accident or death is not the result of an industrial accident or an occupational disease. The Committee would express the hope that the Government will take the necessary steps to fill those gaps, to which it has been drawing the Government's attention since 1947.

Morocco (ratification: 1958)

Article 8 of the Convention. The Committee, referring to its earlier comments, notes with interest that a draft Dahir to supplement the Code of Maritime Trade has been drafted and will shortly be promulgated, without waiting for the drafting of a new Code, to put into effect as quickly as possible the provisions of the Convention concerning the safeguarding of property left on board by a sick, injured or deceased seaman. The Committee would express the hope that the Government will be able to report in the near future that the draft has been adopted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Greece, Mexico, Panama, Peru, Spain, Tunisia.*

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

Belgium (ratification: 1948)

As regards Article 3 of the Convention, the Committee noted with satisfaction in 1972 that the Royal Order of 28 December 1971 had repealed paragraph 1 (4) of section 125 of the Royal Order of 4 October 1936, which provided that cash benefits could be withheld when the insured person had been guilty of assaulting any member of the staff of the insurance administration. The Committee notes that this repeal, as mentioned by the Government in its report received in January 1973, also prohibits the withholding of benefits in kind for similar reasons, according to paragraph 2 of the same section, since this paragraph (the possible repeal of which was announced by the Government in its report for 1971-1973) refers back to the provisions of paragraph 1 concerning the withholding of cash benefits.

Peru (ratification: 1962)

1. The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous Observation which was as follows:

Article 7 of the Convention. For many years the Committee has been drawing the Government's attention to the need to provide, within the framework of both the workers' and the salaried employees' sickness insurance schemes and in accordance with this Article of the Convention, for the right to *compulsory insurance* benefit to continue after the termination of the last engagement, for a period fixed by national law or regulations in such a way as to cover the normal interval between successive engagements. Since the Government's report, which refers to the new scheme of insurance against employment accidents, contains no reply to the comments referred to above which concern sickness insurance, the Committee is obliged to raise the question once again and trusts that the Government will not fail to indicate the measures taken or envisaged to ensure the full application of the Convention on this point.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

2. *Article 3.* See under Convention No. 24, Article 4.

* * *

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

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

Guatemala (ratification: 1961)

Further to its previous comments, the Committee notes with satisfaction that as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, Government Decree No. 14-73, which was approved on 12 April 1973, regulates the minimum age for admission to maritime employment, in accordance with the provisions of the Convention.

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

Mongolia (ratification: 1969)

See under General Observations.

Paraguay (ratification: 1966)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts made between the competent national services and a representative of the Director-General of the ILO, the Ministry of Justice and Labour issued on 8 November 1973, Resolution No. 350, which defines, in accordance with Article 5 of the Convention, the dangerous employments in which the employment of persons under 18 years of age is prohibited.

The Committee also notes with interest that, also as a result of those direct contacts, a draft legislative decree has been prepared to amend sections 119 and 120 of the Labour Code and raise to 15 years, in accordance with Article 2 of the Convention, the minimum age for admission to industrial employment. The Committee hopes that this text will be adopted soon so as to bring the national legislation on this point into conformity with the Convention, and requests the Government to indicate any measures taken to this end.

Sierra Leone (ratification: 1961)

Further to its earlier observations, the Committee notes from the Government's report that no steps have so far been taken to bring the legislation into conformity with the provisions of the Convention on the following points:

Article 4 of the Convention. Requiring every employer in an industrial undertaking to keep a register of all persons under the age of 18 years employed by him, and of the dates of their births.

Article 5. Need to prescribe an age higher than 15 years for the admission to dangerous employment of young persons other than apprentices.

The Committee also notes with interest that the Government intends to ratify the Minimum Age Convention, 1973 (No. 138), which may involve the denunciation of Convention No. 59.

* * *

In addition, requests regarding certain points are being addressed directly to *Spain, Tanzania*.

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

Paraguay (ratification: 1966)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts made between the competent national services and a representative of the Director-General of the ILO, the Ministry of Justice and Labour issued, on 8 November 1973, Resolution No. 350 which defines, in accordance with Article 5 of the Convention, the dangerous occupations in which the employment of young persons under 18 years of age is prohibited.

The Committee also notes with interest that, also as a result of these direct contacts, a legislative decree has been drafted to amend sections 119, 120, 122 and 154 of the Labour Code so as to bring them into conformity with Articles 1, paragraph 4 (b), 2 and 3, paragraphs (1), (2) and (5), of the Convention. The Committee hopes that the draft will be adopted at an early date so as to bring the national legislation into conformity with the Convention on those points, and requests the Government to indicate any measures taken in this connection.

* * *

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

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

Peru (ratification: 1962)

Further to its earlier comments, the Committee notes with satisfaction the text of Part VII of the National Building Regulations, which, *inter alia*, gives effect to the provisions of Articles 7, 8, 9, 11, 12, 13 (paragraph 1), 14 and 15 (paragraphs 2 and 3) of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Honduras, Mauritania, Peru*.

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

Algeria (ratification: 1962)

Further to its earlier observation, the Committee notes with satisfaction, from the information given by the Government to the Conference Committee in 1973, that

since 1970 the statistics of average earnings published in *La situation de l'emploi et des salaires* include payments for overtime, as required by Article 6 of the Convention.

Article 1 of the Convention. The Committee notes that the information collected in pursuance of the Convention has been published periodically since 1967 and transmitted to the ILO and that the review *La situation de l'emploi et des salaires*, which is published within the time limit set by this Article, has been received for the years 1970 and 1971. The Committee hopes that the issues for 1972 and 1973 have been published and that in future this publication will be sent to the Office in accordance with paragraph (c) of this Article.

Article 12. The Committee notes that, from 1974 onwards, the Government intends to transmit index figures showing the general movement of earnings in industry and services.

Part III. In the absence of any reply from the Government on this point, the Committee can only repeat that the statistics of time rates of wages and of normal hours of work required under this part of the Convention have neither been published nor transmitted to the Office. The Committee trusts that steps will be taken to comply with Articles 13 to 21 of the Convention.

Part IV. The Committee notes that a general agricultural census was made in the first quarter of 1973. It hopes that this will have made possible the compilation of statistical data on wages and hours of work in agricultural undertakings in accordance with the requirements of Article 22 of the Convention and that they will be published and communicated to the Office within the time limits set by Article 1 (b) and (c).

Cuba (ratification: 1954)

The Committee notes with regret, from the information given by the Government in response to its earlier observation and direct request, that no progress has yet been made towards applying the Convention and that consequently the only statistics published and transmitted to the ILO are those of average wages for the years 1962 to 1966 contained in the *Boletín Estadístico* for 1970, which give partial effect to the provisions of Part II of the Convention.

The Committee can merely repeat its hope that the difficulties which have so far prevented the application of the Convention will be overcome, that these statistics will be expanded and completed, in the respects indicated in a request being addressed directly to the Government, so as to comply with the various requirements of the Convention, and that statistics will also be compiled and published covering hours actually worked (Part II of the Convention), time rates of wages and normal hours of work (Part III), in accordance with the provisions of the Convention.

Czechoslovakia (ratification: 1950)

The Government's reply to previous observations indicates once again that it considers it useless to compile statistics of wage rates in view of the existing methods of remunerating workers. The Committee notes, however, that the Government intends to compile more complete data when the new system of uniform labour statistics is introduced.

The Committee must point out once again that, under Part III of the Convention, countries which have ratified are obliged to compile statistics of time rates of wages in accordance with Articles 13 to 20, and annual index numbers showing the general movement of wage rates in accordance with Article 21. It therefore hopes that the

Government will, as soon as possible, take the necessary steps to ensure that the new system of statistics is in full conformity with the Convention.

Finland (ratification: 1947)

The Committee notes that the Government's report mentions certain comments on the application of the Convention by the Confederation of Finnish Trade Unions (SAK). The questions raised by these comments and by the Government's reply are dealt with in a direct request.

Uruguay (ratification: 1954)

The Committee notes with regret that the Government's report has not been received and that, consequently, no reply is available to its earlier direct request, in which it noted in particular that, according to the Government, the adoption of Decree No. 578-968 of 26 September 1968 would enable it to obtain the statistics of earnings and hours of work required by Articles 5 to 11 of the Convention, but that the data collected had not yet been published.

The Committee has also been informed that a communication was received by the ILO in 1973 from the Confederation of Workers of Uruguay (CUT) concerning the application of the Convention. This communication stated that the national statistical information was not in conformity with the provisions of the Convention concerning publication and methods of compilation. The Committee notes that the Government, to which the communication had been forwarded for any comments it considered appropriate, replied by referring to its earlier reports.

In the absence of any fresh information, the Committee can only express once again its hope that the Government will in future compile and publish regularly, as required by Articles 1 and 5 to 11 of the Convention, statistics of average earnings and hours actually worked in mining and manufacturing industries. It hopes also that the publications containing these statistics, with explanations as to the methods used for compiling them, will be sent to the ILO in the near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Barbados, Canada, Chile, Cuba, Czechoslovakia, Egypt, Finland, Guatemala, Kenya, Mauritius, Panama, Spain, Sri Lanka, Syrian Arab Republic, Tanzania, United Kingdom, Uruguay.*

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

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

Requests regarding certain points are being addressed directly to the following States: *Burundi, Cameroon* (Western Cameroon), *Uganda, Zaire.*

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

Convention No. 65: Penal Sanctions (Indigenous Workers), 1939

Uganda (ratification: 1963)

In previous comments the Committee had noted that sections 61 (1) (b) and 64 of the Employment Act laid down penal sanctions for breaches of contract of employ-

ment, contrary to the Convention. The Committee notes that, according to the Government's report, the draft Employment Decree, which takes account of the Committee's comments, is in its final stage. The Committee trusts that this Decree will be adopted shortly and will bring the national legislation into conformity with the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Ghana, Kenya, Liberia, Nigeria, Singapore, Tanzania (Tanganyika), Western Samoa.*

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

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

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

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

Argentina (ratification: 1956)

Further to its earlier comments, the Committee notes with interest that, as a result of the direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, Ministerial Resolution M.T. No. 185 of 27 April 1973 was issued and provides for a special committee to study and prepare draft legislation to bring the national legislation into conformity with the Convention.

The Committee hopes that the work of this committee will produce positive results at an early date, so that the necessary provisions can be adopted to ensure complete compliance with the Convention, and it would ask the Government to keep it informed of the progress made.

Peru (ratification: 1962)

The Committee regrets that it has not received the report on the application of the Convention. The Committee requests the Government to indicate what action has been taken in connection with the draft Presidential Decree prepared as a result of the direct contacts made in 1972, which provided for the setting up of an inter-ministerial committee to draw up regulations which would be in conformity with the provisions of the Convention.

* * *

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

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

Peru (ratification: 1962)

The Committee regrets that no report on the application of the Convention has been received. The Committee requests the Government to indicate what action has been taken in connection with the draft Presidential Decree prepared as a result of the direct contacts made in 1972 with a view to giving effect to the provisions of this Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Panama, Ukrainian SSR, USSR*.

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

Convention No. 71: Seafarers' Pensions, 1946

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

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

Requests regarding certain points are being addressed directly to the following States: *Panama, Peru, Spain, Sweden, Tunisia*.

Convention No. 74: Certification of Able Seamen, 1946

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

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

Algeria (ratification: 1962)

In response to the Committee's comment, the Government has been indicating since 1967 that draft legislation to extend the application of the provisions of the Act of 11 October 1946 concerning the organisation of medical services in underground and open-cast mines and quarries is being prepared. The Government further states in its latest report that detailed provisions concerning the medical examination of transport workers are also being considered within the framework of this draft. The Committee trusts that the draft in question will be adopted very shortly and will ensure the application of Article 1, paragraph 2 (a) and (d), of the Convention.

Guatemala (ratification: 1952)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the competent national services and a representative

of the Director-General of the ILO, Government Decree No. 28-73 was approved on 12 September 1973, thus giving effect to Articles 3, paragraphs 2 and 3 (repetition of medical examinations), 4 (extension of the medical examination up to the age of 21 years) and 5 (free medical examination) of the Convention and extending the provisions of national legislation concerning medical examinations of fitness for work for minors to young persons working for the State, the municipalities or other bodies supported out of public funds.

Paraguay (ratification: 1966)

Further to its earlier comments, the Committee notes with interest that, as a result of the direct contacts between the competent national authorities and a representative of the Director-General of the ILO, a draft Legislative Decree has been prepared which would add a clause to section 121 of the Labour Code, which would provide, as required by Article 5 of the Convention, that medical examinations for fitness for employment should involve no charge for the young persons or their parents. The Committee hopes that this draft will be adopted in the near future so as to bring the national legislation on this point into conformity with the Convention, and requests the Government to keep it informed of any action taken in the matter.

Peru (ratification: 1962)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 5 June 1973 to Supreme Decree 006-73-TR, which brings into effect the provisions of Articles 2, 3, 4 and 5 of this Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Cameroon, Luxembourg, Panama, Paraguay, Peru, Spain, Tunisia, Uruguay.*

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

Guatemala (ratification: 1952)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the competent national services and a representative of the Director-General of the ILO, Government Decree No. 28-73 was approved on 12 September 1973. See under Convention No. 77.

Honduras (ratification: 1960)

Further to its earlier observations, the Committee notes with interest, from the Government's report, that appropriate legislative action will shortly be taken to comply fully with the Convention. The Committee hopes that the necessary measures will be taken in the very near future and will ensure the application of the Convention, more particularly on the following points:

Article 2 of the Convention. Although certain collective agreements provide for the medical examination of workers, there is no legislative provision requiring workers under 18 years of age to undergo a medical examination, as called for by this Article.

Article 3. The legislation should require repeated medical examinations for young persons up to the age of 18 years (at least once a year, or more frequently in special circumstances which should be determined).

Article 4. The legislation should prescribe the continuation of medical examinations up to the age of at least 21 years in occupations (to be defined) involving high health risks.

Article 5. Medical examinations should be free of charge.

Article 6. Steps should be taken for the vocational guidance and rehabilitation of handicapped young persons.

Article 7. Supervisory measures should be prescribed, as required by this Article.

Paraguay (ratification: 1966)

Further to its earlier comments, the Committee notes with satisfaction that as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, Resolution No. 351 was issued on 8 November 1973 for the purpose of guaranteeing the application of medical examinations for fitness, in accordance with Article 7, paragraph 2 (a), of the Convention.

See also under Convention No. 77.

Peru (ratification: 1962)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 5 June 1973 to Supreme Decree 006-73-TR, which brings into effect the provisions of Articles 2, 3, 4 and 5 of this Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Argentina, Cameroon, France, Guatemala, Iraq, Israel, Luxembourg, Panama, Peru, Spain, Uruguay.*

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

Guatemala (ratification: 1952)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 12 April 1973 to Government Decree No. 14-73, which requires every employer to keep a register of all persons under 18 years of age employed by him, in accordance with Article 6, paragraph 1 (b), of the Convention, and which extends the provisions of the national legislation prohibiting night work for young persons to cover those working for the State, the municipalities and other bodies supported by public funds.

Israel (ratification: 1953)

Further to its earlier observations, the Committee notes with satisfaction the adoption of Act No. 5733 concerning the employment of young persons (amendment No. 7) of 1973 which amends section 25 (*e*) of the Act of 1963 so as to provide that the exemption which permitted the employment of young persons on shift work until midnight no longer applies to non-industrial employment.

Paraguay (ratification: 1966)

Further to its earlier comments, the Committee notes with interest that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, a draft Legislative Decree has been prepared to amend section 122 of the Labour Code so as to bring it into conformity with the provisions of Articles 1, paragraph 4 (*a*), 2 and 3, paragraph 1, of the Convention.

The Committee hopes that this draft Legislative Decree will be adopted in the near future, so as to bring the national legislation into conformity with the Convention on those points, and it would ask the Government to report on any steps taken to this end.

Peru (ratification: 1962)

The Committee regrets that no report has been received on the application of the Convention. The Committee requests the Government to indicate what action has been taken in connection with the draft Presidential Decree prepared as a result of the direct contacts made in 1972 with a view to giving effect to the provisions of this Convention.

* * *

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

Convention No. 81: Labour Inspection, 1947*General Observation*

The Committee has noted that a number of governments seem to experience difficulties in publishing and communicating to the ILO the annual report on the activities of the inspection services, for which provision is made in Articles 20 and 21 of the Convention. In several cases no report of this kind has been published since the Convention was ratified; in others, the publication and communication take place at dates which are sometimes considerably later than the time limits laid down in Article 20 of the Convention.

The Committee wishes to emphasise the importance attaching to the annual inspection report, which constitutes an essential element in assessing, both at the national and at the international levels, the practical results of the work of the labour inspection service and, more generally, the effective application of labour legislation. While it is aware of the problems of a practical nature which may delay the publication of the inspection reports, the Committee expresses the hope that the necessary measures can be taken, possibly with the assistance of the International Labour Office, to overcome these problems, and that in all the States bound by the

Convention an annual inspection report containing the information required by Article 21 of the Convention will be regularly published and communicated to the ILO within the time limits laid down in Article 20.

Algeria (ratification: 1962)

Articles 12, 13, paragraphs 2 (b) and 15 (c) of the Convention. The Committee notes with interest from the Government's reply to its previous observation that the texts concerning labour inspection will be promulgated at the same time as the Algerian Labour Code and are in full conformity with the Convention, and in particular with Articles 13, paragraph 2 (b), relating to the inspectors' power to make orders with immediate executory force, and 15 (c), relating to the confidential nature of complaints. It hopes that these texts will also give to inspectors the powers of entry and control provided for by Article 12 of the Convention and that they will be adopted in the near future.

Articles 20 and 21. Further to its observation of 1972, the Committee notes with interest the report on the work of the Inspectorate of Labour and Social Affairs in 1972, which contains the statistical information called for by paragraphs (c), (d), (e) and (f) of Article 21 of the Convention, but which does not appear to have been published. Since Article 20, paragraph 1, of the Convention requires the annual report to be of a general character and to be published, the Committee hopes that in future the Government will take the necessary steps to supplement the contents of the annual report on the inspection services, in accordance with Articles 20 and 21 of the Convention, and will have it published, in accordance with Article 20, paragraph 1.

Argentina (ratification: 1955)

Further to its previous observations the Committee has duly noted the information supplied by the Government on the application of Article 14 of the Convention, in the course of the direct contacts which took place in April 1973 between the competent national services and a representative of the Director-General of the ILO. According to this information, the labour inspectorate is notified of cases of occupational disease in the same conditions as industrial accidents, pursuant to section 22 (e) of Act No. 9688 of 11 November 1915 on industrial accidents and section 146 (e) of the Decree of 14 January 1916. The Committee has also noted with interest that the obligation to declare industrial accidents and occupational diseases has been confirmed by Act No. 19587 of 21 April 1972 on conditions of occupational safety and health.

Articles 20 and 21 of the Convention. The Committee has noted with interest that, following the direct contacts mentioned above, the Ministry of Labour adopted Resolution No. 184 of 27 April 1973 which provides, in conformity with Article 20 of the Convention, for the publication and communication to the ILO of an annual general report on the work of the inspection services containing all the information provided for by Article 21 of the Convention. It hopes that the Government will shortly be able to communicate to the ILO the annual report prepared in implementation of the resolution.

Austria (ratification: 1949)

Article 10 of the Convention. The Committee notes that the Austrian Congress of Chambers of Labour has again submitted comments to the effect that shortage of staff in the inspection services still makes effective supervision impossible. It notes the

Government's statement in its latest report that it considers that it fully respects its obligations under Article 10 of the Convention, since 77 per cent of the undertakings liable to inspection were inspected in 1972. In view of the fact that this figure is slightly lower than that for 1970 (80 per cent), that the staff of the Labour Inspection Office had decreased by a few persons by 1973 as compared with 1971, and that at the end of June 1973 some fifteen high-level posts were vacant, the Committee hopes that the Government will pursue its efforts to strengthen the staff of the inspection service and, more especially, to overcome the difficulties which appear to hamper the recruitment of high-level technicians.

Article 17. The Committee duly notes the information supplied by the Government in reply to the comments of the Austrian Congress of Chambers of Labour regarding the system of penalties for infringements of the legislative provisions. It would ask the Government to report in future on any relevant change in the Labour Inspection Act.

Barbados (ratification: 1967)

The Committee notes with regret that the Government's report has not been received and that as a result no information is available to the Committee as to the reasons why the annual reports of the Department of Labour for 1969 and 1970, the first of which was stated in the last report to have been completed and the second to be in process of preparation, have not been forwarded to the ILO. Since the last annual report on the work of the inspection services available in the Office dates back to 1964, whereas Article 20 of the Convention requires annual inspection reports to be published within twelve months after the year to which they relate and transmitted to the ILO within three months of their publication, the Committee trusts that the Government will take the necessary steps to ensure that the annual reports of the Labour Department which are still outstanding reach the Office very shortly and that in future the timetable laid down in the Convention is respected.

Belgium (ratification: 1957)

Further to its earlier observations, the Committee notes with satisfaction, from copies of two notices of vacancies issued by the Permanent Secretariat for Civil Service Recruiting, which were submitted by the Government to the Conference Committee in 1973, that posts as engineers and technical engineers in the Industrial Safety Department are now open to women on the same footing as men, as required by Article 8 of the Convention.

As regards Articles 4 and 5 of the Convention, the Committee notes from the information given by the Government to the Conference Committee in 1973 and in its last report, in reply to the earlier observation, that the Ministerial Co-ordinating Committee for Social Inspection, which was established to ensure effective co-ordination between the various inspection services, has met spasmodically and that its activities will be discussed in the near future. It requests the Government to report any measures taken as a result of this discussion, and in particular any practical steps taken or contemplated to ensure the co-ordination required by the Convention.

Bulgaria (ratification: 1952)

Further to its observation in 1972, the Committee notes with interest that the annual reports on the work of the labour inspection services in 1970, 1971 and 1972 were published and transmitted within the time limits prescribed by Article 20 of the Convention.

Cameroon (ratification: 1962)

For several years the Committee has been drawing attention to the fact that, according to Article 20 of the Convention, an annual report must be published on the work of the inspection services. The Committee notes from the Government's reply to its earlier direct request that no steps have so far been taken to publish such a report, although provision is made for it in section 111 of the Labour Code. It hopes that such a report will be published very soon and a copy sent to the ILO within the time limit set by Article 20 and that it will contain all the information called for by Article 21.

Central African Republic (ratification: 1964)

The Committee notes with interest from the Government's reply to its previous observation that the Government is contemplating, in the case of supervisory officials, and in particular labour inspectors, restoring the system of refunding the cost of travel within the country, which had been stopped for all officials. The Committee trusts that steps to this end will be taken in the very near future, in accordance with *Article 11, paragraph 2, of the Convention*, since under present conditions the system of labour inspection cannot operate effectively, being unable to exercise any supervision over establishments the inspection of which would necessitate travel.

Articles 20 and 21 of the Convention. The Committee notes that since the Convention was ratified only one inspection report, which was incomplete and was not published, has been sent to the ILO. It would remind the Government that, according to Article 20 of the Convention, it is required to publish annually a report on the work of the inspection service, that publication must take place within twelve months after the end of the year to which the report relates and that a copy of the report must be transmitted to the ILO within three months. The Committee trusts that the Government will take the necessary steps to comply with the Convention on this point.¹

Cuba (ratification: 1954)

The Committee has noted, from the Government's reply to its previous observation, that a national labour inspection directorate has recently been set up to reorganise labour inspection and that regulations for this service will shortly be issued, adapted to its nature and functions and containing provisions relating to the various questions which have been the subject of comments by the Committee. The Committee trusts that the regulations in question will be adopted in the near future and that they will give full effect to the following provisions of the Convention, to which it has been calling the Government's attention for many years:

Article 7, which provides that labour inspectors shall be recruited with sole regard to their qualifications and adequately trained for the performance of their duties.

Article 12, which relates to inspectors' right of free entry and powers of inspection.

Article 13, paragraph 2 (b), which provides that inspectors shall be empowered to make or to have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of workers.

Article 15 (c), which provides that inspectors shall treat as absolutely confidential the source of any complaint.

¹ The Government is asked to report in detail for the period ending 30 June 1974.

The Committee further expresses the hope that the reorganisation of labour inspection will enable the Government to publish and communicate the annual report on the work of the inspection services provided for in *Articles 20 and 21* of the Convention. It recalls that no report of this kind has been published and communicated to the ILO since the ratification of the Convention.

Dominican Republic (ratification: 1953)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation which was as follows:

Article 6 of the Convention. For a number of years the Committee has been drawing the Government's attention to the need to guarantee to labour inspectors a legal status and conditions of employment which ensure them stability of employment and independence of changes of government, as required by this Article of the Convention. The Committee regrets to note from the latest report of the Government that the Public Service Bill and the draft regulations concerning the labour inspectorate, which are intended to ensure the application of this provision and which the Government has been mentioning since 1967, have not yet been adopted. Since at the present time the labour inspectors do not have the guarantees of stability and independence required by the Convention, the Committee trusts that the Government will do everything in its power to provide those guarantees in practice and will speed up the adoption of legislation or regulations to give effect to Article 6 of the Convention.

Article 7. The Committee notes with interest the information given by the Government in reply to its earlier observation concerning the training courses for labour inspectors. It hopes that the Government will continue its efforts to provide the inspectors with appropriate training for their duties and that future reports will mention any further measures to this end.

Article 14. The Committee notes from the Government's reply to its earlier observation that steps will be taken in the near future to ensure that the labour inspectorate is notified of occupational diseases in accordance with this Article of the Convention. As the Committee has for many years been drawing attention to the need to adopt provisions for this purpose, it trusts that the necessary legislation or regulations will be adopted in the very near future so as to ensure full compliance with the Convention on this point.

Articles 20 and 21. The Committee notes that in future the Government intends to transmit to the ILO a separate report on the work of the labour inspectorate and that it hopes to begin preparing such a report in 1973. As no annual report on the work of the inspectorate has been received in the ILO since the Convention was ratified, the Committee urges that the annual report called for by the Convention will be published in the very near future.

Egypt (ratification: 1956)

Article 12, paragraph 1 (a), of the Convention. In its earlier direct requests the Committee pointed out that section 212 of the Labour Code, paragraph 3 of which authorises inspectors to enter workplaces by day or by night during working hours, is more restrictive than Article 12, paragraph 1 (a), of the Convention, according to which inspectors can exercise their right of entry even outside working hours. The Government again refers to section 212, paragraph 4, of the Labour Code, which states that the Minister of Labour shall issue an order to determine the steps to be taken to ensure inspection at night and outside working hours, and also to determine the allowances to be paid to the officials entrusted with such inspections, and to Order No. 27 of 1961 "concerning measures for ensuring inspection at night and outside official working hours". These texts however do not expressly entitle inspectors to enter establishments outside the working hours of these establishments, but seem intended rather to regulate the conditions governing, and the remuneration payable for, inspections made outside the inspectors' official hours of work. In the absence of any new information in the Government's latest report, the Committee reiterates the hope that section 212 of the Labour Code will be amended in the near future so as to

confer expressly on inspectors the right prescribed by Article 12, paragraph 1 (a), of the Convention.

Article 20. The Committee notes that the latest annual report of the Ministry of Labour received in the ILO covers the year 1968-1969. Since Article 20 of the Convention requires annual reports on the work of the inspection services to be published within twelve months after the end of the year to which they refer and to be transmitted to the ILO within three months after publication, the Committee hopes that the reports not yet received will reach the ILO shortly, and that in future the time limits set by the Convention will be observed.

France (ratification: 1950)

Following its direct request in 1972, the Committee notes with interest that Act No. 72-617 of 2 July 1972 concerning penalties for infringements of labour laws authorises labour inspectors, when they find that failure to comply with certain legislation or regulations has resulted in a serious risk of physical injury to a worker, to request a magistrate to have an order made which will remove the risk, thus to some extent giving effect to Article 13, paragraphs 2 (b) and 3, of the Convention.

As regards *Articles 20 and 21 of the Convention*, on which observations have been made earlier, the Committee notes that the latest report on the application of the Convention contains a general account of the activities of the Labour Inspectorate in 1971 and 1972, as well as the statistics required by paragraphs (b) to (f) of Article 21 of the Convention. It found, however, that, since January 1971, the periodical *Statistiques du travail* no longer contains statistics of inspection visits, violations noted and penalties imposed. In view of the fact that the last annual report to be published on the work of the Labour Inspectorate appeared in 1966 and referred to the year 1964, the Committee trusts that the Government will, in the very near future, take steps to publish, within the time limits set by Article 20 of the Convention, annual inspection reports containing all the information required by Article 21, in accordance with the assurances given to the Conference Committee in 1972.¹

Ghana (ratification: 1959)

The Committee notes that the latest annual report of the Department of Labour to reach the ILO covered the years 1967-68. It would point out that, according to Article 20 of the Convention, a report on the work of the inspection services must be published annually, that it must appear within the twelve months following the year to which it refers and that a copy must be transmitted to the ILO within three months after publication. The Committee trusts that the reports which are outstanding will reach the ILO shortly and that the Government will take the necessary steps to ensure that in future the time limits prescribed by Article 20 of the Convention are respected.

Greece (ratification: 1955)

Further to its previous observation, the Committee notes with interest that a draft legislative decree, which takes account of the comments made by the Committee on ratified Conventions, was signed on 15 March 1974 by the Prime Minister. It hopes that this decree gives labour inspectors the power to take samples of the material and substances used, in conformity with Article 12, paragraph 1 (c) (iv), of the Convention, and the power to make orders as provided for in Article 13 and that a copy thereof will be transmitted to the ILO in the very near future.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Guatemala (ratification: 1952)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, Order No. 11-73 of 13 March 1973 makes it compulsory that the labour inspectorate be notified of occupational diseases, in accordance with Article 14 of the Convention, and confirms the provisions complying with Article 15 (a) and (c) of the Convention, which were issued in a circular of 5 January 1973.

The Committee also notes with satisfaction that an annual report on the work of the Labour Inspectorate in 1972 was published in the Official Gazette and transmitted to the ILO, as required by Article 20 of the Convention, and that the report contains all the information called for by Article 21 of the Convention.

Guinea (ratification: 1959)

Article 13, paragraph 2 (b), of the Convention. The Committee notes with regret that the Government's latest report contains no information, in reply to its observation of 1972, on the measures taken to empower labour inspectors to make or to have made orders requiring measures with immediate executory force in the event of imminent danger, as required by Article 13, paragraph 2 (b), of the Convention. It notes, however, from the information given by the Government to the Conference Committee in 1972, that labour inspectors do have those powers in conformity with the Convention. The Committee therefore hopes that the adoption of a legislative provision to confirm this practice would not raise any difficulties, and it trusts that one will be adopted in the very near future.

Article 20. The Committee notes with regret that, despite its repeated observations, no annual report on the work of the Labour Inspectorate has been published since the Convention was ratified. It also notes with regret from the information communicated by the Government to the Conference Committee in 1972, that the Government does not intend to take any steps for the time being to rectify this situation. The Committee must merely stress once again the importance of publishing an annual report on the inspection service, which constitutes a summing-up of the Government's activities for the protection of the workers, and it urges the Government to take, in the near future, the necessary steps to apply Article 20 of the Convention.¹

Haiti (ratification: 1952)

The Committee notes with regret that once again the report contains no information in reply to its earlier observation and direct request; it must therefore again point out that the following provisions of the Convention are not being applied:

Article 12, paragraph 1 (a). Section 367 of the Act of 18 September 1967, reproducing the wording of section 497 of the Labour Code, authorises inspectors to enter undertakings liable to inspection only "in accordance with working hours", whereas Article 12, paragraph 1 (a), of the Convention states that inspectors should be empowered to enter at any hour of the day or night.

Article 12, paragraph 2. Section 503 of the Labour Code requires the inspector to inform the employer of his presence at the beginning of his visit, whereas, according to Article 12, paragraph 2, of the Convention, the inspector should be entitled not to

¹ The Government is asked to report in detail for the period ending 30 June 1974.

inform the employer of his presence if he considers that to do so might be prejudicial to the effectiveness of the inspection.

Article 13, paragraphs 2 (b) and 3. The Labour Code does not expressly empower inspectors to make or to have made orders requiring measures with immediate executory force in the event of imminent danger.

Articles 20 and 21. The last annual report on the work of the inspection services received in the ILO dealt with the years 1966-67, but it did not appear to have been published and did not contain all the information called for by Article 21 of the Convention.

Moreover, the Government has not supplied the information requested by the Committee from 1955 onwards concerning the status and conditions of service of labour inspectors (*Article 6 of the Convention*).

The Committee can only repeat its hope that the Government will supply the information asked for above and will in the very near future take all necessary steps to apply fully the provisions in question.¹

Iraq (ratification: 1951)

The Committee has noted that according to the Government's report the Labour Inspection Rules, which according to the statement made by a Government representative to the Conference Committee in 1971 are to empower labour inspectors to take samples of materials and substances used, will be adopted shortly. The Committee hopes that these Rules will be adopted very soon so as to give effect to Article 12, paragraph 1 (c) (iv), of the Convention, upon which the Committee has been commenting since 1960.

Italy (ratification: 1952)

Article 11, paragraph 2, of the Convention. In its earlier observations the Committee drew the Government's attention to this provision of the Convention, according to which necessary arrangements shall be made to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties. According to comments received from the National Association of Labour Inspectors (ANIL), labour inspectors' mission indemnities are not such as to cover all of the expenses incurred. In a statement made to the Conference Committee in 1971, a Government representative stated that a Bill concerning labour inspectors' mission indemnities had been placed before the Legislature.

The Committee notes that the latest report does not contain any information respecting the reimbursement of labour inspectors' mission expenses. In this connection it has taken note of observations from several branches of the ANIL and other labour inspectors' trade unions affiliated to the Italian Labour Union (SNAPIL-UIL) and the Italian Confederation of Workers' Trade Unions (FILS-CISL) which refer to several laws enacted recently concerning mission indemnities of public officials, which have allegedly failed to bring the situation into closer conformity with this provision of the Convention. These observations, received in the ILO in February and March 1974, were transmitted to the Government so that it could make any comments on them which it deemed appropriate. The Committee hopes that all necessary steps will be taken to ensure that labour inspectors are reimbursed for all of

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

the expenses incurred by them while carrying out their duties, as laid down in Article 11, paragraph 2, of the Convention, and that the Government will provide information in this respect.

Article 13, paragraph 2 (b). The Committee notes from the Government's reply to its previous direct request that the Bill which was to empower the Chief Labour Inspector to suspend activities or prohibit the use of harmful materials, substances, or premises, presenting a serious danger for the physical well-being and health of workers, has lapsed because of the end of the legislative session and that a new and similar Bill is being examined by the government services. In view of the fact that this provision of the Convention requires that labour inspectors have the power to make or to have made orders with immediate executory force in the event of imminent danger to the health or safety of workers, the Committee trusts that legislation in accord with this provision will be adopted in the near future.

Jamaica (ratification: 1962)

Article 12, paragraph 1 (c) (i) of the Convention. The Committee notes from the Government's reply to its earlier observation that labour inspectors are empowered to interrogate the employer or the staff of the undertaking, alone or in the presence of witnesses, and that instructions to this effect are given to them during training. The Committee requests the Government to communicate the text of these instructions.

Article 13, paragraph 2 (b). The Committee notes that active consideration is being given to the possibility of adopting a provision extending to factory operations the power of the labour inspectors to have made orders requiring measures with immediate executory force in the event of imminent danger, such power being at present prescribed by section 25 of the Factories Act only with regard to building constructions, works of engineering construction and dock premises. The Committee hopes that this provision, which was mentioned in the previous report, will soon be adopted so as to give full effect to the Convention.

Article 14. The Committee notes that the draft regulations on health and safety in mines, which contain a provision requiring the notification of cases of occupational disease, are still under study. It hopes the regulations will very soon be adopted so as to give full effect to this provision of the Convention.

Article 20. The Committee notes that the Government appended to its last report statistical information on the work of the Factory Inspectorate in 1972 and 1973 and on the work of the Minimum Wage Inspectorate in 1973. Since, however, the last annual report of the Ministry of Labour to be received at the Office related to 1964, the Committee trusts that the subsequent reports will soon be sent to the Office and that in future the time limits laid down in Article 20 of the Convention for the publication of annual inspection reports and their communication to the Office will be observed.

Kenya (ratification: 1964)

For a number of years the Committee has been pointing out to the Government the need to introduce a provision expressly requiring labour inspectors to treat as absolutely confidential the source of any complaint, as required by Article 15 (c) of the Convention, and the Government has mentioned a Bill intended to amend the Employment Act for this purpose. The Committee finds once again that the Government's report states that the Bill will shortly be submitted to the competent authorities. It trusts that it will be adopted in the near future, or else that the

Government will take some other action (as, for example, issuing a circular to the inspectors) to comply with the Convention on this point in accordance with this Article.¹

Kuwait (ratification: 1964)

Further to its previous direct requests, the Committee notes with satisfaction that in accordance with Article 15 (c) of the Convention the instructions of 6 December 1973 require labour inspectors not to reveal the source of any complaint and not to intimate to the employer that a visit of inspection was made in consequence of such a complaint.

The Committee notes that the report contains no information, in reply to its earlier direct request, on the measures taken to include in the national legislation provisions giving effect to the following requirements of the Convention:

Article 12, paragraph 1 (a), under which inspectors shall be empowered to enter any workplace liable to inspection at any hour of the day or night.

Article 12, paragraph 1 (b), under which they shall be empowered to enter by day any premises which they may believe to be liable to inspection.

Article 12, paragraph 1 (c) (i), under which they shall be empowered to interrogate the staff of the undertaking, alone or in the presence of witnesses.

Article 12, paragraph 1 (c) (iv), under which they shall be empowered to take samples of materials and substances used.

Article 13, paragraphs 2 (b) and 3, under which they shall be empowered to make or to have made orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers.

The Committee trusts that the necessary measures will be taken in the very near future.

The Committee also notes once again that the report does not state whether the annual reports on the work of the inspection services which are communicated with the Government's reports on the application of the Convention are published. If not, the Committee trusts that the necessary measures will be taken to ensure that inspection reports are published in future, as required by *Article 20, paragraph 2*, of the Convention.

Lebanon (ratification: 1962)

The Committee regrets to note that, for the third year in succession, no report has been received from the Government.

Articles 3, 10, 12, 13, paragraphs 2 (b) and 3, and 15, paragraphs (a) and (c), of the Convention. The Committee notes, however, from the information given by the Government to the Conference Committee in 1973, that the draft Labour Code, prepared with the help of an ILO expert, will give effect to the Conventions ratified by Lebanon, and that the draft is nearing completion. It trusts that the text in question will, in particular, contain provisions to apply the above clauses of the Convention, and that it will be adopted in the very near future.

Article 20. The Committee notes that, apart from a partial report for 1971, no annual report on the work of the Labour Inspectorate has been received by the ILO since the Convention was ratified. The Committee urges that the necessary steps

¹ The Government is asked to report in detail for the period ending 30 June 1974.

be taken to ensure that in future the annual report on the work of the Labour Inspectorate will be transmitted regularly to the ILO within the time limits set by Article 20 of the Convention.¹

Malawi (ratification: 1965)

The Committee notes that the most recent report of the Ministry of Labour received in the ILO relates to the years 1963-67. According to Article 20 of the Convention, reports on the work of the inspection services must be published annually within twelve months after the end of the year to which they relate and must be transmitted to the ILO within three months after publication. The Committee therefore hopes that the reports of the Ministry of Labour for the years 1968 to 1971 will reach the Office very shortly and that in future the time limits set by the Convention will be respected.

Mauritania (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation which was as follows:

The Committee hopes that measures will be taken in the near future to put into effect the following provisions of the Convention:

Article 19 of the Convention, according to which labour inspectors or local inspection offices should be required to submit to the central inspection authority periodical general reports on the results of their inspection activities.

Articles 20 and 21, according to which the central inspection authority must publish and transmit to the ILO within prescribed time limits an annual general report on the work of the inspection services under its control.

Morocco (ratification: 1958)

The Committee notes that the report on the work of the inspection services for 1971, like earlier reports, was not published but was distributed to the government departments concerned and to the district and provincial labour offices. Such a distribution, limited to certain government authorities, is not sufficient to comply with Article 20, paragraph 1, of the Convention, which stipulates that the annual report on inspection must be published, so that not only the authorities but also the public, and more especially the workers and employers and their organisations, may be informed of the results of the work of the inspection services. As comments on this matter have been regularly made for a number of years, and as the Government has on several occasions given an assurance that steps would be taken to have the reports on inspection published, the Committee trusts that such measures will be taken in the very near future. It also hopes that future reports will make a point of supplying all the information called for by Article 21 of the Convention, and, in particular, statistics of the cases of occupational diseases notified to the labour inspectorate.

Nigeria (ratification: 1960)

Article 12, paragraph 1 (c) (iv), and Article 15, paragraph (c), of the Convention. The Committee notes that, in response to its earlier direct request, the Government repeats that the draft labour decree will give the labour inspectors the right to take

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

samples in accordance with Article 12, paragraph 1 (c) (iv), of the Convention, but it gives no information on the progress made towards the adoption of this draft. The Committee trusts that the draft, to which the Government has been referring for several years, will be adopted in the near future and that it will also contain a provision expressly requiring inspectors to treat as absolutely confidential the source of any complaint made to them, in accordance with Article 15 (c) of the Convention, since the ministerial instruction quoted in the latest report does not appear sufficiently explicit to ensure compliance with that Article.

Article 20. The Committee notes that the latest annual report of the federal Ministry of Labour received in the ILO is for the year 1965-66; the report for 1966-67 which was sent with the latest report on the application of the Convention was that of the Department of Social Welfare. The Committee points out that, according to this Article of the Convention, the annual reports on the work of the inspection services must be published during the year following the year to which they relate and must be transmitted to the ILO within three months after publication. It trusts that the Government will take the necessary steps to have those limits respected in future.

Pakistan (ratification: 1954)

Further to its earlier observations and direct requests, the Committee notes with satisfaction that Ordinance No. VII of 1973 has amended the Mines Act so as to empower mines inspectors to interrogate staff and take samples, as required by *Article 12, paragraph 1 (c) (i) and (iv)*, of the Convention, and requiring them to treat as absolutely confidential the source of any complaint, in accordance with *Article 15 (c)*. It also made notification of occupational diseases compulsory, in conformity with *Article 14* of the Convention.

Article 20 of the Convention. The Committee notes that the latest annual report on the operation of labour legislation received in the ILO deals with the year 1968. It would point out that, according to Article 20 of the Convention, annual reports on the working of the inspection services must be published within 12 months after the end of the year to which they relate and be transmitted to the ILO within three months after publication. The Committee trusts that the reports not so far received will reach the ILO shortly, and that in future the time limits laid down in the Convention will be respected.

Panama (ratification: 1958)

The Committee regrets to note that the Government's latest report, like the two previous ones, contains no information in reply to its earlier observations, on the adoption of the draft regulations for the staff of the public administration, which, according to the report for 1968-69, would apply to labour inspectors and would contain provisions guaranteeing them stability of employment. Since the Committee has for many years been drawing attention to the fact that labour inspectors do not have the guarantees of stability of employment and independence required by Article 6 of the Convention, the Committee trusts that legislative provisions will be adopted in the very near future to give them those guarantees and that the Government will not fail to supply information on any progress made in the matter.¹

¹ The Government is asked to report in detail for the period ending 30 June 1974.

Paraguay (ratification: 1967)

Further to its previous direct request and the direct contacts between a representative of the Director-General of the ILO and the competent services, the Committee notes with satisfaction that Resolution No. 353 of 8 November 1973 empowers labour inspectors to interrogate the employer or the staff of the undertaking in accordance with Article 12, paragraph 1 (c) (i), of the Convention, and to take samples, in accordance with Article 12, paragraph 1 (c) (iv), and that it makes it compulsory to notify industrial accidents and occupational diseases to the labour inspectorate in accordance with Article 14.

Peru (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation in which it recalled that effect is not given to the following provisions of the Convention:

Article 12, paragraph 1 (a), (b) and (c) (iv), under which labour inspectors shall be empowered to enter at any hour of the day or night (and not merely during working hours) any workplace liable to inspection, and to enter by day any premises which they have reasonable cause to believe to be liable to inspection, and to take samples of materials or substances used in the undertaking.

Article 13, paragraph 2 (b), under which the inspectors shall be empowered to make or to have made orders requiring measures with immediate executory force in the event of imminent danger to health or safety.

Article 15 (a), under which inspectors shall have no direct or indirect interest in the undertakings under their supervision.

Articles 20 and 21, under which the central inspection authority shall publish an annual report on the work of the inspection services.

The Committee trusts that the Government will take the necessary action to give effect to these provisions in the very near future.

Portugal (ratification: 1962)¹

The Committee notes with regret that the Government's report has not been received. In its previous observation, the Committee had noted from the Government's reply to its previous observations that the annual report on the work of the labour inspection services for which provision is made, in conformity with Articles 20 and 21 of the Convention, in section 36 of the Labour Inspection Regulations, had not so far been prepared because it would have overlapped with reports published by other official bodies, which contained some of the information called for by section 36. The Committee recalls that, according to Article 20 of the Convention, the central inspection authority is required to publish and to transmit to the ILO within certain time limits an annual general report on the work of the inspection services under its control, and that the report must contain all the information listed in Article 21 of the Convention. The Committee trusts that in future such reports will be published and transmitted to the ILO within the time limits laid down in the Convention.

Sierra Leone (ratification: 1961)

The Committee notes the information supplied by the Government to the Conference Committee in 1972 and in its latest report, in response to its observation of 1972.

¹ For the scope of the Committee's mandate in regard to the application of Conventions in the various territories under Portuguese administration, see paras. 68-71 of Part One of this report.

Article 12, paragraph 1 (c) (iv), of the Convention. The Committee notes with interest the draft amendment to the Machinery (Safe-working) Act to empower inspectors of machinery, in accordance with this Article of the Convention, to take samples of materials and substances used in the undertaking. As the Committee has for a number of years been stressing the need to adopt such a provision, it hopes that this draft will be adopted in the very near future.

Article 13, paragraphs 2 (b) and 3. The Committee hopes that, in conjunction with the above-mentioned amendment to the Machinery (Safe-working) Act, a provision can be inserted in the Act to empower inspectors of machinery to make or to have made orders requiring measures with immediate executory force to be taken in the event of imminent danger to the health or safety of the workers, as required by this Article of the Convention. The Committee recalls that the Government mentioned in earlier reports that it intended to introduce legislative provisions for this purpose.

Article 15 (c). The Committee notes that the Regulation of Wages and Industrial Relations Act of 1971, section 30 of which, according to the Government, meets the requirements of this provision of the Convention, does indeed apply to paragraph (b) of this Article, but not paragraph (c). The Committee trusts that the Government will soon take the necessary steps to introduce an express provision obliging labour inspectors to treat as absolutely confidential the source of the complaints they receive.

Article 20. The Committee notes that the latest report on the work of the inspection services received in the ILO relates to 1969. It trusts that reports for 1970 and 1971 will reach the ILO soon, and it repeats the hope that in future the time limits for publication and transmission laid down in this Article will be respected.

Sri Lanka (ratification: 1956)

Further to its earlier comments, the Committee notes with satisfaction that the Labour Inspections (Maintenance of Secrecy) Amendment Act, No. 13 of 1972, requires inspectors to treat as absolutely confidential the source of any complaint and to give no intimation to the employer that a visit was the consequence of a complaint, in accordance with Article 15 (c) of the Convention.

Article 6 of the Convention. With reference to the career prospects of labour inspectors, concerning which the Association of Labour Officers made comments to the ILO some years ago, the Committee notes with interest from the information communicated to the Conference Committee in 1973 that the Ministry of Labour has been able to arrange that labour officers having certain prescribed qualifications and a certain seniority may be promoted to higher posts and has proposed to the Government the creation of a selection grade for labour officers which would carry higher salaries. The Committee hopes that the Government will continue its efforts to guarantee to labour officers conditions of service (including career prospects) which will make them independent of improper external influences, as required by Article 6 of the Convention.

Article 13, paragraphs 2 (b) and 3. The Committee notes that the draft amendment to the Factories Ordinance to confer on inspectors the right to make orders requiring measures with immediate executory force to be taken in the event of imminent danger will shortly be submitted to the National Assembly. It hopes that it will be adopted in the near future, so as to bring into effect Article 13, paragraphs 2 (b) and 3, of the Convention.

*Tanzania (ratification: 1962)**Tanganyika.*

The Committee notes with regret that, for the third year in succession, the Government has not furnished a report. The Committee has noted the statement made by a Government representative to the Conference Committee in 1973 to the effect that when the labour legislation was looked into priority would also be given to the Committee's comments on this Convention. Bearing in mind that the Government has been referring to this intention since 1966, the Committee can only recall that effect has not been given to the following provisions of the Convention:

Article 12 of the Convention. Section 9, paragraph 2, of the Employment Ordinance empowers labour inspectors to carry out an inspection only with the prior written authorisation of the Labour Commissioner, whereas the Convention does not permit of any such restriction on the powers of inspectors.

Article 20. No annual report on the work of the labour inspectorate has been received in the ILO since 1967, and the last report received referred to the year 1963.

The Committee trusts that the necessary steps will be taken very shortly to amend section 9, paragraph 2, of the Employment Ordinance so as to meet the requirements of Article 12 of the Convention, and to publish and transmit to the Office within the time limits laid down by Article 20 the annual reports on the work of the inspection services.¹

Turkey (ratification: 1951)

The Committee notes with regret that for the second year in succession no report has been received and that accordingly once again no information is available in reply to the points raised in its direct request of 1972, which it is bound to repeat, and in its observation of 1973, which was as follows:

Articles 20 and 21 of the Convention. Since 1963, when the last annual report on the work of the labour inspection service (covering the year 1959) was published, the Government has referred to a number of measures designed to enable such a report to be issued. In its report for 1969-71 and in its statements to the Conference Committee in 1971 and 1972, the Government indicated that a circular had been issued to the regional labour directorates and that requests had also been made to the judicial authorities, in order to obtain the statistics needed for an annual labour inspection report. Since these measures do not appear to have had any effect so far and since an annual inspection report is still not available, the Committee feels obliged to urge once more that such a report be published and forwarded to the ILO promptly in accordance with Articles 20 and 21 of the Convention.

The Committee trusts that the Government will not fail to provide the information requested and to take the necessary action in the very near future.²

Uganda (ratification: 1963)

The Committee notes that according to the Government's report the draft Employment Decree, which takes account of the Committee's previous comments, is in its final stage of completion. The Committee hopes that this Decree will be adopted shortly and will bring the national legislation into conformity with the following provisions of the Convention which were the subject of its previous comments:

Article 12, paragraph 1 (c) (i) of the Convention, under which labour inspectors shall be empowered to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking;

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

² The Government is asked to supply full information to the Conference at its 59th Session.

Article 15 (c), under which labour inspectors shall treat as absolutely confidential the source of any complaint and shall give no intimation to the employer that a visit of inspection was made in consequence of the receipt of such a complaint.

Yugoslavia (ratification: 1959)

The Committee notes from the Government's reply to its previous observation and direct request that, following the amendments to the Constitution of the Socialist Federal Republic of Yugoslavia which were adopted in 1971, the work of labour inspection and supervision now falls within the exclusive competence of the federated republics and autonomous provinces. It also notes that the Basic Workers' Protection Act, which organises the running of inspection services, is repealed with effect from the coming into force of the respective Acts of the constituent republics and autonomous provinces, or not later than 31 December 1973.

In its previous comments the Committee pointed out that the Basic Workers' Protection Act did not give full effect to the provisions of the Convention concerning the right of entry of inspectors (Article 12, paragraph 1 (a)), their right to interrogate the employer or the staff of the undertaking (Article 12, paragraph 1 (c) (i)), their right to take samples (Article 12, paragraph 1 (c) (iv)), the notification of industrial accidents and cases of occupational disease (Article 14) and their obligation not to reveal the source of any complaint (Article 15 (c)). In its report the Government again states that those comments have been submitted to the competent bodies and will be examined in drafting the relevant new legislation. In these circumstances the Committee trusts that the legislation of the federated republics and autonomous provinces on the supervision of workers' protection will give effect to the Convention and take account in particular of the provisions mentioned above.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Austria, Bangladesh, Belgium, Bulgaria, Cameroon, Central African Republic, Chad, Colombia, Costa Rica, Cuba, Cyprus, Denmark, Dominican Republic, Finland, France, Ghana, Greece, Guyana, Haiti, India, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kenya, Madagascar, Malaysia, Malta, Mauritania, Mauritius, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Sierra Leone, Spain, Sri Lanka, Sudan, Switzerland, Turkey, Uganda, United Kingdom, Venezuela, Republic of Viet-Nam, Yugoslavia, Zaire.*

Convention No. 82: Social Policy (Non Metropolitan Territories), 1947

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

Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947

A request regarding certain points is being addressed directly to *Trinidad and Tobago*.

Convention No. 86: Contracts of Employment (Indigenous Workers), 1947

Requests regarding certain points are being addressed directly to *Malawi, Uganda*.

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948*Bolivia* (ratification: 1965)

Further to its earlier comments, the Committee notes the information given by the Government in its latest report, which shows that the trade union legislation currently in force is essentially that contained in the General Labour Act of 1939.

The Committee also notes with interest the information given by the Government to a representative of the Director-General of the ILO during the direct contacts which took place in October 1973. According to this information, the Government is fully conscious of certain discrepancies which at present exist between its trade union legislation and the provisions of the Convention, and the Ministry of Labour therefore intends to put this situation before the Political and Social Council, so that it may give an official ruling on the matter.

The Committee hopes that the Government's study of this question will soon lead to the adoption of the necessary measures to secure complete compliance with the Convention, and it would ask the Government to report any progress made in the matter.

Burma (ratification: 1955)

Further to its earlier observations, the Committee notes the statement made by a Government representative to the Conference Committee in 1973, and the information given by the Government in its latest report to the effect that, in accordance with section 158 of the new Constitution which came into force on 3 January 1974, every citizen has the right freely to join the political, social or other organisations authorised by the law.

The Committee notes that the Ministry of Labour communicated the Committee's comments to the Central People's Workers' Council, which has since decided to revise its Constitution bearing in mind those comments. The Committee also notes that the comments will be brought to the notice of the Labour Legislation Committee, which is entrusted with the redrafting of the existing labour legislation.

Finally, the Committee notes that the Government will supply a copy of the legislation when it has been adopted by the new Parliament.

The Committee hopes that the revised labour legislation will take full account of the guarantees prescribed by the Convention.

Byelorussian SSR (ratification: 1956)

The Committee takes note of the report sent by the Government as well as of the adoption of the new Labour Code on 23 June 1972.

The Committee observes that sections 2 and 228 of the Labour Code provide that the basic rights of workers shall include the right to associate in trade unions and that these unions operate in accordance with the statutes adopted by them and are not required to register with state organs. Further therefore to its observation in 1971, the Committee notes with satisfaction that the Code does not contain any clause obliging

a trade union to be registered with an inter-union organisation or with any other body.

In its observations in 1972 the Commission requested the Government to indicate in particular whether it is legally possible for workers belonging to a category to set up an organisation other than the trade union committee which represents that category; whether it is legally possible for managers of undertakings to set up and to join trade unions other than those to which workers in these undertakings belong; and what are the trade union rights of members of, and other workers on, collective farms, and those of foreign workers.

The Committee observes that as regards these matters the legislation of the Byelorussian SSR is similar to that of the RSFSR and the Ukrainian SSR and in consequence considers that it is appropriate to refer to the observations which it has made with respect to the Ukrainian SSR and the USSR in 1973 as well as to the observations which it makes this year in relation to the USSR. This applies also to the observations relating to the role assigned to the Communist Party in all organisations of the working people (article 101 of the Constitution of the Byelorussian SSR).

As regards the other matters on which the Committee had previously made comments (including more particularly the right of meeting without prior authorisation) the Committee remains prepared to consider the situation further in the light of any new elements which may be brought to its attention.¹

Chad (ratification: 1960)

The Committee notes with regret that, once again, the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Following its previous direct request the Committee regrets that no report has been received from the Government.

For several years the Committee has made comments in its direct requests to the Government on section 36 of the Labour Code of 1966, which prohibits trade unions from undertaking any political activities. In 1972 the Committee noted that in its report of 1971 the Government pointed out that the fundamental aim of trade unions was "the defence of economic, industrial, commercial and agricultural interests", and that to permit them to be organised politically would mean diverting them from their true vocation. The Government added that the history of politics and trade unionism in Africa made such a restriction essential in the interests of public order.

The Committee indicated that it does not deny, as is indeed stated in a resolution adopted by the International Labour Conference in 1952, that the fundamental mission of the trade union movement is and must remain "the economic and social advancement" of its members, and it can understand that a government may be anxious to prevent unions from political affiliations which might make them lose sight of this fundamental mission.

The Committee takes the view, however, that there is a basic difference between preventing unions from being subjugated to political parties and prohibiting them from engaging in "any political activity" in general. Indeed, it frequently happens that trade unions, in carrying out their task of defending the occupational interests of their members, find themselves obliged to take a position for or against certain aspects of the economic and social policy of the Government.

A wide interpretation of the text of section 36 of the Labour Code could lead to the conclusion that trade unions were going beyond their statutory competence if they ventured to make suggestions or criticisms concerning, for instance, the Government's wages policy.

Such does not appear to have been the intention when the legislation in question was drafted. The Committee therefore considers that it would be desirable to change the wording of section 36 of the Labour Code in such a way as not to prohibit completely any activity which, while directed essentially to the defence of members' interests, might have some political aspects, and to leave it to the courts to repress any abuses by occupational organisations which might attempt to transform unions into political instruments.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Congo (ratification: 1960)

Further to its earlier observations, the Committee notes with satisfaction the information supplied by the Government to the Conference Committee in 1973 and in its latest report, to the effect that Ordinance No. 13/73 of 18 May 1973 repealed Acts Nos. 40/64 and 3/65 setting up a single trade union organisation, which the Committee had found not to be compatible with the Convention.

Costa Rica (ratification: 1960)

In its earlier observation the Committee expressed the hope that, in view of the importance of the exercise of trade union rights in plantations, the right of trade union leaders to have access to them and the right of the workers to hold meetings, the Government would, as soon as possible, adopt legislative and administrative measures to ensure that all concerned may exercise these rights fully and effectively.

The Committee notes with interest the information given by the Government in its latest report, to the effect that it will submit to the Legislative Assembly a Bill to guarantee the right to hold trade union meetings in public places inside plantations. The Committee would ask the Government to supply information on any development in this matter and on the measures that have been taken to ensure that trade union leaders have access to plantations for the purpose of legitimate trade union activities.

The Committee also notes the statements made by a Government representative and by the Worker member of Costa Rica to the Conference Committee in 1973 regarding section 334 of the Criminal Code, which imposes penal sanctions for incitement to strike in the public services. According to the Worker member, the Government is an important employer, and this fact has led it to restrict the exercise of the rights laid down in the Convention. According to the Government representative, the Government has never made use of the section in question and has submitted to Parliament proposals for, among other things, the repeal of section 334 of the Criminal Code.

The Committee notes that, according to the Labour Code, strikes are not permitted in the public services, which include all work performed by persons in the employment of the State or a state institution, if the work in question is not of the same nature as work performed also by private undertakings carried on for profit.

In this connection the Committee would point out, as it has done before with regard to public officials, that the recognition of freedom of association does not necessarily imply the right to strike as well. However, if strikes are prohibited for those officials, and also in essential services, it is important that they should have adequate guarantees that their rights will be safeguarded as, for example, appropriate conciliation and arbitration procedures which are impartial and speedy and in which the parties concerned can participate at every stage.

Cuba (ratification: 1952)

The Committee notes that the Government's last report contains no new information.

The Committee remains prepared to consider further the points raised in preceding years at such time as any new elements shall have been brought to its attention. The Committee would be grateful if the Government would supply information on any developments in this connection.

Czechoslovakia (ratification: 1964)

The Committee takes note of the report of the Government for the period 1971-72, received in June 1973, as well as of the latest report.

In its observations in 1971 the Committee noted that under section 5 of the Constitution, Act No. 37 of 1959, and also under the Labour Code of 1965, the sole trade union organisations which appear to be recognised in law are the Revolutionary Trade Union Movement and its basic units. The Committee noted that Law No. 68 of 1951 provides for the establishment of only one unified trade union organisation and specifically recognises the Revolutionary Trade Union Movement as an organisation within the terms of this law. In these circumstances the Committee considered that the establishment of workers' organisations for furthering the interests of their members, independent of the Revolutionary Trade Union Movement, would not legally be possible.

The Committee notes with satisfaction the information submitted by the Government in its latest report to the effect that the sections of Act No. 68 of 1951 mentioned have ceased to apply to trade unions pursuant to Act No. 74 which came into force on 3 July 1973.

The Committee observes, however, that the other legislative texts to which it referred above remain in force and it must therefore note once again that a situation in which only one single trade union organisation and its basic units are recognised in law is a situation which constitutes a denial to workers of the possibility of choice between different organisations, and which accordingly contravenes the rights and guarantees provided by the Convention.

The Committee requests the Government to provide detailed information on the legal position of managers of undertakings as regards the establishment of trade union organisations different from those to which workers in the same undertaking belong.

Dominican Republic (ratification: 1956)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes the information given in the Government's report in reply to the observations made regarding the revision of the Labour Code.

The Government states that the Committee's previous observations are being considered by a committee of technical officials of the State Secretariat for Labour with a view to introducing them in the revised Labour Code which is in course of preparation.

These observations dealt with the position of various groups of workers who do not enjoy full freedom of association because they do not fall within the scope of the Labour Code, such as civil servants and other workers employed by the State, as well as certain classes of agricultural workers by virtue of section 265 of the Code; this situation is contrary to Article 2 of the Convention.

Moreover, the observations pointed out that the concurrent application of sections 368 to 379 of the Code might seriously restrict the right to strike and impair the rights guaranteed to trade unions by Article 3 and Article 8, paragraph 2, of the Convention.

The Committee requests the Government to be good enough to supply information on all developments in this field, and to submit copies of the new text of the revised Code as soon as it is adopted.

Egypt (ratification: 1957)

Further to its earlier observations, the Committee notes with interest the statement made by the Government in its latest report, to the effect that the committee set up to draft unified labour legislation was proposing to alter the chapter

concerning trade unions so as to bring it into line with the Convention, both as regards the setting up of more than one general federation of workers and as regards the right to strike. The Committee also notes, in connection with its observation concerning the proposal to transfer to the General Assembly of the General Federation of Workers certain of the powers at present exercised by the Ministry of the Labour Force, that the changes in the chapter concerning trade unions take account of the basic principles of freedom of association so as to guarantee the exercise of that right.

The Committee notes, however, that the Government's report contains no information on the point raised in its previous observation concerning section 162 of the Labour Code, as amended, which prohibits the establishment of more than one general trade union of workers in the same occupation or trade, and section 169, which prohibits the establishment of more than one trade union committee in any town or village.

The Committee would again point out that these provisions appear incompatible with Article 2 of the Convention, according to which workers have the right to establish and to join organisations of their own choosing, and with Article 11, according to which each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

The Committee hopes that the new unified labour legislation will take account of all the points it has raised, and it would ask the Government to report any progress made.¹

Greece (ratification: 1962)

Further to the recommendations made in the Report of the Commission of Inquiry established to examine the observance by Greece of the freedom of association Conventions and to the observations made by the present Committee in 1973, the Committee takes note of the Government's latest report and of the information it gave to the Conference Committee in 1973, as well as of two communications received in March 1974 just before the start of the Committee's session.

The Committee notes in particular the statement contained in the latter communications to the effect that the Government has removed from the draft Labour Code, now in preparation, all of the provisions aimed at bringing the legislation into accord with ILO Conventions and has included them in a separate text which takes into account the Committee's comments. This text has been signed by the Prime Minister on 15 March 1974.

In this connection, the Committee makes the following observations, and it also addresses a new direct request concerning certain questions to which the Government did not reply in its report and which affect both its legislation in general and its legislation concerning journalists, seafarers' unions and civil servants.

1. *Articles 3 and 4 of the Convention.* The Committee had pointed out that certain provisions of Legislative Decree No. 890/1971, namely sections 17 (paragraph 3), 14, 31 and 38, in so far as they imposed restrictions on the freedom of trade unions to elect their representatives, were not in conformity with Article 3 of the Convention. The Committee notes the Government's statement that the legislative amendments no longer contain such restrictions.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

2. The Committee had also invited the Government to provide information concerning all decisions of the courts applying the provisions contained in sections 21 and 22 of Legislative Decree No. 795/1970, according to which associations could be suspended or dissolved by the courts, more particularly when their aims or activities were directed against the territorial integrity of the State or against the constitutional or social system, or if they pursued objects other than those set out in their statutes. The Government states that no decision has been taken by the courts on the application of those provisions. The Committee would ask the Government, in future reports, to keep it informed of all cases coming before the courts on such matters and of the courts' decisions thereon.

3. The Committee had pointed out that the system of financing trade unions in Greece through the organisation ODEPES, the resources of which come mainly from part of the budget of the Workers' Fund, which is controlled by the State, although the financial help provided by the ODEPES is voluntary, was restrictive in character and was a threat to the independence of occupational organisations. The Committee also considered that the organisation and administration of trade union finances, including the fixing of union dues, were internal matters for the unions to settle themselves, and that, as regards the collection of dues, the unions should be free to conclude agreements with the employers providing for a check-off system. It had thought this was particularly important in Greece, where long-standing difficulties seem to exist in arranging a system of voluntary payment of union dues. In this connection the Committee noted the information given by the Government in its previous report on Convention No. 98, according to which the Greek Federation of Private Employees had asked the Government for permission to introduce clauses of this kind in collective agreements. The Committee noted, however, that a decision of the Council of State makes it impossible at present to collect union dues by a check-off system provided for by collective agreement.

4. The Government states that it has prepared a text, not yet enacted, to provide that in future the sums required for the financial support of workers' associations will no longer be channelled through the Workers' Fund, but through the social insurance services. The Committee considers that this system would not appreciably change the present system and would not suffice to guarantee the financial independence of the trade union movement.

5. The Committee also notes that the Government makes no comment on the question of the deduction of union dues at source. It would again express the hope that the Government, in order to enable the unions to become financially independent, will reconsider the present system in the light of the foregoing comments, and in particular that it will adopt legislation permitting the unions, if they so desire, to collect the dues from their members by means of check-off arrangements established by collective agreements.

6. The Committee had pointed out that section 12, paragraph 2, of Legislative Decree No. 890/1971, which prescribes that all the books, records, accounts, etc., of a trade union must be kept available for inspection at any time by the supervisory authority, conferred wide powers on the authorities being liable to lead to abuse and restrict the right of the unions to organise their administration and activities without interference from the public authorities. The Committee notes the Government's statement that the legislative amendments no longer contain a provision empowering public authorities to inspect at any time the books and accounts of the unions.

7. As regards section 5 of Legislative Decree No. 890/1971, with regard to which the Committee had made an observation because it prohibits trade unions, in general terms, from engaging in political activities, the Committee notes that the Government no longer mentions the point in its recent communications. The Committee would refer again to its earlier observation that to prohibit the unions in general terms from engaging in political activities could give rise to difficulties because the interpretation given in practice to such a provision could change at any time and thus restrict the organisations' possibilities of action. It would therefore appear desirable that the Government should be able, without prohibiting in general terms all political activities by the unions, to entrust to the judicial authorities the task of repressing any abuses which might, in certain cases, be committed by occupational organisations which had lost sight of the fact that their fundamental objective should be the economic and social advancement of their members.

8. *Articles 5 and 6.* The Committee had pointed out that section 2 of Legislative Decree No. 890/1971, which prescribes that there must be at least five unions in order to constitute a federation, and at least five federations to constitute a confederation, was incompatible with the Convention. The Committee notes the Government's statement that the legislative amendments remove all those restrictions and provide that occupational organisations will be free to lay down in their rules the conditions under which occupational organisations at higher levels may be constituted.

9. *Article 8.* In the observation it made in 1973, the Committee noted that the Constitution of 1968 had not yet been brought fully into force and that the state of siege had not yet been lifted for the whole country. At the Conference in June 1973, the Government declared that the provisions of the Constitution concerning civil liberties had been brought back into force throughout the whole country, except for a few sections, and that only in the area of the capital.

10. The Committee finds that since then the state of siege has again been imposed on the whole country. Consequently, the Committee can only recall, as did the Commission of Inquiry in 1970, the principles set forth in the resolution concerning trade union rights and their relation to civil liberties, adopted by the International Labour Conference in 1970, namely that the rights conferred upon workers' and employers' organisations must be based upon respect of those civil liberties which have been enunciated, in particular in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, and that the absence of these civil liberties removes all meaning from the concept of trade union rights. The Committee recalls that in that resolution the Conference placed special emphasis on such rights as freedom and security of person, freedom from arbitrary arrest and detention, freedom of opinion and expression, freedom of assembly, the right to a fair trial by an independent and impartial tribunal and the right to protection of the property of trade union organisations. The Committee would once again express the hope that the Government will, in the near future, be able to report that these rights, which are essential for the normal exercise of trade union rights, have been fully restored in Greece.

The Committee hopes that the new legislation announced by the Government will remove the divergences between the national legislation and the Convention. The Committee would ask the Government to report all progress made in this direction and to provide the text of the new legislation.¹

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Guatemala (ratification: 1952)

Further to its earlier observation, the Committee notes the statements made to the Conference Committee in 1973 and the information contained in the Government's latest report, to the effect that a special Labour Commission, established on a tripartite basis in September 1973, has begun its task of preparing amendments to the Labour Code.

The Committee trusts that the task of revising the legislation will be completed in the near future and that account will be taken of its earlier comments, more particularly as regards section 222 (a) of the Labour Code (prohibiting the re-election of trade union leaders), section 211 (a) and (b) (supervision of unions by the Government), section 226 (a) (dissolution of unions which have intervened in matters of electoral or party policy) and section 211 (c) (prohibition of the establishment of minority unions in undertakings).

As regards the point raised in its earlier observation concerning the trade union rights of workers employed directly or indirectly by the State, who are excluded from the scope of the Labour Code and the Civil Service Act, the Committee feels obliged to remind the Government that it would be desirable to adopt provisions specifically granting to such workers the rights prescribed by the Convention.

The Committee further wishes to refer to its previous comments concerning Decree No. 1786 of 1968, which, in the case of collective economic demands, prohibits recourse to strikes or to arbitration by workers in independent or semi-independent government undertakings, the economic activities of which are similar to those of private undertakings. The Committee must once again point out that this provision constitutes a serious limitation on the possibilities of action and the activities of the trade unions in question. It would remind the Government that the Committee on Freedom of Association has indicated that the prohibition of strikes might be permissible in strictly essential services, the interruption of which would be harmful to the public interest. In such a case, it is important that adequate guarantees are given to the workers concerned so that their interests will be safeguarded by appropriate conciliation and arbitration procedures which are both impartial and rapid, and in which those concerned can take part at every stage. The Committee trusts that these considerations will be borne in mind when the legislation is being revised.

With regard to its earlier comments concerning section 63 of the Civil Service Act, which permits public officials freely to form associations to defend their professional interests, but which is not governed by any regulations for its application, the Committee notes that the National Civil Service Office has been consulted. It would again express the hope that the Government will, in the very near future, take the necessary steps to implement fully the freedom of association of public officials in accordance with the provisions of the Convention.

Finally, the Committee feels obliged once again to ask the Government to state whether Decree No. 31-71, which governed trade union activities during the state of emergency, has been repealed.¹

Honduras (ratification: 1956)

The Committee notes the Government's report, which arrived too late to be examined in 1973, and the statement made by a Government representative to the

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Conference Committee in 1973 to the effect that the Government was undertaking a revision of the Labour Code.

In its earlier observations the Committee pointed to the need to amend section 2 of the Labour Code so as to extend the right of association to workers in agricultural or stockbreeding undertakings which did not permanently employ more than ten workers, in order to conform to Article 2 of the Convention. In this connection, the Government states in its report that Article 124, section 14, of the Constitution grants the right to organise without any restriction, thus repealing the provisions of section 2 of the Labour Code. The Government also states that it has granted legal personality to trade unions of workers employed in agricultural undertakings which have fewer than ten workers, and that all that remains to be done is to amend section 2 of the Code formally so as to bring it into conformity with the Convention.

The Committee hopes that when the Government revises the Labour Code it will amend section 2, and also the other provisions mentioned below, on which the Committee has commented in the past:

1. Harmonisation of sections 475 and 504 of the Labour Code with Article 2 of the Convention, to eliminate the requirement that at least 90 per cent of the members of a trade union must be Honduran workers.

2. Amendment of section 472 of the Labour Code, which provides, contrary to Article 2 of the Convention, that there should be not more than one trade union within any undertaking, institution or establishment, and that, where several trade unions exist together, only the one comprising the largest number of workers should be retained.

3. Amendment of section 510 (c) of the Labour Code, which provides, contrary to Article 3 of the Convention, that trade union leaders must, at the time of their election, be normally engaged in the occupation or trade represented by the union and have been normally so engaged for more than six months during the previous year.

4. Harmonisation of the following provisions with Article 4 of the Convention, which stipulates that workers' and employers' organisations should not be liable to be dissolved or suspended by administrative authority:

- (1) sections 570 and 571 of the Labour Code, which provide that the Ministry of Labour and Social Welfare may, by order, impose sanctions which may go as far as the dissolution of a trade union which has engaged in or supported a strike not decided upon by the necessary majority;
- (2) section 500 (2) (b), under which trade union leaders responsible for infringements of the Code may be suspended by administrative authority; and
- (3) section 500 (2) (c), under which the Ministry of Labour and Social Welfare may temporarily withdraw the legal personality of a trade union responsible for infringements of the Code.

5. Harmonisation with Article 6 of the Convention of section 537, under which federations and confederations of trade unions have no right to declare a strike, and section 541, which prescribes that the leaders of federations or confederations must have been engaged in the occupation or trade concerned for more than one year before their election.

6. Amendment of section 500 (5) of the Labour Code, which provides that any member of the Committee of management of a trade union who has caused the union to incur the sanction of dissolution may be deprived of the right of association in any form for up to three years, which is incompatible with Article 2 of the Convention.

Hungary (ratification: 1957)

The Committee takes note of the report of the Government which refers exclusively to the statement made by a Government representative to the Conference Committee in 1973.

In its last observation the Committee had requested the Government to give information on the legal position with regard to the right of workers of the same category to set up an organisation independent of the trade union to which the works committee (referred to in the Labour Code) belongs at the level of the undertaking, to the right of managers of undertakings to set up and join organisations other than those to which workers in these undertakings belong, and to the right of members of collective farms to establish and join trade unions.

As regards the first issue, the Committee notes the statement of the Government representative that the Constitution guarantees freedom of association, that the operation of trade unions is not subject to registration with any administrative or other body and that no legal provision prohibited the establishment of a trade union other than the trade union committee of the undertaking.

The Committee observes, however, that the Labour Code bestows certain basic trade union functions, such as collective bargaining (section 13) and the raising of objections in undertakings in regard to violation of the regulations relating to working conditions or the treatment given to the workers (section 14 (3)), on the works committee exclusively. In these circumstances the legislation appears to preclude the possibility of establishing other organisations which could operate effectively to further and promote the interests of their members and hence would be contrary to the Convention.

As regards the position of managers of undertakings, the Committee notes the statement of the Government representative to the effect that they have the right to establish organisations different from those of the employees. The Committee requests the Government to indicate which provisions are applicable in such cases and whether such organisations could be established to further and protect the interests of their members.

As regards the members of agricultural co-operatives, the Committee notes the statement of the Government representative that these can establish special organisations and territorial organisations under sections 90 and 91 of Act No. III of 1967, and a national council under sections 113 and 114 of the same Act. The Committee requests the Government to send the text of this law and to give detailed information on the functions of the organisations mentioned.

Liberia (ratification: 1962)

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 and the information given by the Government in its latest report to the effect that a draft Labour Code had been prepared and submitted to Congress for adoption.

The Committee noted that immediate action was to be taken in this matter as soon as the Legislature convened in January 1974 and that, according to the Government, the provisions of the new Code would remove all discrepancies between the legislation and the Convention.

The Committee hopes that the draft will be adopted in the near future and that it will take account of the comments made in its earlier observation concerning the rights of workers' organisations in agriculture, freedom of association for workers and employees in the public sector and the right of organisations to elect their representatives freely, thus bringing the legislation into full conformity with the Convention.

Madagascar (ratification: 1960)

The Committee notes the statements in the latest report of the Government to the effect that the current revision of the Labour Code will remove from section 3 the sentence: "Trade unions are forbidden to engage in any political activity". According to the Government this is to be replaced by the following sentence: "The sole purpose of trade unions is to study and defend their occupational interests".

Information to this effect was given already in the report sent in 1970. The Committee would therefore ask the Government to take the necessary steps to have the new text adopted in the near future, to furnish information on the developments concerning this text and to send a copy of the legislation when enacted.

Mongolia (ratification: 1969)

See General Observations.

Romania (ratification: 1957)

The Committee takes note of the report of the Government which refers to the Committee's previous observations.

As regards the new trade union law which is in preparation according to previous statements of the Government, the Committee observes that the draft of this law has not yet been completed. The Committee hopes that the work in this connection will be finished in the near future and that the principles and guarantees provided for in the Convention will be fully taken into account.

The Committee notes that under section 164 of the new Labour Code, trade unions are defined as professional organisations constituted pursuant to the right of association laid down in the Constitution and which operate on the basis of the by-laws of the General Federation of Trade Unions, the federations for the different branches of activity and the trade union organisations in enterprises. In this respect the Committee takes note of the statements of the Government in its report of 1972, to the effect that pursuant to the decisions adopted by the Congress of the General Federation of Trade Unions in March 1971, every union in an undertaking or institution and every trade union federation by branch of activity, carries out its functions on the basis of its own by-laws, based on model by-laws approved by the Congress. The Government also refers to the by-laws of the General Federation of Trade Unions and to the model by-laws of the trade union federation for each branch of activity and of the basic trade union organisation stating that on the basis of what is provided therein, trade unions can freely affiliate with federations, and these with the General Federation of Trade Unions, and that it is possible for trade union organisations which have no affiliations to exist.

The Committee would wish the Government to clarify whether it is possible to set up trade unions, federations, and confederations able to draw up their own by-laws

without having to follow the model by-laws of the General Federation of Trade Unions and able to carry on their activities independently of this organisation.

In its observation in 1973 the Committee requested the Government to indicate the position with regard to trade union rights of managers of undertakings and members of collective farms.

As regards the first point, the Committee takes note of the statement of the Government in its last report to the effect that section 27 of the Constitution guarantees the right of association of all citizens without distinction, and that consequently managers of undertakings can join existing trade unions or form separate organisations as they choose. Making use of this right managers of undertakings established the "Romanian Managers of Undertakings Association" with its own by-laws and internal regulations in April 1973, according to the Government.

As regards the members of collective farms the Committee notes the statement of the Government that their rights and obligations are governed by the law on co-operative associations. According to the Government, collective farms are established through the free association of farmers who combine on a co-operative basis their land and the main means of production which they possess. The Committee notes that the provisions of the Labour Code relating to trade unions do not appear to apply to members of collective farms. In these circumstances the Committee requests the Government to indicate whether the draft of the new trade union law also covers members of these farms, granting them the right to establish organisations for furthering and defending their interests.

Syrian Arab Republic (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes the Government's report, which gives information in response to an earlier direct request and observation, as well as the text of Legislative Decree No. 250 of 1969. The Committee regrets to find that no progress has been made as regards the points which it has been raising for several years, notwithstanding the Government's statement in its previous report to the effect that it was prepared to revise any legislation which restricted the fundamental freedom of trade unions to exercise their activities, or of workers to establish trade unions. Consequently, it can only repeat once again the points which it had mentioned as not being in conformity with the Convention.

1. Sections 2 and 8 of Legislative Decree No. 84 of 1968, which provide that trade union committees (trade union organisations for a category of workers) may be established only if the number of their members is at least 50, and that categories of workers each having fewer than 50 members are required to form a single trade union committee, are not in conformity with Articles 2 and 11 of the Convention.

2. Sections 2 to 7 of Legislative Decree No. 84 provide that only one trade union committee can exist for each category of workers, and only one single trade union for a given occupation in a region; moreover, the trade unions representing the various occupations in a region may federate into a single regional workers' union only, and trade unions for a given occupation or group of occupations in the whole country may federate into a single central trade union only; finally, the regional workers' unions and the central trade unions have the right to establish only one single Central Federation of Workers' Unions. These provisions, which impose a unified and uniform system in the trade union structure, are incompatible with Articles 2, 5 and 6 of the Convention. The same is true of the similar provisions contained in sections 2 to 5 and 14 of Legislative Decree No. 253 of 1969 concerning agricultural workers and in section 2 of Decree No. 250 of 1969 concerning small employers and craftsmen.

3. Section 25 of Legislative Decree No. 84 and section 24 of Legislative Decree No. 253, restricting the right of foreigners to become members of a union, are contrary to Article 2 of the Convention.

4. Section 44 (b) (4) of Legislative Decree No. 84, which provides that one of the qualifications for holding trade union office is employment in the occupation for at least six months, is in conflict with Article 3 of the Convention. The same is true of section 35 (4) of Legislative Decree No. 253.

5. Sections 32, 33, 35 and 36 of Legislative Decree No. 84, sections 42, 45 and 46 of Legislative Decree No. 253 and sections 6 and 12 of Decree No. 250, restricting the use of trade union funds, prohibiting the acceptance of gifts or legacies without authorisation and subjecting trade unions and their accounts to financial control, at all times, by the authorities, are not in conformity with Article 3 of the Convention.

6. Section 49 (c) of Legislative Decree No. 84 and section 40 (c) of Legislative Decree No. 253, according to which the General Federation has the right to dissolve, on various grounds, the executive of any trade union, are incompatible with Article 3 of the Convention.

The Committee trusts that the Government will reconsider these points and will state what measures it proposes to take in order to bring its legislation into conformity with the Convention.

Trinidad and Tobago (ratification: 1963)

The Committee notes the latest report of the Government and the statement made by a Government representative to the Conference Committee in 1973.

It notes with regret that on neither of these occasions did the Government supply any fresh information. It therefore feels compelled once again to repeat its observation, the text of which was as follows:

Section 24 of the Civil Service Act, 1965, provides that for the purpose of recognition by the Minister an association formed pursuant to subsection (2)—or by subsection (1), an existing organisation—may not be representative of any class or classes of civil servants already represented by an appropriate recognised association nor may it admit to its membership a civil servant who is a member of an appropriate recognised association. Similar provisions are contained in section 72 of the Education Act, 1966; section 28 of the Fire Service Act; and section 26 of the Prison Service Act, 1965.

According to these provisions and to the information sent by the Government it would appear that whenever a category of civil servants is already represented by an association, such civil servants may form or join other associations, but the latter would not have any right to represent their members.

The Committee considers that this legislation is not in conformity with Article 2 of the Convention, which establishes that workers shall have the right to establish and join organisations of their own choosing, and with Article 3, which guarantees the right of workers' organisations to organise their activities without the interference of the public authorities.

The Committee further considers that if the system of representation of a whole class of civil servants by a single association for purposes of consultation and bargaining is maintained, it would be necessary to establish adequate safeguards and objective criteria for the determination of the most representative associations entitled to carry out these functions. Such safeguards and criteria should include, in particular, the following: the representative organisation to be chosen by a majority vote of the employees in the unit concerned and the right of an organisation which failed to secure a sufficiently large number of votes to ask for new elections after a stipulated period.

The Committee also notes that, as a result of sections 27 and 28 of the Fire Service Act, fire officers may form associations but may not be represented by the Civil Service Association nor by any other trade union recognised as a bargaining body for any class or classes of public officers immediately before the commencement of the Civil Service Act, 1965. Such provision is equally contrary to Article 2 of the Convention.

The Committee trusts that the Government will, at an early date, adopt appropriate measures in the light of the above observations so as to ensure full compliance with the provisions of the Convention.¹

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

Ukrainian SSR (ratification: 1956)

The Committee takes note of the report of the Government as well as the statement made to the Conference Committee in 1973 by the Workers' member for the Ukrainian SSR, and observes that these do not contain any new elements with respect to its previous observations. These refer in particular to the question relating to the right of workers belonging to a category to set up an organisation other than the trade union committee which represents that category and the right to organise of managers and members of collective farms.

The Committee observes that the Conference Committee when dealing with the application of the Convention in the Ukrainian SSR made reference to the statements made respecting the application of the Convention in the USSR. Consequently, since the matters in question are similar, the Committee would also refer in this case to its observations relating to the USSR, both as regards the three points mentioned in the previous paragraph and as respects the role assigned by article 106 of the Constitution of the Ukrainian SSR to the Communist Party in all organisations of the working people.

As regards the other matters on which the Committee had previously made comments (including particularly the right of meeting without prior authorisation), the Committee remains prepared to consider the situation further in the light of any new elements which may be brought to its attention.¹

USSR (ratification: 1956)

The Committee regrets that the report of the Government has not been received, but notes the statement made by a Government representative to the Conference Committee in 1973 with respect to the Committee's earlier observations.

The Committee, referring to the issue raised concerning the right of workers to establish an organisation other than the trade union committee representing the category to which they belong, had observed in 1973 that the provisions contained in the Labour Code of the RSFSR, such as section 7 concerning collective bargaining and section 230 concerning the rights of trade union committees, as well as the Regulations of the Rights of Factory, Works or Local Trade Union Committees of 1971, do not contemplate the possible existence of another trade union organisation established by workers of the category represented by the trade union committee referred to in the legislation and, by bestowing trade union functions solely upon the trade union committee of the undertaking concerned, would seem to preclude the possibility of another organisation representing the workers of the same category being set up. The Committee considered that if the legislation directly or indirectly were to have such an effect, this would be incompatible with Article 2 of the Convention which provides for the right of workers to establish the organisations of their own choosing.

The Government representative stated that neither the sections of the Labour Code referred to nor any other provisions excluded the possibility of setting up organisations other than those which already existed. The sections cited did not deal with the question of the number of trade unions and workers themselves decided to what trade union movement they wished to belong. The Government representative added that this question was not decided by legislation.

The Committee takes note of these clarifications. It must note, however, that even if the workers of a particular category could set up a new organisation, the latter

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

would not be able to carry out its functions since the legislation bestows these functions on the trade union committee exclusively. Consequently the Committee can only repeat its earlier conclusions.

As regards the right to organise of managers of undertakings, the Committee requested the Government to confirm its understanding that, by virtue of the provisions of article 126 of the Constitution of the USSR, sections 2 and 225 of the Labour Code of the RSFSR and section 27 of the Civil Code of the RSFSR, managers have the right to establish organisations of their own choosing, in particular for furthering and defending the interests of their members, if they consider it necessary.

The Committee takes note of the statement of the Government representative that managers have the right to form any sort of social organisation, including trade unions, not only to discuss problems relating to production but also to defend their interests as managers of undertakings.

As regards the question concerning the right to organise trade unions of members of collective farms, the Committee observed that these members appeared to be covered by article 126 of the Constitution of the USSR which recognises the right to unite in social organisations, including trade unions, for all citizens, and by section 27 of the Civil Code of the RSFSR, governing the procedure and conditions for the establishment of trade unions. However, with regard to the operation of trade unions section 225 of the Labour Code of the RSFSR is not applicable in the case of members of collective farms, who are excluded from the Labour Code. The Committee, therefore, requested the Government to indicate whether the members of collective farms could not only establish organisations under the provisions of the Constitution and the Civil Code cited, if they so wish, but whether such organisations could also effectively operate for furthering and defending the interests of their members without the necessity of special legislation being adopted to this effect.

The Committee notes the statement of the Government representative to the effect that the question does not arise in the practical life of the country, but that in any case workers on collective farms had the right to set up trade unions by virtue of the provisions of the Constitution. According to this statement, if these workers wished to establish a trade union, practice would determine under what form it should be done and whether, for example, special legislation should be adopted.

The Committee considers that this uncertainty concerning the conditions under which a trade union of members of collective farms could effectively operate may have the effect of preventing the establishment of such organisations and the adoption of express provisions in this respect in accordance with the guarantees of the Convention would enable the workers concerned to form trade unions if they so desire.

As regards the provisions of article 126 of the Constitution, which provides that the Communist Party is the leading core of all organisations of the working people, the Committee observed that if the above-mentioned constitutional provisions should result in it being legally impossible to set up any organisation, at whatever level which is 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 right of workers and employers to establish organisations of their own choosing.

In his statement the Government representative declared that the Convention did not deal with the question of the relationship between trade unions and political parties, but only with the relationship between trade unions and the State. According

to the representative, referring to the preparatory work of the Convention, the latter was aimed at guaranteeing freedom of association in relation to the public authorities, and consequently, it was not within the competence of the Committee to examine the relationship between trade unions and political parties.

The Committee considers that if, by virtue of article 126 of the Constitution, it were impossible to establish a workers' organisation independent of the Communist Party, the question which would arise would be precisely one of trade union freedoms being restricted as a consequence of certain legislative provisions adopted by the State. In this connection the Committee deems it useful to recall that the resolution on the independence of the trade union movement, adopted by the International Labour Conference in 1952, lays down that governments should not attempt to transform the trade union movement into an instrument for the pursuance of political aims nor should they attempt to interfere with the normal functions of a trade union movement because of its freely established relationship with a political party.

As regards other matters on which the Committee had previously made comments (including particularly the right of meeting without prior authorisation and the matters arising out of article 126 of the Constitution of the USSR) the Committee remains prepared to consider the situation further in the light of any new elements which may be brought to its attention.¹

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In addition, requests regarding certain points are being addressed directly to the following States: *Cameroon, Chad, Ecuador, Egypt, Ethiopia, Gabon, Greece, Israel, Mongolia, Nicaragua, Syrian Arab Republic.*

Convention No. 88: Employment Service, 1948

Algeria (ratification: 1962)

The Committee notes from the information given by the Government in response to its earlier observation that the Guidance Council of the National Labour Office has not yet been set up. It notes, however, that steps have been taken to bring section 14 of the regulations governing the National Labour Office (Order No. 71-42 of 17 June 1971), which provides for the establishment of the Council, into conformity with Article 4 (3) of the Convention, which provides that representatives of employers and workers shall be appointed in equal numbers, and that a draft text concerning the actual establishment of that body is at present being studied.

The Committee hopes that this text will be adopted at an early date, that the Guidance Council will be set up in accordance with the provisions of Articles 4 and 5 of the Convention, and that the Government will provide information as to its composition, tasks and working.

Argentina (ratification: 1956)

Further to its previous observation, the Committee notes with interest the further progress made in establishing a national employment service, in that employment services have now been established in fifteen out of the twenty-three provinces and in

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

that these employment services have now been brought under the jurisdiction of the Ministry of Labour, thus ensuring that they come under the direction of a national authority, as required by Article 2 of the Convention.

The Committee has also noted that, following the restructuring of the Ministry of Labour, the national employment service is being reorganised with a view to fitting it to undertake the functions laid down in the Convention. In this regard the Committee has examined with interest the draft legislative decree for the national employment service, referred to in the Government's report, a copy of which was made available to it through the Inter-American Centre for Labour Administration.

The Committee hopes that, with the assistance of the human resources assessment and planning project referred to in its previous observation, which it understands is to include an expert in employment service organisation, the employment service will be extended to all the provinces of the country and will be equipped to undertake all the functions laid down in the Convention. It further requests the Government to supply information on the measures taken for the application of each Article of the Convention, in accordance with the report form approved by the Governing Body.

Colombia (ratification: 1967)

Further to its earlier observations concerning Convention No. 2 and its previous direct request concerning Articles 2 and 3 of Convention No. 88, the Committee notes the information given by the Government in its report on Convention No. 2, to the effect that a draft decree to organise the National Employment Service (which has hitherto consisted of a pilot office in Bogota), providing for its extension to the cities of Cali, Medellin and Barranquilla, would come into force during the first quarter of 1974. The Committee further notes that the draft also makes it possible for the Government to set up other employment offices; it trusts that, in accordance with these provisions, a network of employment offices will be established in accordance with Article 3 of the Convention, and that the Government will supply information as to the progress made in the matter.

Cyprus (ratification: 1960)

Article 4 of the Convention. Further to its earlier comments, the Committee notes with satisfaction from the Government's latest report that provision has been made for representatives of Turkish Cypriot workers and employers to sit on the advisory committees of the public employment service.

Article 3. The Committee notes the comments made by the Federation of Turkish Trade Unions of Cyprus to the Conference Committee in 1972 and repeated in a letter of 17 December 1973, a copy of which was sent to the Government for its observations. According to these comments, changes have been made in the geographical distribution of employment exchanges, so that the Turkish community is alleged to be less well served than formerly. In view of the fact that in 1970 a Government representative informed the Conference Committee that there had been no change in the siting of employment exchanges since 1959, the Committee would ask the Government to supply full recent information on the point.

Dominican Republic (ratification: 1953)

The Committee notes with regret that no report has been received. However, it notes the statement made by a Government representative to the Conference

Committee in 1973 in response to its earlier observations. According to that statement, the report of an inter-organisation mission set up to study a programme to promote full employment will certainly cover the question of the establishment of advisory committees for the Employment Service.

The Committee hopes that, as a result of the mission's report, steps will be taken to set up a national advisory committee and possibly also regional advisory committees in accordance with the Convention, and that the Government will supply information on the progress made in this matter.

Egypt (ratification: 1954)

The Committee notes with regret that the National Advisory Council provided for by a ministerial Decree of 28 May 1961 and by section 15 of the Labour Code has still not been established. The Committee hopes that this body will be set up in the near future so as to give effect to Articles 4 and 5 of the Convention, and that information will be supplied on its establishment and its activities.

Guatemala (ratification: 1961)

The Committee notes the information supplied by the Government in response to its previous observation concerning Article 9 of the Convention and the text of the Regulations of 7 July 1961 to establish the National Employment Service.

Article 3 of the Convention. The Committee notes with interest that three regional employment offices have been set up in Eschintla, Puerto Barrios and Quezaltenango. It requests the Government to supply full information on any future extension of the network of employment offices.

Articles 4 and 5. The Committee notes with regret once more that the Government's report does not contain the information requested concerning the work of the Advisory Employment Council, more particularly as regards the co-operation of representatives of employers and workers in the organisation, operation and development of the general policy of the employment service. It hopes that this information will be provided.

Finally, the Committee would repeat its hope that appropriate steps will be taken to give effect to Articles 6, 7, 8, 10 and 11 of the Convention, to which the Committee also referred in its earlier comments.

Peru (ratification: 1962)

Further to its previous observation, the Committee notes from the Government's report that, for budgetary reasons, no progress has yet been made in extending the network of employment offices, which is still limited to four offices in the Lima-Callao area and three employment market information offices in Trujillo, Arequipa and Huancayo. The Committee has however also been informed that within the framework of a UNDP-ILO technical co-operation project in the field of human resources planning, studies have been undertaken with a view to the creation of a number of regional employment offices exercising placement as well as employment market functions.

The Committee therefore hopes that steps can now be taken to extend the network of employment offices progressively to the various regions of the country.

Philippines (ratification: 1953)

The Committee notes with interest from the Government's report that the Integrated Reorganisation Plan provides for the creation of 39 employment offices in addition to the eleven existing ones. The Committee requests the Government to supply information on the implementation of this plan and, more particularly, the continued extension of the network of employment offices to cover the whole country.

United Kingdom (ratification: 1949)

Further to its previous observation noting the denunciation of the Convention by the United Kingdom and the Government's statement that in all respects except the charging of employers for special services it would consider itself still bound by the Convention and would on a voluntary basis render the reports described in article 22 of the Constitution of the ILO, the Committee notes with appreciation the report supplied by the Government on the application of the Convention during the period 1971-73.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Brazil, Canada, Central African Republic, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Egypt, Ethiopia, Greece, India, Irak, Ireland, Japan, Libyan Arab Republic, Malta, New Zealand, Nigeria, Panama, Peru, Philippines, Sierra Leone, Singapore, Spain, Sweden, Switzerland, Syrian Arab Republic, Tanzania* (Tanganyika), *Tunisia, Turkey, Venezuela, Yugoslavia, Zaire.*

Information supplied by *Belgium, Israel* in answer to direct requests has been noted by the Committee.

Convention No. 89: Night Work (Women) (Revised), 1948*Algeria* (ratification: 1962)

Further to its earlier observation concerning section 22 (a) of Book II of the Labour Code (suspension of the prohibition of night work for women employed in undertakings working for national defence), the Committee notes with interest from the Government's report that the draft of the new Labour Code is now before the supreme national authorities.

As the Government indicated in 1970 that the provisions of the Convention would be taken into account in drafting this text, the Committee hopes that the new Code will be adopted in the near future.

Guatemala (ratification: 1952)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the competent national services and a representative of the Director-General of the ILO, Government Decree No. 28-73 was approved on 12 September 1973 and extends the provisions of the national legislation prohibiting night work for women to cover women workers employed by the State, the municipalities and other bodies supported by public funds.

Lebanon (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 2 of the Convention. Further to its earlier observation the Committee notes the statement by a Government representative to the Conference Committee in 1972 that amendments to the Labour Code were to be considered by the newly elected Legislative Assembly. The Committee trusts that the necessary measures will be taken in the near future to amend section 26 of the Labour Code, which at present prescribes a nightly rest of 9 hours only, so as to provide for a nightly rest of 11 consecutive hours as required by this provision of the Convention.

Luxembourg (ratification: 1958)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

In response to the Committee's earlier direct requests the Government states in its report that it considers that the suspension of the prohibition of night work for women in a newly established chemical factory which is destined to play an important part in promoting economic growth is in conformity with the exception permitted by Article 5 of the Convention. The Committee recalls that Article 5, paragraph 1, of the Convention authorises the suspension of the prohibition of night work only "when in case of serious emergency the national interest demands it".

Since the circumstances referred to by the Government cannot be considered as a "serious emergency", the Committee hopes that the Government will take the necessary steps to ensure that the Convention is applied in practice.

Paraguay (ratification: 1966)

Further to its earlier observations, the Committee notes with interest that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, a draft Legislative Decree has been prepared to amend section 127 of the Labour Code so as to bring it into harmony with the Convention.

The Committee hopes that this draft will be adopted in the near future, and it would ask the Government to be so good as to report any further action taken in the matter.

Philippines (ratification: 1953)

The Committee refers to section 7 (b) of the Woman and Child Labour Law, Act No. 679 of 8 April 1952, which as a result of an amendment introduced by Act No. 6237 of 19 June 1971 prohibited night work by women in industry in accordance with the provisions of the Convention.

It now notes with regret that this provision has again been amended by Presidential Decree No. 148 of 1973 and prohibits night work by women for a period of eight hours only (from 10 p.m. to 6 a.m.) whereas Article 2 of the Convention provides that this prohibition must cover a period of at least eleven consecutive hours.

The Committee notes that the basic reason invoked by the Government in introducing this amendment was the fear that thousands of women would lose their employment and that as a result there would be a heavy fall in production in undertakings in which various operations are carried out efficiently by women. It can, however, only refer to the clear obligations which result from the ratification of the Convention, and requests the Government to indicate the measures envisaged so as to give effect to the Convention.

Romania (ratification: 1952)

The Committee notes the coming into force of the new Labour Code of 1972.

Section 50 of the old Labour Code, as amended by the Decree of 15 January 1964, defined the term "night" as a period of 11 consecutive hours (between 9 p.m. and 8 a.m.) in accordance with Article 2 of the Convention. The Committee regrets to note that section 115 of the new Labour Code defines it as the period (of 8 hours) between 10 p.m. and 6 a.m. It hopes that the Government will take the necessary steps to prohibit night work for women for at least 11 consecutive hours, as laid down in the Convention.

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In addition, requests regarding certain other points are being addressed directly to the following States: *Algeria, Brazil, Dominican Republic, Ghana, Greece, Guinea, Iraq, Ireland, Italy, Kuwait, Panama, Philippines, Portugal, Romania.*

Information supplied by *Belgium, Republic of Viet-Nam, Zaire*, in answer to direct requests has been noted by the Committee.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948*Costa Rica* (ratification: 1960)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the national services concerned and a representative of the Director-General of the ILO, Legislative Decree No. 5313 was approved on 14 August 1973, thus amending section 91 of the Labour Code and bringing it into line with the provisions of Article 3 of the Convention.

Greece (ratification: 1962)

Further to its previous observations the Committee notes with interest the information supplied by the Government in its report, according to which a draft legislative decree in preparation takes into consideration the Committee's comments on the following points.

Article 2, paragraphs 1 and 2, of the Convention. Under the provisions of this Article, the prohibition of night work applies to a period of at least 12 consecutive hours comprising, in the case of young persons under 16 years of age, the interval between 10 o'clock in the evening and 6 o'clock in the morning, whereas, under section 6 of Act No. 4029 of 1912, the period covered by the prohibition of night work is of only 11 consecutive hours including the interval between 9 o'clock in the evening and 5 o'clock in the morning.

Article 4, paragraph 2. Section 7 of the Act does not limit the possibility of suspending the prohibition of night work in case of "interruption of work which could not have been foreseen and which is not of a periodical character, consequent on accidents" to young persons between the ages of 16 and 18 years, as is provided for in this Article. Moreover, section 8 of the Act authorises the reduction of the period during which night work is prohibited in "undertakings or categories of work in which there is regularly a growth in the demand for labour at certain periods of the year (seasonal work) or in case of an exceptional accumulation of work", whereas such exceptions are not provided for by the Convention.

The Committee also appears to have understood from the Government's report that the latter contemplates including in the draft legislative decree provisions designed to ensure the application of the Convention in undertakings engaged in rail transport and in airports, covered by Article 1, paragraph 1, thereof.

The Committee hopes that the draft legislative decree will be adopted in the near future so as to bring the legislation into conformity with the provisions of the Convention on these points.

Article 6, paragraphs 1 (d) and (e). The government is requested to indicate the measures taken or contemplated to give effect to these provisions of the Convention (establishment and maintenance of a system of inspection adequate to ensure effective enforcement of the provisions of the Convention and the keeping by every employer of a register showing the names and dates of birth of all persons under 18 years of age employed by him).

Guatemala (ratification: 1952)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of direct contacts between the responsible national authorities and a representative of the Director-General of the ILO, approval was given on 12 April 1973 to Government Decree No. 14-73, which requires every employer to keep a register of all persons under 18 years of age employed by him, in conformity with Article 6, paragraph 1 (e), of the Convention.

Haiti (ratification: 1957)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 3 of the Convention. The Committee has since 1960 drawn the Government's attention to the need for measures to bring the Labour Code (section 85 of which prohibits night work in industry for apprentices only) into conformity with Article 3 of the Convention (which requires such prohibition in respect of all young persons under 18 years). The Government explains in its report for 1969-70 that in practice minors under 18 years are not employed either in industrial or in commercial undertakings. In these circumstances, the Committee trusts that the Government will have no difficulty in introducing the necessary legislative measures, to which reference was made for the first time in the report for the period 1959-60 in the context of a new draft Labour Law, and thus ensure that full effect will be given to the basic requirements of the Convention in the very near future.¹

Mexico (ratification: 1956)

Further to its earlier observation, the Committee would be grateful if the Government would state what measures have been taken or are contemplated to do away with the discrepancy which exists between section 60 of the Federal Labour Act of 1970, which fixes the period of night at 10 consecutive hours, and Article 2, paragraph 1, of the Convention, which prescribes a period of at least 12 consecutive hours.

Pakistan (ratification: 1951)

Further to its previous observations, the Committee notes with satisfaction that section 38 of the Factories Act, 1934 as amended in 1972 and section 19 of the Mines Ordinance as amended in 1973 contain provisions giving effect to Article 3,

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

paragraph 3, of the Convention (rest periods of thirteen consecutive hours) and that section 56 of the Factories Act, as amended in 1973, gives effect to the provisions of Article 6, paragraph 1 (*e*), of the Convention (keeping of a register indicating the age of workers under 18 years of age).

Paraguay (ratification: 1966)

Further to its earlier observations, the Committee is interested to note that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, a Legislative Decree has been drafted which would amend section 122 of the Labour Code and bring it into conformity with the provisions of Article 2 (1) and (2) of the Convention.

The Committee hopes that this draft will be adopted in the near future, so as to bring the national legislation on those points into conformity with the Convention, and it would ask the Government to report on any steps taken in the matter.

Peru (ratification: 1962)

The Committee regrets that it has not received a report on the application of the Convention. The Committee requests the Government to indicate what action has been taken in connection with the draft Presidential Decree prepared as a result of the direct contacts made in 1972 with a view to giving effect to the provisions of this Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Bangladesh, Cameroon, Guinea, Lebanon, Spain*.

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

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

Requests regarding certain points are being addressed directly to *Israel, Portugal*.

Convention No. 92: Accommodation of Crews (Revised), 1949

Belgium (ratification: 1962)

Further to its earlier comments, the Committee notes with satisfaction that the Royal Order of 20 July 1973, laying down rules for the inspection of ships, together with Appendix XIV to that Order, brought the national legislation concerning crew accommodation into conformity with Article 10, paragraphs 1 and 2, Article 13, paragraph 2, Article 14, paragraph 1, and Article 15, paragraph 2, of the Convention.

Cuba (ratification: 1952)

The Committee notes the information in the Government's report, in response to its earlier observation, to the effect that the Department of Civil Engineering and Maritime and Harbour Installations has undertaken the necessary studies and

consultations for the purpose of drafting regulations to give effect to the provisions of the Convention. In view of the fact that the Government has on several occasions since 1963-64 reaffirmed its intention to adopt regulations applying specifically to maritime work and including provisions concerning safety and health on board ships, the Committee trusts that the proposed regulations will be implemented in the near future.¹

Poland (ratification: 1954)

Further to its previous observations the Committee has noted with interest the entry into force of the Decree of 8 September 1973 promulgated by the Ministry of Shipping, of Order No. 102 (of the same Ministry) of 12 December 1973 and of its Appendix No. 2 concerning sanitary facilities and accommodation for the crew on board ship.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Norway, Panama, Poland, Spain, Ukrainian SSR, USSR, Yugoslavia.*

Convention No. 94: Labour Clauses (Public Contracts), 1949

Burundi (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee notes the information and the two new Bills supplied by the Government. It recalls that the Government had already announced two earlier Bills in 1969, and hopes that the present texts will be approved in the very near future and will ensure complete application of the Convention.

The Committee would also point out that, under Article 1, paragraph 4, of the Convention, the limit of expenditure below which the Convention will not apply to public contracts must be fixed after consultation with the organisations of employers and workers concerned, where such exist. In this connection the Committee notes that the draft legislative decree containing a provision for fixing such a limit does not mention—as is done in the case of the other drafts submitted by the Government—whether the National Labour Council was consulted in advance. It hopes that the Government will take the necessary steps to ensure the consultation required by the Convention on this point.

Central African Republic (ratification: 1964)

Recalling that in its observation of 1973 it pointed out that the Convention relates, not to employment contracts, but to public contracts, as defined in Article 1 (1) of the Convention, the Committee notes with interest that the Government informed the Conference Committee in 1973 that the error of interpretation would be corrected.

The Committee hopes therefore that the Government will thus be able to take all necessary measures—administrative or legislative—to ensure that labour clauses are inserted in public contracts in accordance with Articles 1 to 5 of the Convention.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Costa Rica (ratification: 1960)

The Committee had noted from the Government's reports for the periods 1968-70 and 1971-72 that the necessary steps have been taken for the promulgation of a new decree with a view to giving effect to the Convention. However, the Committee notes with regret that the decree has not been approved by the National Assembly. It recalls that measures are necessary to ensure compliance with the following provisions of the Convention: Article 1, paragraph 1 (scope); Article 1, paragraph 2 (application to contracts awarded by authorities other than central authorities); Article 2 (terms of clauses to be included); and Article 5 (sanctions and other measures to ensure the observance and application of the provisions of labour clauses).

The Committee hopes that the necessary legislation will be adopted in the near future.

Philippines (ratification: 1953)

The Committee notes with regret, from the statement made to the Conference Committee in 1973 and from the Government's report for 1971-72, that there has been no progress in bringing the national law into conformity with the Convention, and that the Government has as yet been unable to obtain adoption of legislation providing for the insertion of the prescribed labour clauses in public contracts. The Committee also notes with regret that the Government has made no further mention of its statement at the 1972 Conference that it was considering implementation of the provisions of the Convention through an Executive Order, even though it was asked to supply full particulars on this matter to the 58th Session of the Conference.

The Committee must therefore reiterate the hope that the necessary measures will be taken in the very near future to ensure full compliance with the Convention, which was ratified many years ago.¹

Somalia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee has noted the information supplied with the Government's report for 1969-71 regarding the conditions of work of civil servants and workers employed by the Government and other public bodies. It wishes to point out, however, that the Convention does not deal with such forms of employment but relates to contracts awarded by public authorities which involve the employment of workers by the other party to the contract, and which relate to public works, equipment or supplies and transport or services (Article 1, paragraph 1 (a), (b) and (c)). In this connection Article 2 of the Convention requires that labour clauses must be inserted in such public contracts in order to ensure to the workers concerned wages, 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, by collective agreement, arbitral award, or national laws or regulations. This fundamental requirement of the Convention must be met even when national legislation exists in respect of the matters concerned and is applicable to all workers, since the legislation often prescribes only minimum conditions which may be improved upon by collective bargaining. Furthermore, the insertion in public contracts of the appropriate labour clauses constitutes an additional guarantee that the relevant conditions of labour will be observed, owing to the penalties prescribed by Article 5 of the Convention.

The Committee trusts that the Government will accordingly reconsider the position, in the light of the above comments, and will take the measures required to give effect to the Convention.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Turkey (ratification: 1961)

The Committee regrets that for the second time in succession no report has been received. It recalls, however, that the Government had informed the Conference Committee in 1972 that a governmental decree had been drawn up providing for the insertion of labour clauses in all public contracts within the meaning of Article 1 of the Convention. The Committee trusts that this decree has been adopted and will ensure full compliance with the terms of the Convention.

Uruguay (ratification: 1954)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 1, paragraph 1 (c) (ii) and (iii) of the Convention. The Committee notes that with regard to contracts for the manufacture, assembly, handling or shipment of materials, supplies or equipment and the performance or supply of services the Government has, as in previous reports, referred to the General Conditions of Contract for the Construction of Public Works. Since this document makes no reference to public contracts concerning materials, supplies, equipment or services the Committee would be glad if the Government would indicate how it ensures that the provisions of the Convention are applied to these types of contracts as well as to contracts for the construction of public works.

Article 1, paragraph 3. The Committee notes that section 29 of the General Conditions of Contract for the Construction of Public Works makes the transfer or assignment of a public contract in whole or in part without legal effect unless this is done with the written approval of the authorities and under the conditions set by them. The Committee would be glad if the Government would indicate if the conditions set by the authorities include the observance of the labour clauses required by the Convention and, further, if this section is applicable to subcontractors.

Article 4 (a) (iii). The Committee notes that, with regard to the requirement of posting notices of conditions of work, the Government refers to the publication of legislative texts in the *Official Journal*. Since the posting of notice of conditions of work concerns the situation in respect to a given public contract and not the contents of legislation and other legal instruments the Committee would be glad if the Government would indicate how effect is given to this provision of the Convention.

Zaire (ratification: 1961)

The Committee regrets that no reply has been made to its direct requests of 1970, 1971 and 1972. It recalls that the Government had indicated in its report for 1967-69 that the draft legislation respecting public contracts had not yet been promulgated but that the competent legal services had made proposals to bring it into closer conformity with the international standards. The Committee hopes that the Government will take the necessary steps to ensure the early promulgation of the legislation in question, after consultation with the organisations of employers and workers concerned regarding the terms of the labour clauses in accordance with Article 2 (3) of the Convention, and that this legislation will be in full conformity with the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Barbados, Cameroon, Ghana, Guinea, Mauritania, Morocco, Panama, Rwanda, Syrian Arab Republic.*

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

Convention No. 95: Protection of Wages, 1949*Afghanistan* (ratification: 1957)

The Committee notes with regret that the Government's report contains no reply to previous comments. It is bound therefore to repeat its previous observation, which was as follows:

The Committee notes with concern that the Government has as yet taken no action to implement the Convention through the adoption of the draft Labour Law or otherwise, notwithstanding the fact that it has stated its intention to do so since 1960 (see above, General Observation). Accordingly, the Committee can only urge the Government to take action as soon as possible to ensure full application of the Convention.¹

Barbados (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Articles 4 and 10 of the Convention. The Committee notes from the Government's reply to its previous observation that the necessary legislation is being prepared to give effect to these provisions of the Convention (regulation of payments in kind, measures on the attachment or assignment of wages). It hopes that the legislation in question will be enacted soon and that the Government will supply a copy thereof.

Costa Rica (ratification: 1960)

The Committee refers to the direct requests addressed to the Government since 1964, in which it asked that measures be taken: (a) to revise section 165 of the Labour Code which provides that harvest workers on coffee plantations may be paid in tokens, or in any other form, and not in legal tender (*Article 3 of the Convention*); (b) to revise section 166 or take other appropriate measures to ensure that the payment of wages in the form of liquor of high alcoholic content or of noxious drugs shall not be permitted (*Article 4 (1) of the Convention*); and (c) to issue a decree or take other appropriate measures ensuring that the value attributed to payments in kind is fair and reasonable (*Article 4 (2) (b) of the Convention*).

The Committee notes from the Government's report for 1971-72 that the commission entrusted with the revision of the Labour Code (the creation of which was first mentioned in the Government's 1968-69 report) has by now redrafted 92 of the 614 sections of the Code. In the circumstances the Committee hopes that the Government will take other measures to ensure, pending the revision of the Code and the issue of measures regulating the provisions of the new Code, that effect is given to Articles 3, 4 (1) and 4 (2) of the Convention.

Guatemala (ratification: 1952)

Further to its previous comments, the Committee notes with satisfaction Decree No. 11-73 of 15 February 1973 which regulates salaries in the public administration and contains several provisions on the protection of wages for the employees in question. The Committee would be glad if the Government would indicate whether the above-mentioned Decree is applicable to all the public bodies excluded from the scope of the Labour Code in virtue of section 2 thereof and, if not, what other

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

provisions regulate the protection of wages for workers employed in these public bodies.

Articles 8 and 9 of the Convention. The Government's report refers to a committee set up in 1973 to examine the modifications to be made in the Labour Code. The Committee recalls in this connection that the Government had indicated some years ago its intention to bring the legislation into conformity with the above-mentioned Articles (regulation of conditions and extent to which deductions may be made from wages; prohibition of deductions in respect of payments made to the employer's representative or an intermediary) and hopes that measures will soon be taken, through the revision of the Labour Code or otherwise, to ensure the application of these Articles of the Convention.

Honduras (ratification: 1960)

Further to its previous direct requests, the Committee notes with interest that the Labour Code is to be revised and that full account would be taken in this process of the Committee's comments. The Committee trusts that the necessary measures will thus soon be taken to ensure that the provisions of Article 2 of the Convention are fully applied to all agricultural workers—including in particular those employed in undertakings with less than ten workers which are excluded from the scope of the present Code.

Paraguay (ratification: 1966)

Further to its previous direct requests regarding the application of *Article 7 (2) of the Convention*, the Committee notes with satisfaction that Act No. 388 of 22 December 1972 provides in section 20 for the regulation of the prices of goods sold in works stores operated in relation with agricultural undertakings.

The Committee also notes with interest that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, a draft legislative decree has been prepared which will add to section 232 of the Labour Code a provision meeting the requirements of *Article 4 (1)* of the Convention (prohibiting the payment of wages in the form of liquor of high alcoholic content or of noxious drugs). The Committee hopes that this legislative decree will soon be adopted so as to bring the national legislation into conformity with this provision of the Convention.

Turkey (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 2 of the Convention. The Committee notes with interest from the Government's report that a draft law has been prepared to amend section 5 of the Labour Act in order to bring tradesmen and small handicraft undertakings within the scope of the Act. The Committee hopes that this draft law will soon be adopted.

The Committee also notes from the report that the Draft Agricultural Labour Law has been revised and that a decision has been taken to submit it to Parliament. It hopes that this legislation will soon be adopted and will be such as to ensure the protection of wages for agricultural workers in accordance with the terms of the Convention.

Uganda (ratification: 1963)

The Committee notes that according to the Government's report the draft Employment Decree, which takes account of the Committee's previous comments, is

in its final stage. The Committee trusts that this Decree will be adopted shortly and will bring the national legislation into conformity with the following provisions of the Convention which were the subject of its previous comments: Articles 2 (2), 4, 5, 6, 8 (1), 9, 12 and 13.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Argentina, Belgium, Central African Republic, Costa Rica, Cyprus, Democratic Yemen (Aden), Egypt, Guyana, Iraq, Malaysia, Niger, Nigeria, Panama, Philippines, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, Turkey, Uruguay, Zaire.*

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Belgium (ratification: 1958)

Further to its previous observation, the Committee notes with interest from the Government's reply that a Bill concerning temporary employment, which takes account of the wishes of the Committee, has been drafted and will come before Parliament. The Committee hopes that the Government will in due course report the decisions taken in this matter.

Bolivia (ratification: 1954)

The Committee notes with satisfaction that the two fee-charging employment agencies for domestic servants referred to in its earlier direct requests have been closed.

Costa Rica (ratification: 1960)

Further to its earlier observations, the Committee notes with satisfaction that, as a result of the direct contacts between the competent national services and a representative of the Director-General of the ILO, approval was given on 26 July 1973 to Legislative Decree No. 5311, which amends section 80 of the Act establishing the Ministry of Labour and Social Security so as to expressly prohibit the activities of intermediaries, as required by the provisions of the Convention.

Federal Republic of Germany (ratification: 1954)

Further to its previous observation, the Committee has noted with interest the Act of 7 August 1972 respecting the provision of manpower as a commercial operation, which regulates agencies for the supply of temporary staff in such a way as to ensure that they do not function as intermediaries within the meaning of the Convention, by requiring in particular that there shall be a stable and lasting employment relationship between the agency and the worker (section 3 of the Act). The Committee hopes that in its future reports the Government will supply information on the practical working of the Act and on any problems which may have been encountered in ensuring that such agencies do not in fact conduct placing activities.

Guatemala (ratification: 1953)

Further to its earlier observations, the Committee notes that the draft reform of the Labour Code, which is under consideration by the Extraordinary Commission for

Labour, has not yet been adopted. The Committee hopes that this reform will be carried out in the very near future and that, as the Government stated in its report, the new text will include provisions calling for the complete suppression of the system of recruiting by intermediaries or recruiting agents, as prescribed by Articles 3, 4 and 8 of the Convention.

Netherlands (ratification: 1952)

Further to its previous direct requests, the Committee notes with satisfaction that temporary work agencies are regulated in accordance with Articles 5 and 8 of the Convention by virtue of the Provision of Labour Act, 1965, and Decree No. 410 of 10 September 1970 issued thereunder.

Pakistan (ratification: 1952)

In its observation of 1971, the Committee noted with interest that the Government of Pakistan had formally requested the initiation of direct contacts with the ILO to expedite the solution of problems encountered by it in the implementation of the Convention. As these direct contacts have not yet taken place, the Committee recalls that it had previously commented on the existence of contract labour in Pakistan but that the true nature of the employment relationship between the workers concerned, the labour contractors, tribal chiefs and heads of villages through whom they are employed and the undertakings for whose benefit they in fact work has not been clarified.

The Committee hopes therefore that a fuller appreciation of the problems involved and the measures required for their solution can be gained, either by means of the direct contacts referred to above or through detailed information in the Government's next report on the precise functions and activities of the various types of labour contractor, indicating in particular the extent to which, in addition to assuming the formal obligations of an employer, they remain responsible for directing and supervising the work and supplying equipment and materials.¹

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In addition, requests regarding certain points are being addressed directly to the following States: *Bangladesh, Egypt, Finland, France, Luxembourg, Norway, Pakistan, Panama, Spain, Sweden, Syrian Arab Republic, Turkey.*

Information supplied by *Bolivia* and the *Libyan Arab Republic* in answer to a direct request has been noted by the Committee.

Convention No. 97: Migration for Employment (Revised), 1949

France (ratification: 1954)

Further to its earlier comments, the Committee notes with interest from the Government's report for 1971-1972 and from the statement of a Government representative to the Conference in 1973, that the Government hoped to put before Parliament during the second half of 1973 a Bill to amend section L519 of the Social

¹ The Government is asked to report in detail for the period ending 30 June 1974.

Security Code so as to extend the benefit of the maternity allowance to all the children of migrant workers residing in metropolitan France. The Committee would ask the Government to provide information as to the progress thus made towards applying fully *Article 6, paragraph 1 (b), of the Convention*.

Tanzania (ratification: 1964)

Zanzibar.

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

In its comments made over a number of years the Committee has asked the Government to take the necessary measures to extend the provision of medical attention to members of migrant workers' families authorised to accompany them as required by *Article 5 of the Convention*.

No report having been submitted by the Government since 1965 the Committee has consequently no information as to the measures which may have been taken in this matter, or on the general situation of migrant workers. It therefore urges the Government not to fail to submit a report for consideration at the next session of the Committee, and trusts that the report will contain full information on the application of the Convention and also on the question whether the majority of immigrants are still seasonal workers—as the Government stated in its first report—and whether these workers are accompanied by members of their families.

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In addition, requests regarding certain points are being addressed directly to the following States: *Cameroon* (Western Cameroon), *Uruguay*.

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

Convention No. 98: Right to Organise and Collective Bargaining, 1949

Cuba (ratification: 1952)

See under Convention No. 87.

Greece (ratification: 1962)

The Committee notes the information supplied by the Government in its report, its statement to the Conference Committee in 1973, and two communications received from the Government in March 1974 just before the start of the present session of the Committee.

It notes in particular the statement contained in the latter communications to the effect that the Government has prepared a text which takes into account the Committee's past observations and which was signed by the Prime Minister on 15 March 1974.

The Committee would express the hope that this new text will remove the divergencies between the national legislation and the Convention.

In this connection the Committee would again draw the Government's attention to section 2 of Legislative Decree No. 186/1969 concerning certain conditions to be fulfilled by trade unions before they can be recognised for the purposes of collective bargaining. These conditions concern their attitude of absolute independence towards

any influence unrelated to the trade union objectives pursued and the activities developed within the limits of such objectives. On this point the Committee recalls once again the comments made by the Commission of Enquiry established to examine the observance by Greece of the freedom of association Conventions, and also its own observations, namely that the criteria established by the legislation are not sufficiently precise for their objective implementation.

The Committee would also repeat its comments concerning section 20, paragraph 2, of Act No. 3239 of 1955, as amended by section 8 of Legislative Decree No. 3755 of 1957, which permits the public authorities to change all or part of a collective agreement (or of an arbitration award) when it appears to be contrary to the policy of the Government in economic, social or other matters. The Committee considers that this provision restricts the right of employers' and workers' organisations to engage in voluntary negotiations with a view to the regulation of terms and conditions of employment by means of collective agreements.¹

Haiti (ratification: 1957)

Further to its earlier direct request, the Committee regrets to note that the Government's reply contains no fresh information.

The Committee had noted that no substantive legislative provision existed to guarantee the protection of workers' organisations against interference by employers and their organisations and, more particularly, as provided for in Article 2 (2) of the Convention, against acts designed to promote the establishment of workers' organisations under the domination of employers or their organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of an employer or an employers' organisation.

The Committee hopes that the Government will adopt legislative measures on this matter and will furnish information on any progress in this connection.

Malaysia (ratification: 1961)

The Committee had noted that sections 12 and 13 (A) of the Labour Relations Act of 1967, as amended by the basic regulations of 1969 (concerning labour relations), excluded from the scope of collective bargaining a number of matters concerning the employment and dismissal of workers. These provisions also provided that collective agreements in certain branches could not, except with the approval of the Minister, prescribe conditions of employment more favourable than those laid down in Part XII of the Employment Ordinance of 1955. The Committee considered that provisions which restrict or regulate the scope of negotiations in this way cannot be deemed to be compatible with measures to promote "the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements" as required by Article 4 of the Convention.

The Committee takes note of the statements made by a Government representative before the Conference Committee on the Application of Conventions and Recommendations in 1973, as well as of the most recent Government report in which the latter stresses that the provisions in question are necessary in view of the present state of economic and social development of the country, but that it will keep the Committee's views under constant review.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session.

In the circumstances, the Committee can only repeat the comments made previously and express the hope that the Government will take the necessary steps as soon as possible, to bring its legislation into full conformity with the Convention.

Mongolia (ratification: 1969)

See General Observations.

Singapore (ratification: 1965)

The Committee had noted that section 24 (a) of the Industrial Relations Ordinance, according to which collective agreements concluded in certain new undertakings may not contain conditions more favourable than those laid down in Part IV of the Employment Act unless these conditions are approved by the Minister, and section 5 of the Industrial Relations (Amendment) Act and section 46, paragraph 1, of the Employment Act, which impose certain restrictions on collective bargaining, are not compatible with the principle laid down in Article 4 of the Convention as regards the development of machinery for the voluntary negotiation of collective agreements.

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 to the effect that the enactment in 1968 of the Employment Act and the Industrial Relations (Amendment) Act was intended to promote the expansion of industry, speed up economic development, create employment opportunities and prevent inflation from swallowing up the increased wages paid to the workers.

The Committee notes with interest that, according to these statements, all collective agreements containing conditions more favourable than those laid down in Part IV of the Employment Act were approved by the Minister, and that the National Wages Council, which is a tripartite body established in 1972, recommended increases in 1972 and 1973.

According to the Government representative, the Government intends to amend the provisions in question whenever circumstances justify such action.

The Committee can only repeat its earlier comments and hope that the Government will, as soon as possible, take all necessary steps to bring its legislation into complete harmony with the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Chad, Costa Rica, Dahomey, Democratic Yemen (Aden), Ecuador, Libyan Arab Republic, Mongolia, Nicaragua, Paraguay, Portugal, Tanzania (Tanganyika), Uganda, Republic of Viet-Nam, Zaire.*

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

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Requests regarding certain points are being addressed directly to the following States: *Cameroon, Costa Rica, Kenya.*

Convention No. 100: Equal Remuneration, 1951*Argentina* (ratification: 1956)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts which took place between the competent national services and a representative of the Director-General of the ILO, Act No. 20392 was adopted on 16 May 1973 and prohibits any differences in remuneration as between men and women workers for work of equal value; it also declares null and void any provision to the contrary in collective agreements entered into or renewed as from 1 January 1974.

Haiti (ratification: 1958)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

The Committee regrets that, despite its observations and direct requests from 1963 onwards, the Government has not provided the text of the decisions of the Higher Wage Board which, in accordance with section 39 of the Schedule to the Labour Code, fixes minimum wage rates. The Committee also notes with regret the statement in the last report that the Government could not validly intervene, except at the minimum wage level, in applying the principle of equal remuneration as between men and women workers. In this connection, the Committee notes that section 56 of the Labour Code extends to all workers, whether or not they are members of the signatory trade union, the benefits of collective agreements; that section 60 of the Code proclaims the validity of collective agreements when they have been registered with the Department of Labour, and that section 62 of the Code states that collective agreements must prescribe "the methods whereby the principle of equal remuneration for work of equal value shall be applied". It would therefore appear to be completely in line with the practices of the country for the Government to take steps not only to ensure respect for the principle of equal remuneration in the fixing of minimum wages, but also to promote its progressive application, in the light of the special conditions mentioned in the Government's report, in agreements between the two parties concerned. The Committee therefore hopes that the Government will transmit copies of decisions fixing minimum wage rates, copies of collective agreements and information concerning the measures taken to give effect to the Convention along the lines indicated above.

Mongolia (ratification: 1969)

See under General Observations.

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In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Cameroon, Chad, Ecuador, Indonesia, Israel, Libyan Arab Republic, Luxembourg, Netherlands, Nicaragua, Portugal, United Kingdom, Zaire.*

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

Convention No. 101: Holidays with Pay (Agriculture), 1952*Cuba* (ratification: 1954)

Article 2 of the Convention. See under Convention No. 52, Article 2.

Morocco (ratification: 1960)

Further to its earlier comments, the Committee notes with satisfaction that section 23 of the Dahir issuing Act No. 1-72-219 of 24 April 1973 to determine the conditions of employment and remuneration of agricultural wage earners provides that henceforth the fact of breaking the total holiday into fractions will not be allowed to reduce the length of holiday taken annually to less than twelve working days, in accordance with the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Central African Republic, Colombia, Gabon, Italy, Madagascar, Peru, Spain, Upper Volta.*

Convention No. 102: Social Security (Minimum Standards), 1952*General Observation*

Part XI (Standards to be Complied with by Periodical Payments), Articles 65, Paragraph 10, and 66, paragraph 8 (Revision of the Amounts of Periodical Payments; Title VI of the Report Form) in Conjunction with Articles 28, 36, 56 and 62 of the Convention.

The Committee considers that, in view of the effects of inflation on the amount of the periodical payments at present being made in respect of old-age, employment injury (except in case of temporary incapacity for work), invalidity and death of the breadwinner, special attention should be paid to the revision of the rates whenever substantial changes occur in the general level of earnings as a result of changes, also substantial, in the cost of living. The Committee would therefore ask governments which have ratified the Convention to make a point, in each of their reports, of including all the statistical data called for by the report form and concerning the application of paragraph 10 of Article 65 or paragraph 8 of Article 66.

Federal Republic of Germany (ratification: 1958)

1. *Part II (Medical Care), Articles 10 and 12 of the Convention.* Further to its earlier comments, the Committee notes with satisfaction that, according to the Act of 19 December 1973, which amended section 184 of the Social Insurance Code, hospital care will henceforth be granted for an unlimited period to all protected persons whenever hospitalisation is necessary for the purposes of diagnosis, treatment or improving the patient's condition.

2. *Part XIII (Common Provisions), Article 69 (i).* The Committee notes the text of the instructions (Neutrality Order of 22 March 1973) issued by the Executive Council of the Federal Institute of Employment under section 116, paragraph 3, of the Employment Promotion Act of 1969. The Committee also notes the Government's statements to the effect that: (a) when drafting those instructions, the Executive Council of the Institute bore in mind the provisions of Article 69 (i) of the Convention and (b) in accordance with the instructions in question, the suspension of unemployment benefit to workers who did not participate in a trade dispute is permitted only in a limited number of cases and among workers who have a "direct interest" (*unmittelbar interessiert*) in the outcome of the dispute.

The Committee also notes the comments, transmitted by the Government in its report, which had been made by the German Confederation of Trade Unions regarding the application of the above-mentioned clause of the Convention by the Federal Republic of Germany.

The organisation in question considers—as it did in 1965 as regards the earlier legislation—that the provisions of section 116, paragraph 3, of the Act of 1969 and the instructions issued thereunder are incompatible with the Convention since they authorise the suspension of unemployment benefit in cases where to grant it “would influence the trade dispute”, whereas, according to the Convention, it may be suspended only when the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute.

In the opinion of the German Confederation of Trade Unions, the national legislation goes beyond the limits permitted by the Convention. Moreover it believes that section 116, paragraph 3 (2), of the Act of 1969, which in theory was issued to preserve the “neutrality” of the Federal Institute of Employment, prescribed in paragraph 1 of that section, may have been used in practice as a pretext for extending the number of cases in which the suspension of unemployment benefit can be authorised.

Having studied the provisions of paragraphs 3 and 4 of section 116 of the above-mentioned Act, and those of the Instructions issued by the Governing Board of the Federal Institute of Employment, and referring back to the observations it made in 1965 regarding the legislation previously applicable in the matter (section 84 of the Placement and Unemployment Insurance Act, as amended in 1957)¹, the Committee considered that these provisions, as drafted, were still open to certain doubts as to their conformity with the Convention because of the fact that in certain cases, and more particularly in those mentioned in sections 3 and 4 of the Instructions referred to, they could be interpreted in such a way as to exclude from unemployment benefit workers not taking part in an industrial dispute, who are not employed in the undertaking, or one of its branches, in which the dispute is taking place, and whose conditions of work are not necessarily going to be affected by the dispute.

Consequently, the Committee would ask the Government to provide more precise information as to the scope of this legislation and its application in practice. In particular, indications as to the scope of the collective agreements both as regards the various occupational groups covered and their regional and federal coverage would also help it to assess the extent to which this legislation guarantees the complete application of the Convention in practice.

The Committee has also studied the ruling given by the Social Tribunal of Second Instance of Baden-Württemberg (Stuttgart, 27 November 1972) which considered as illegal the decision of the Governing Board of the Federal Institute of Employment, taken under paragraph 4 of section 116 of the Act in question, according to which unemployment benefit was paid to all workers who became unemployed in the wage areas not covered by the labour dispute in the metal industry in 1971. The Committee would be glad to receive information as to the judgment given by the Federal Tribunal in the appeal made against this ruling, and also concerning the draft text to amend section 116 of the Act of 1969, which, according to certain information brought to the Committee's notice, is said to have been submitted to the Legislative Committee of the Federal Council (*Bundesrat*) in 1973.

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In addition, requests regarding certain points are being addressed directly to the following States: *Greece, Mauritania, Niger*.

¹ Cf. International Labour Conference, 49th Session, Report III (Part Four), pp. 116-117.

Convention No. 103: Maternity Protection (Revised), 1952*Ecuador* (ratification: 1962)

The Committee has taken note of the information supplied to the Conference Committee in 1973, and has noted that the possibility of amending the Labour Code so as to bring it into conformity with the Convention as concerns the length of the period of maternity leave (12 weeks instead of the 6 prescribed by the Code in question) is under consideration.

However, since the Government has not furnished a report for the second time in succession, no new information is available to the Committee as to the measures taken to give effect to the Convention as regards both the point mentioned above (*Article 3, paragraphs 2 and 3*) and the following points, on which the Committee has also had occasion to comment: *Article 1, paragraphs 1 to 6* (scope), *Article 2* (exclusion of certain foreign women workers from the maternity insurance scheme), *Article 3, paragraph 4* (extension of maternity leave where confinement is delayed), *Article 4, paragraphs 1, 3, 4 and 8* (payment of maternity benefits) and *Article 5* (length of nursing breaks).

The Committee trusts that the Government will not fail to supply a report indicating the measures taken and containing the information requested with respect to the points mentioned above, which are being taken up in a further direct request.

Mongolia (ratification: 1969)

See under General Observations.

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

Convention No. 104: Abolition of Penal Sanctions (Indigenous Workers), 1955*Liberia* (ratification: 1962)

In its previous observation, the Committee had noted that article 35 (*p*) of the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, which remain operative within the tribal jurisdiction, lays down fines for any labourer supplied to persons engaged in farming who absconds in transit or who, after arrival at his destination, refuses to perform the services for which he has been engaged. The Committee observed that, by virtue of Articles 1 to 4 of the Convention, the above-mentioned penal sanctions should have been abolished within a year of ratification of the Convention, i.e. some eleven years ago.

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 that the Government had decided to repeal those sections of the penal legislation which did not conform to ILO standards. It also notes the statement in the Government's latest report that the new Labour Code, when adopted by the National Legislature, will abrogate all divergencies between national legislation and Conventions ratified by Liberia. The Committee accordingly hopes that repeal of the above-mentioned provisions relating to penal sanctions for failure to perform services will no longer be delayed.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Ecuador, Libyan Arab Republic, Nigeria, Western Samoa.*

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

Convention No. 105: Abolition of Forced Labour, 1957

Afghanistan (ratification: 1963)

The Committee regrets to note that the Government has once more failed to supply the information and legislative texts requested by the Committee, relating to collective work in the public interest, compulsory military service, prison labour, penal legislation, freedom of assembly and association, and press legislation. As direct requests on these matters have been outstanding since 1968, the Committee trusts that the information and texts in question will be available for examination at its next session.

Argentina (ratification: 1960)

With reference to its comments in previous direct requests relating to the observance of Article 1 (a) of the Convention, the Committee notes with satisfaction that:

- (a) Act No. 16894 of 1966, which prohibited all party political activities subject to penalties of imprisonment (involving compulsory labour) has been superseded by Act No. 19102 of 30 June 1971, which provides for the right of citizens to associate for political purposes and to form political parties and guarantees the freedom of activity of political parties;
- (b) Act No. 17401 of 22 August 1967 (as amended by Act No. 18234 of 30 May 1969), under which anyone who engaged in any activity tending to advance, spread or uphold communism was punishable with imprisonment (involving compulsory labour), was repealed by Act No. 20509 of 27 May 1973;
- (c) the state of siege declared throughout the territory by Act No. 18262 of 30 June 1969 was terminated by Act No. 20457 of 22 May 1973, thus putting an end to the suspension of various constitutional guarantees having a bearing on the application of the Convention.

Australia (ratification: 1960)

Following earlier direct requests relating to the application of Article 1 (c) and (d) of the Convention, the Committee notes with satisfaction that:

- (a) sections 6 to 8 of the Seamen's Act, 1958, of Victoria (under which seamen belonging to any foreign ship might be punished by imprisonment for various breaches of discipline and be forcibly put on board their vessel) has been repealed by the Seamen's (Amendment) Act, 1972;
- (b) section 170 (3) (a) of the Labour and Industry Act, 1958, of Victoria (under which refusal to fulfil a contract of apprenticeship might, in certain circumstances, be punished with imprisonment) has been repealed by the Labour and Industry (Amendment) Act, 1971; and
- (c) the Masters and Servants Act, 1878-1935, of South Australia (under which refusal to perform certain types of contract of service might be punished with imprisonment) has been repealed by the Industrial Conciliation and Arbitration Act, 1972.

Central African Republic (ratification: 1964)

Article 1 (a) of the Convention. In previous observations the Committee had noted that, by virtue of the provisions of Act No. 63-411 of 17 May 1963, every active citizen must belong to a designated National Movement and must respect its political line and the decisions of its executive bodies, and that the constitution or attempted constitution of any other group or association of a political character or the undertaking of political activities in any form outside the said National Movement was punishable with imprisonment (involving, by virtue of section 62 of Order No. 2772 of 18 August 1955, an obligation to perform compulsory labour).

The Committee had pointed out that the imposition of forced or compulsory labour in these circumstances appeared to be contrary to Article 1 (a) of the Convention, and had expressed the hope that appropriate measures would be taken to ensure the observance of the Convention in this regard.

In its latest report the Government states that certain matters, such as political matters, fall within the exclusive competence of the national authorities and cannot be subject to any intervention by international organisations, that it has repeatedly stated that no form of forced labour exists on the national territory, and that therefore the Committee's observations appear not to be justified.

The Committee must point out that the Convention, in Article 1 (a), requires ratifying States to suppress and not make use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It is as a result of the Government's acceptance of the obligation to respect these provisions and in accordance with its terms of reference that the Committee has been led to point out that the imposition of penalties involving compulsory labour to enforce the obligations and restrictions relating to the manifestation of political views imposed by Act No. 63-411 is not compatible with the Convention. For more detailed indications concerning the nature of the obligations arising out of Article 1 (a) of the Convention, the Committee refers to the general survey of forced labour in its report of 1968 (paragraphs 81 to 92 and 101 to 116).

The Committee hopes that, in the light of the preceding considerations, the Government will review its position, and will take measures to ensure the observance of the Convention.

Article 1 (b). See under Convention No. 29.

Cuba (ratification: 1958)

Article 1 (b) and (c) of the Convention. See under Convention No. 29.¹

Denmark (ratification: 1958)

With reference to its previous direct requests relating to the application of Article 1 (c) of the Convention, the Committee notes with satisfaction that the Seamen's Act of 13 June 1973, which came into force on 1 February 1974, contains no provision corresponding to section 52 of the Seamen's Act, 1952 (under which seamen failing to report for duty or absent without leave might be forcibly returned to their ship) and that, under the new Act, refusal to obey orders is no longer punishable by imprisonment, but only by a fine.

¹ The Government is asked to report in detail for the period ending 30 June 1974.

Egypt (ratification: 1958)

The Committee notes with regret that no report has been received. It is bound, therefore, to repeat its previous comments, which related to the following matters:

Article 1 (a) of the Convention.

1. In direct requests made since 1964 the Committee has referred to a number of provisions of the Penal Code and various other enactments under which imprisonment (involving, by virtue of sections 18 to 20 of the Penal Code, liability to compulsory labour) may be imposed as a punishment for the dissemination of certain kinds of information or statements, in connection with statutory restrictions on the press and journalism, in connection with the prohibition of political parties and certain kinds of associations, and in relation to the holding of meetings.

The Committee once more expresses the hope that appropriate measures will be taken in regard to these provisions (which it is again specifying in detail in a direct request) to ensure, in accordance with Article 1 (a) of the Convention, that no form of forced or compulsory labour (including labour resulting from a sentence of imprisonment) might be imposed as a means of political coercion or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

2. In direct requests made since 1964 the Committee has requested the Government to supply information on the practical application of a number of provisions of the Penal Code under which certain kinds of statements are punishable with imprisonment with compulsory labour. It regrets that the Government has failed to provide this information and that it is thus unable to satisfy itself that the provisions in question are in conformity with the Convention. The Committee trusts that the Government will provide the necessary information in the next report.

Article 1 (d).

3. In its previous direct requests the Committee had referred to various provisions of the Labour Code, the Penal Code and legislation relating to discipline in the merchant navy under which imprisonment with compulsory labour may be imposed as a punishment for having participated in a strike. In its report for 1969-71 the Government stated that it was considering legislation under which the penalty for going on strike would be a fine, without imprisonment. The Committee hopes that, in accordance with Article 1 (d) of the Convention, measures will be adopted to ensure that no form of forced or compulsory labour (including compulsory prison labour) may be imposed as a punishment for having participated in strikes.

El Salvador (ratification: 1958)

In previous observations the Committee had referred, in relation to Article 1 (a) of the Convention, to various provisions of the Penal Code and of Legislative Decree No. 876 of 27 November 1952 concerning the defence of the democratic and constitutional order, under which penalties involving compulsory labour might be imposed on persons advocating certain doctrines. The Committee notes with interest the statement in the Government's report that a new Penal Code, adopted on 13 February 1973, has repealed the provisions in question and does not contain any provision imposing an obligation to work on persons sentenced to rigorous imprisonment. It requests the Government to supply a copy of the new Penal Code.¹

¹ The Government is asked to report in detail for the period ending 30 June 1974.

Greece (ratification: 1962)

The Committee regrets that no report has been received, and that accordingly no information is available in answer to its previous observations and direct requests.

The Committee notes, however, that, by Presidential Decree No. 411 of 17 November 1973, a state of siege was once more declared and various constitutional guarantees were suspended, including guarantees of freedom of expression and of the press, rights of association and meeting, protection against arbitrary arrest and detention and the right to trial by ordinary courts of law.

In observations made since 1968, the Committee has drawn attention to the importance for the effective observance of the Convention of constitutional and legislative guarantees of the above-mentioned rights and freedoms and the direct bearing which the suspension of such guarantees would generally have on the application of the Convention. It has also emphasised that any measures of the latter kind which affected the application of the Convention could only be justified by the existence of circumstances of extreme gravity constituting an emergency and should in all cases be limited in scope and time to what was strictly necessary to meet the specific emergency situation.

The Committee accordingly hopes that the Government will provide full information on the present situation regarding the exercise of rights relevant to the application of the Convention (such as freedom of expression and publication, freedom of assembly and association, the right to engage in political activity, and the right of workers and their organisations to resort to strike action in defence of their interests) and on the measures taken or contemplated to ensure that no form of forced or compulsory labour (including labour exacted from convicted persons) may be imposed in circumstances falling within the scope of the Convention.

The Committee hopes that the Government will also provide full information on the numerous matters raised in its direct request of 1972 in regard to the application of Article 1 (a), (c) and (d), of the Convention, arising out of various provisions of the Penal Code and legislation relating to the safety of the State and preservation of the established order, the press, public meetings, associations and unions, political parties, occupational associations and unions, organisations of public employees, enforcement of discipline in loading and unloading operations in ports, collective agreements and the settlement of disputes in connection with the employment of seafarers, and the Penal and Disciplinary Code of the Merchant Marine.

Guatemala (ratification: 1959)

In previous comments the Committee noted that, by virtue of Legislative Decree No. 9 of 10 April 1963 (sections 2 to 5, 6 (2) and 7) and Legislative Decree No. 387 of 26 October 1965 (sections 20, 21, 30 (2) and 122), persons who disseminate communist propaganda in any form or establish, support or take part in the activities of any group, association, party or entity of communist ideology are punishable with imprisonment (involving, by virtue of the Penal Code and legislation on the execution of sentences, an obligation to perform labour). It expressed the hope that appropriate measures would be taken in regard to these provisions to ensure, in accordance with Article 1 (a) of the Convention, that no form of forced or compulsory labour (including compulsory prison labour) might be imposed as a means of political coercion or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

In earlier reports, the Government had stated that the Committee's comments had been transmitted to the interested government services. With its last report, the

Government has supplied a copy of the new Penal Code approved by Decree No. 17-73 of 5 July 1973. The Committee regrets that this Code has in no way modified the position noted in its previous comments, specifically providing that all provisions of a penal nature contained in special laws shall remain in force in so far as not covered by the Code. Section 396 of the Code moreover contains a supplementary provision, punishing with imprisonment (involving, as noted above, an obligation to perform labour) anyone who promotes or participates in associations acting in agreement with international bodies which advocate communist ideology.

The Committee hopes that the Government will take the necessary measures in relation to the above-mentioned provisions to ensure observance of Article 1 (a) of the Convention.

Guinea (ratification: 1961)

The Committee notes the statement in the Government's report (received on 15 November 1973) that it had denounced this Convention. The Committee refers in this respect to the letter addressed by the Director-General of the ILO to the Minister of State for External Affairs on 26 November 1973 in which it was pointed out that, in accordance with Article 5 of the Convention, this instrument could be denounced only at ten-yearly intervals, that the last period when it was open to denunciation ran from 17 January 1969 to 17 January 1970, and that, as no decision to denounce the Convention had been communicated during that period, Guinea remained bound by the Convention.

In these circumstances, the Committee is bound to draw attention again to the matters mentioned in its previous observations:

1. *Organisation for Work Centres of the Revolution.* By virtue of Decree No. 416/PRG of 22 October 1964, all persons between 16 and 25 years are placed at the service of the Organisation for Work Centres of the Revolution, which is aimed at ensuring the rapid liquidation of the technical and economic underdevelopment of the Republic. In answer to the Committee's comments regarding the conflict between these provisions and Article 1 (b) of the Convention (which provides for the suppression of any form of forced or compulsory labour as a means of mobilising and using labour for purposes of economic development), the Government has repeatedly stated that the Decree of 1964 had fallen into disuse and would be repealed.

The Committee trusts that the Decree in question will be repealed at an early date.

2. *Supply of legislative texts.* The Committee regrets that the Government has not supplied the legislative texts repeatedly requested by the Committee since 1967, namely, laws and regulations (other than the Penal Code, which is already available to the Committee) concerning prison labour, the preservation of public order, the press and publications, meetings and associations, vagrancy and idle persons and the discipline of seamen. It once more urges the Government to supply the texts in question, as in their absence it is unable to satisfy itself of the conformity of the legislation with the Convention.¹

Haiti (ratification: 1958)

1. In observations made since 1967, the Committee has noted that every year since 1960 a decree has been issued granting full powers to the President of the

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

Republic and suspending for a period of six to eight months a considerable number of constitutional guarantees which represent necessary safeguards for the effective observance of the Convention. Among the constitutional provisions suspended have been those guaranteeing individual liberty, trial by the courts established by the Constitution and the law and the right of peaceful assembly, reserving jurisdiction over cases involving civil or political rights to the courts of law, prohibiting the trial of political offences *in camera*, and requiring the courts to enforce orders and regulations made by the public authorities only to the extent that they conform to the law (respectively articles 17, 18, 31, 112, 113, 122 (second paragraph) and 125 (second paragraph) of the Constitution of 1971, reproducing corresponding provisions of the Constitutions of 1957 and 1964).

While the Committee has recognised that the suspension of constitutional guarantees may in certain circumstances be necessary, it has emphasised that such exceptional measures should be resorted to only in cases of extreme gravity constituting emergencies (that is, endangering the existence or well-being of the population). The Committee has noted that the regular, yearly suspensions of constitutional guarantees in Haiti have not been confined to such circumstances, but, according to the relevant legislative texts, have had as their aim the maintenance of the political, economic and financial stability of the nation and the increase in the well-being of the rural and urban populations.

The Committee notes the Government's statement in its last report that it considers the Committee's observations to be justified. It also states that the country is enjoying a period of peace and prosperity, which it is hoped will continue and that the government authorities will take the opportunity to adapt their action to the appropriate standards.

The Committee notes, however, that the above-mentioned constitutional guarantees were once again suspended for a period of more than six months by Decree of 24 September 1973. In view of these repeated and prolonged suspensions of the constitutional guarantees in question, the Committee cannot be satisfied that the provisions of the Convention are effectively observed. It once more urges the Government to reconsider its practice in this matter in the light of the obligations accepted under the Convention.

2. In its previous observations and direct requests, the Committee had drawn attention to the fact that, in so far as persons sentenced to imprisonment are required to perform labour (section 26 of the Penal Code):

- (a) sections 2 to 6 of the Legislative Decree of 19 November 1936—providing for punishment by imprisonment of any profession of communist faith or the propagation of communist or anarchist doctrines—might result in the imposition of forced or compulsory labour for purposes mentioned in Article 1 (a) of the Convention;
- (b) sections 162 and 165 of the Penal Code—prescribing imprisonment as a punishment for the making of speeches or publication of writings by clergymen criticising the Government or public authorities—might likewise lead to the imposition of forced or compulsory labour falling within Article 1 (a) of the Convention;
- (c) section 3 of the Decree of 8 December 1960 concerning the obligation of workers to respect working hours—providing for punishment by imprisonment of any official or employee of a public or private administration, a bank or a commercial or industrial undertaking who abandons his work, with the evident

object of paralysing the national economy—might lead to the imposition of forced or compulsory labour as a punishment for breach of labour discipline or for having participated in a strike, within the meaning of Article 1 (*c*) and (*d*) of the Convention.

The Committee regrets to note that the Government's report does not indicate any progress in this respect. It once again urges the Government to take the necessary measures with regard to the above-mentioned legislative provisions to ensure that no form of forced or compulsory labour may be imposed for purposes falling within the scope of the Convention.¹

Honduras (ratification: 1957)

In previous direct requests, the Committee had sought information on the measures taken or proposed to be taken to ensure, in accordance with Article 1 (*a*) of the Convention, that no form of forced or compulsory labour (including penal labour) might be imposed by virtue of the undermentioned provisions as a means of political coercion or as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system:

- (*a*) sections 1 and 2 of Decree No. 95 of 7 March 1946 (punishing with rigorous imprisonment persons who engage in any activities aimed at or tending to establish in Honduras the norms or principles of totalitarian or Communist government);
- (*b*) sections 3 and 4 of Legislative Decree No. 206 of 3 February 1956 (punishing with penal servitude the dissemination of doctrines tending to destroy the social order, public tranquillity or the political or legal order of the nation, membership of Communist associations and of any association, group or party which abroad undertakes activities in accordance with Communist doctrines, etc.);
- (*c*) sections 6 and 38 (1) of Decree No. 6 of 1 August 1958 (as amended by Decree No. 26 of 1 July 1966) (prohibiting doctrines which tend to sap the foundations of the State or of the family, as well as "insidious publications which tend to sap the prestige and dignity of the institutions which maintain the external and internal security of the State and the organs and officials of these institutions", these offences being punishable, according to the Government, by rigorous imprisonment);
- (*d*) sections 8 and 38 (4) of Decree No. 6 of 1 August 1958 (as amended by Decree No. 26 of 1 July 1966) (prohibiting any criticism of public officials which is not "founded on facts or acts which constitute or may constitute an offence or infraction expressly punishable by law", this offence being punishable, according to the Government, by rigorous imprisonment).

In its latest report, the Government repeats earlier statements that persons sentenced to rigorous imprisonment are not required to work on public works. However, as the Committee has already pointed out in earlier comments, persons convicted for contravention of sections 3 and 4 of Legislative Decree No. 206 of 1956 are punishable with penal servitude and therefore liable, under section 32 of the Penal Code, to compulsory labour on public works; persons sentenced to rigorous imprisonment are also obliged, pursuant to section 98, second paragraph, of the Penal Code and sections 63, 65 and 70 of the Prison Regulations Act, to engage in work for eight hours a day.

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

The Committee also notes the statement in the Government's report that a new Penal Code being prepared by the National Law Commission would make the necessary improvements in the existing legislation. Recalling that reference has been made to the proposed new Penal Code since the Government's report for 1966-68, the Committee hopes that the necessary measures will be taken at an early date in regard to the legislative provisions mentioned above to ensure the observance of Article 1 (a) of the Convention.

Jordan (ratification: 1958)

The Committee notes with regret that the Government's report contains no information in reply to the direct requests repeatedly made since 1969 concerning the application of Article 1 (a) and (b) of the Convention and relating more particularly to the imposition of penalties involving compulsory labour for contravention of various restrictions upon freedom of expression imposed by the Press and Publications Act of 12 February 1967 and the Public Meetings Act, 1953, the practical application of various provisions of the Penal Code and of the Associations Act, 1936, and the present position regarding exaction of labour under the Road Tax Law. The Committee is once more addressing a direct request on these matters to the Government, and trusts that full information thereon will be available for examination at its next session.

Netherlands (ratification: 1959)

Article 1 (c) and (d) of the Convention. Further to its previous comments, the Committee notes with satisfaction that sections 398 and 399 of the Penal Code, which punished refusal by seamen to serve with imprisonment (involving an obligation to perform labour) have been repealed by Act No. 330 of 13 July 1973.

Singapore (ratification: 1965)

In previous comments, the Committee referred to a number of legislative provisions under which imprisonment (involving, by virtue of the Prisons Ordinance, liability to compulsory labour) might be imposed in circumstances falling within Article 1 (a) of the Convention, namely:

- (a) sections 3, 7, 7 A and 7 B of the Printing Presses Ordinance (as amended by Ordinance No. 11 of 1960), making it an offence to keep and use any printing press or to print or publish any newspaper except under a licence which may be granted and revoked by the competent minister in his absolute discretion;
- (b) clause 7 of the conditions for newspaper licences laid down in the Printing Presses (Application and Permits) Rules, 1961 (as amended by Government Notice No. S 78 of 1961), read together with sections 7 and 17 of the Printing Presses Ordinance, making it an offence for a newspaper to publish any article which is likely to cause ill-will or misunderstanding between the Government and the people of Singapore and the Government and the people of the Federation of Malaya;
- (c) sections 3 and 4 of the Undesirable Publications Act, 1967, empowering the competent minister, in his absolute discretion, to prohibit particular publications or series of publications or all publications by any person (whether published or printed within or outside Singapore) and making it an offence to publish, sell, distribute or reproduce or to possess without reasonable excuse any such prohibited publication;

- (d) sections 22, 24 and 25 of the Internal Security Act, 1960, granting similar powers to prohibit, inter alia, publications considered prejudicial to the national interest, public order or security;
- (e) sections 8, 10 and 44 of the Internal Security Act, 1960, empowering the authorities to impose restrictions upon persons in regard, inter alia, to their activities or employment, and to prohibit them from addressing public meetings or taking part in any political activities;
- (f) sections 4, 14 to 18 and 24 of the Societies Act, 1966, requiring the registration of every association of ten or more persons, but excluding from registration, inter alia, any association whose registration is considered contrary to the national interest or which has affiliations or connections with any organisation outside Singapore considered to be contrary to the national interest, and making it an offence to act as a member of an unregistered society, to publish, sell or possess matter issued by or on behalf or in the interests of such a society, etc.

It appears from the Government's report that no measures are contemplated to modify the position resulting from the above-mentioned provisions. The Government repeats its earlier assertion that there is no system of forced or compulsory labour of any kind or for any purposes in Singapore. It states that work required from persons serving sentences of imprisonment is administered in respect of all prisoners, regardless of the offences committed by them, not with the intention of imposing further punishment, but as a form of rehabilitation, and that no person is required to perform forced or compulsory labour because of his views or activities, however different they may be from the established political, social or economic system. It also states that it is not the Government's intention to use the legislative provisions in question as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, and that these provisions are necessary to preserve racial harmony and to ensure the survival of a multi-racial, multi-lingual and multi-cultural Republic.

As regards the bearing upon the application of the Convention of work exacted from persons sentenced to imprisonment, the Committee draws attention to the comments in paragraphs 81 to 88 of the general survey on forced labour in its report of 1968, where it pointed out that the Convention applies to *any form* of forced or compulsory labour (including labour required as a consequence of a conviction in a court of law) when imposed in circumstances specifically enumerated in Article 1. The obligation to perform labour laid down in the Prisons Ordinance is an essential incident of the penalty of imprisonment and as such constitutes one of the main features distinguishing the conditions applicable to convicted persons from those applicable to unconvicted prisoners. The Committee recalls furthermore that Article 1 (a) of the Convention prohibits forced or compulsory labour (inter alia) as a means of political education, so that in the case of persons convicted for disregarding prohibitions on the publication of views or on participation in political activities the exaction of labour as a form of rehabilitation would be contrary to the express terms of the Convention.

The Committee must once more point out, as in previous observations, that, in one of the above-mentioned cases (point (b)) the legislation prohibits the publication of particular views. The other provisions are a basis for depriving individuals, by a discretionary administrative decision which is not dependent on the commission of any illegal act and is not subject to judicial review, of the possibility of publishing views, engaging in political activity or associating for the purpose of advocating particular policies, ideologies or views. In so far as these various provisions are

enforced by penalties involving liability to compulsory labour, they are contrary to Article 1 (a) of the Convention.

The Committee trusts that the Government will take appropriate measures to comply with the obligations incumbent upon it under the Convention.

Spain (ratification: 1967)

Article 1 (a) of the Convention. In previous direct requests, the Committee had referred to a number of legislative provisions under which the manifestation of certain political or ideological views might be punished with penal servitude or imprisonment (involving, by virtue of section 50 (d) of the Prisons Regulations of 2 February 1956, as amended by Decree No. 162/68 of 25 January 1968, an obligation to perform work), and had asked for information on the measures taken in relation to these provisions to ensure that no form of forced or compulsory labour (including prison labour) might be imposed in virtue thereof for purposes enumerated in Article 1 (a) of the Convention. The Committee notes with satisfaction that Act No. 44/1971 of 15 November 1971 has repealed some of the provisions in question, namely, an Act of 1 March 1940 (prohibiting any propaganda extolling the principles or pretended benefits of communism or the spreading of ideas detrimental to religion, the country, its fundamental institutions and social harmony) and Decree No. 1794/60 of 21 September 1960, brought into force by Legislative Decree No. 9/68 of 16 August 1968 (prohibiting the dissemination of tendentious views with a view to impairing the prestige of the State, its institutions, Government, army or authorities).

The Committee notes with regret, however, that the Government has not provided any information concerning the measures contemplated with regard to various other provisions mentioned in its previous comments, under which penal servitude or imprisonment (involving, as noted above, an obligation to perform work) may be imposed as a punishment for acts or propaganda against the principles of the National Movement, declared permanent and unalterable, for propaganda weakening national sentiment or harming its interests, for publication in the press of attacks on the principles of the National Movement or the fundamental laws or of criticism of political or administrative action lacking in respect due to institutions and persons, for acts aimed at replacing the Government, etc. The Government has confined itself to expressing the view that the obligation to work imposed by section 50 (d) of the Prisons Regulations should not be regarded as forced or compulsory labour within the meaning of the Convention. The Government has stated, in support of this view, that the work required of prisoners is aimed not at obtaining a particular economic result, but at educating prisoners to lead an honest life upon their release, that in most cases the work is paid, that under the system of redemption of penalties through work the performance of work has the effect of reducing the length of the sentence, and that prisoners are therefore eager to obtain work.

As the Committee has pointed out in previous comments, this Convention relates to *any form* of forced or compulsory labour (including labour required as consequence of a conviction in a court of law) when imposed in circumstances specifically enumerated in Article 1. The indications provided by the Government concerning the purpose of the labour obligation imposed on persons sentenced to imprisonment and the reduction of the length of sentences consequent on the performance of labour do not affect this conclusion. The obligation to perform labour laid down in the Prisons Regulations is an essential incident of the penalty of imprisonment and as such constitutes one of the main features distinguishing the conditions applicable to convicted persons from those applicable to unconvicted prisoners. The Committee

recalls furthermore that Article 1 (a) prohibits forced or compulsory labour, inter alia, as a means of political education, so that in the case of persons convicted on account of the manifestation of political or ideological views, the exaction of labour for the purpose of re-education would be contrary to the express terms of the Convention.

The Committee trusts that the Government will review its position in the light of the above comments, and will provide detailed information on the matters raised in the previous direct request, which the Committee is once more addressing to it.

Article 1 (c). The Committee refers to its observation concerning Convention No. 22, relating to the restrictions upon termination by seamen of engagements of indefinite duration imposed by section 91 of the Ordinance of 20 May 1969 respecting employment in the merchant marine. In so far as abandonment of employment in disregard of such restrictions renders the seaman liable to penal and disciplinary sanctions (under section 45 (2) of the Penal and Disciplinary Act of the Merchant Marine of 22 December 1955), these provisions have the effect of transforming the employment relationship into service by compulsion of law. The Committee hopes that they will be reviewed also in the light of the requirements of Convention No. 105 and amended so as to permit engagements of indefinite duration to be terminated by seamen subject only to giving notice.

Sweden (ratification: 1958)

With reference to its previous direct requests relating to the application of Article 1 (c) and (d) of the Convention and the comments regarding these provisions in its general surveys of forced labour of 1962 (paragraphs 117 and 137) and of 1968 (paragraphs 121 and 127), the Committee notes with satisfaction that the Seamen's Act of 18 May 1973, which came into force on 1 July 1973, has abolished the possibility of forcible return of deserters to their ship previously provided for in the Seamen's Act of 1952, and has limited liability to punishment for refusal by a seaman to obey orders to cases in which the order has a bearing upon the safety of the ship, persons on board or the cargo.

Syrian Arab Republic (ratification: 1958)

Article 1 (a), (c) and (d) of the Convention. In observations and direct requests made since 1967 and earlier, the Committee had referred to a number of provisions of the Penal Code, the Economic Penal Code and various other enactments, under which hard labour or imprisonment (which may, by virtue of sections 46 and 51 of the Penal Code, involve liability to compulsory labour) may be imposed as a punishment inter alia for any attempt to impede the implementation of socialist legislation and for any resistance to the Socialist regime, for the dissemination of certain kinds of information or statements, and as a punishment in connection with statutory restrictions on the press, in connection with the prohibition of political parties and certain kinds of associations and of political activity of any kind by students, and in relation to the holding of meetings; as a punishment for various breaches of labour discipline whether committed wilfully or by negligence, and for participation in certain kinds of strikes, including any strikes by agricultural workers. The Committee had asked the Government to take appropriate measures in regard to these provisions to ensure that no form of forced or compulsory labour (including labour resulting from a sentence of imprisonment) might be imposed in circumstances falling within the Convention.

The Committee notes with regret that no report has been received and that, consequently, no information is available on the measures taken or envisaged in relation to the above-mentioned legislation. The Committee is again addressing a direct request to the Government on these matters. It hopes that the Government will take the necessary action in the near future to ensure observance of the Convention.

Tanzania (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observations, which were as follows:

Tanganyika.

The Committee notes, from the Government's answer to its previous comments concerning Article 1 (a), (b), (c) and (d) of the Convention, that it had been decided to repeal all legislative provisions permitting forced labour of any kind and that proposals to this end were due to be submitted to the National Assembly. It hopes that provisions ensuring the full observance of the Convention will be adopted at an early date (see further under Convention No. 29).

The Committee also once more expresses the hope that the Government will in its next report provide information on a series of points which have been the subject of requests for clarification since 1969.

Zanzibar.

The Committee notes that once again no report has been supplied, so that the comments made repeatedly since 1967 remain unanswered.

In the previous comments the Committee had referred in particular to the Afro-Shirazi Party Decree, 1965, by virtue of which the Afro-Shirazi Party was declared the sole political party and all other political parties, organisations or societies were declared unlawful (sections 2 and 8). Under sections 4 and 5 of the Decree membership or management of any prohibited party, organisation or society is punishable with imprisonment. In so far as persons serving a sentence of imprisonment are required to perform compulsory labour (section 47 of the Prisons Decree), the foregoing provisions permit the imposition of forced or compulsory labour as a means of political coercion, in violation of Article 1 (a) of the Convention.

The Committee had also sought information on the effect on the application of the Convention of the state of emergency which had been in force since 1961, on the measures taken to abolish compulsory labour as a punishment for breach of labour discipline under section 110 of the Penal Decree and the Zanzibar Government Shipping Decree, and on the practical application of various statutory provisions. In view of the Government's persistent failure to provide information on these matters the Committee is unable to satisfy itself that the Convention is effectively observed in Zanzibar.

Turkey (ratification: 1961)

1. *Forced labour as a punishment for the expression of views or ideological opposition.* In its previous observations the Committee had noted that sentences of deprivation of liberty (involving, by virtue of the Penal Code and section 17 of Act No. 647 of 13 July 1965 on the execution of sentences, an obligation to perform labour) might be imposed under various statutory provisions in circumstances falling within Article 1 (a) of the Convention, namely:

- (a) sections 141 and 142 of the Penal Code (which prohibit any form of propaganda with a view to the domination of one social class over another or the suppression of a social class, the disruption of any of the basic economic and social institutions of the country or the destruction of the political or legal order, as well as the creation, management or membership of any association having aims of this nature);
- (b) section 163 of the Penal Code (which prohibits propaganda aimed at adapting the fundamental social, economic, political or legal order, even in part, to

religious principles and beliefs, as well as the creation, management or membership of any association pursuing aims of this nature);

- (c) section 241 of the Penal Code (which prohibits ministers of religion from publicly censuring state institutions, laws or official actions);
- (d) section 89 of Act No. 648 of 13 July 1965 concerning political parties (which prohibits political parties from asserting the existence in Turkey of any minorities based on nationality, culture, religion or language and from attempting to disturb national security by conserving, developing or propagating languages and cultures other than the Turkish language or culture).

In reply, the Government has referred to the standard minimum rules for the treatment of prisoners adopted by the United Nations, and similar standards established by the Council of Europe, which provide for the performance of work by prisoners. The Committee refers in this respect to the comments in paragraph 85 of the general survey of forced labour in its report of 1968, where it pointed out that, while in the great majority of cases labour imposed on persons as a consequence of a conviction in a court of law has no relevance to the application of the Convention, because it is not imposed for any of the reasons enumerated in it, the Convention does apply to any form of forced or compulsory labour (including compulsory prison labour) exacted in circumstances falling within the Convention, such as punishment for the expression of views. The minimum standards for the treatment of prisoners mentioned by the Government provide no authority for the imposition of labour in such circumstances. On the contrary, the international standards adopted to safeguard individual freedoms (which, as indicated in paragraphs 90 to 92 of the above-mentioned general survey, the Committee deems it appropriate to take into account in determining the extent of the protection provided by Article 1 (a) of the Convention), as well as the corresponding regional standards, appear to preclude the type of prohibitions on the manifestation of ideological or political views laid down in the legislative provisions referred to above.

The Government has also stated that persons convicted in circumstances referred to in Article 1 of the Convention are not obliged to perform labour if they do not wish to do so. However, the legislation governing the execution of sentences to which the Government has referred in its reports does not establish any such exemption.

The Committee recalls that the above explanations had been given in comments addressed to the Government on a number of earlier occasions. It trusts that measures will be taken in the near future to bring the legislation into conformity with Article 1 (a) of the Convention.

2. *Legislative changes consequent upon amendment of the Constitution.* In its previous observations the Committee had noted that, by Act No. 1488 of 20 September 1972, amendments had been made to the national Constitution affecting, inter alia, Articles 11, 19, 22, 26, 29, 30 and 32 (relating to restrictions upon fundamental rights and freedoms, freedom of opinion, freedom of the press and of other means of information, freedom of association, security of the person and due process of law). According to transitional section 20 of Act No. 1488 the legislative changes necessary as a result of the amendments to the Constitution were to be adopted within one year. The Committee had accordingly requested the Government to provide full information regarding the legislation adopted in relation to the above-mentioned Articles of the Constitution, and the effect of this legislation on the application of the Convention.

The Committee regrets that the Government has not supplied this information. It trusts that the necessary indications will be provided in the next report.

3. *Compulsory patriotic service.* The Committee noted in its previous observation that Article 60 of the national Constitution (which previously provided for compulsory service for the purpose of national defence) had been amended by Act No. 1488 of 20 September 1972 to provide for compulsory patriotic service to be performed either in the armed forces or in public services. The Committee requested the Government to provide full information on the legislation adopted to define the nature of this compulsory service, and to indicate the measures taken to ensure, in accordance with Article 1 (b) of the Convention, that no form of forced or compulsory labour may be used as a means of mobilising and using labour for purposes of economic development.

The Committee regrets that the Government has omitted to supply this information. It trusts that the necessary indications will be provided in the next report.

4. *Forced or compulsory labour as a means of labour discipline.* In its previous comments the Committee had noted that:

- (a) under section 1467 of the Commercial Code (Act No. 6762 of 9 July 1965) seamen may be forcibly conveyed on board ship to perform their duties;
- (b) under section 1469 of the Commercial Code, various breaches of discipline by seamen are punishable with imprisonment (involving, as previously noted, an obligation to perform labour).

The Committee had expressed the hope that measures would be taken in regard to the above-mentioned provisions to ensure, in accordance with Article 1 (c) of the Convention, that no form of forced or compulsory labour may be used as a means of labour discipline (with due regard to the explanations provided in paragraphs 93 and 117 to 121 of the general survey of forced labour in the Committee's report of 1968).

In reply, the Government has expressed the view that the power granted to the captain of a ship by section 1467 of the Commercial Code to bring seamen back to the ship by force is not contrary to the Convention, since it covers only emergency situations and is never applied in cases of lawful strikes. The Committee observes, however, that the powers granted by section 1467 are not confined to emergency situations, but may be exercised, inter alia, to ensure the proper running of the ship and the maintenance of discipline. They accordingly involve the imposition of a form of compulsory labour as a means of labour discipline, contrary to Article 1 (c) of the Convention.

As the Committee has previously indicated, the imposition of imprisonment (involving, as already noted, an obligation to perform work) as a punishment for various breaches of labour discipline, under section 1469 of the Commercial Code, is likewise incompatible with Article 1 (c) of the Convention.

The Committee trusts that measures will be taken at an early date to bring the above-mentioned legislation into conformity with the Convention.

5. *Forced or compulsory labour as a punishment for having participated in strikes.* In its previous observations the Committee had noted that, under sections 17, 20 (subsections 7 to 11), 54 to 56 and 58 of Act No. 275 of 15 July 1963, strikes were prohibited in a number of cases, subject to penalties which might take the form of imprisonment (involving, as previously noted, an obligation to perform labour). The Committee had expressed the hope that measures would be taken in regard to the above-mentioned provisions to ensure, in accordance with Article 1 (d) of the Convention, that no form of forced or compulsory labour may be used as a punishment for having participated in strikes (with due regard to the explanations

provided in paragraphs 94 to 96 and 122 to 128 of the previously mentioned general survey of forced labour of 1968).

The Committee regrets that the Government has provided no information on this matter. It trusts that measures will be taken at an early date to bring the legislation into conformity with Article 1 (d) of the Convention.

6. *Penalties for breaches of labour discipline and strikes by public employees.* In its previous comments the Committee had referred, in relation to Article 1 (c) and (d) of the Convention, to various provisions of Act No. 624 of 8 June 1965 concerning trade unions of public officials, under which imprisonment (involving an obligation to perform labour) might be imposed for certain breaches of discipline by public servants and for participation in strikes not only of public officials engaged in the administration of the State, but also of employees of public services and enterprises.

The Committee notes that, by Act No. 1488 of 20 September 1972, Articles 46 and 119 of the Constitution were amended so as to restrict the right of organisation of public servants, provision being made by transitional Article 16 for the immediate cessation of the activities of trade unions established under Act No. 624 and the promulgation within six months of a new law to regulate the creation of organisations by public servants. The Committee trusts that the Government will provide the text of the legislation adopted in accordance with this requirement, and indications concerning its effect on the application of the Convention.

7. *State of siege.* In its previous comments the Committee had noted that a state of siege had been declared by decision No. 7/2302 of 26 April 1971 and had subsequently been prolonged for successive periods, that under Article 124 of the Turkish Constitution liberties might be restricted or suspended during a state of siege, that Act No. 1402 of 13 May 1971 had empowered the competent authorities to impose a number of such restrictions including restrictions on freedom of expression, assembly and association, and on the right to strike, that violations of such restrictions were punishable under section 16 of Act No. 1402 by imprisonment (involving, as previously noted, an obligation to perform labour), and that, in derogation of the constitutional guarantee of trial by the ordinary courts of law, Act No. 1402 had empowered military courts to try civilians. The Committee had accordingly requested the Government to supply full information on the practical application of the powers conferred by Act No. 1402 (particularly as regards the imposition of penalties involving compulsory labour in connection with limitations on freedom of expression, meeting and association, limitations on strikes, etc.), including information on the number of persons sentenced to such penalties as a result of these restrictions. It also asked for indications of the measures taken with a view to ensuring that no form of forced or compulsory labour might be imposed by virtue of the above-mentioned provisions in any of the cases specified in Article 1 of the Convention.

The Committee notes the Government's statement that the state of siege was declared and carried into effect in accordance with the relevant constitutional provision, that no distinction is made as regards work in civilian and military prisons, and that the provisions pertaining to martial law are not applied in a manner contrary to the Convention. The Committee regrets however that the Government has not supplied the detailed information requested, which alone would enable the Committee to ascertain whether or not the Convention had been respected by the measures taken under martial law.

The Committee has noted that, although the state of siege was terminated in September 1973, transitional Article 21 of the Constitution provides for the continued

operation of martial law tribunals in all pending cases, and that all sentences already imposed would in any case continue to run. It therefore once more expresses the hope that the Government will furnish the detailed information on the practical application of Act No. 1402 previously requested and on the measures taken or contemplated to ensure the observance of the Convention in this connection.¹

Uganda (ratification: 1963)

The Committee regrets that the Government has supplied no report on this Convention, and that accordingly no reply has been furnished to its previous comments.

Article 1 (a) of the Convention. The Committee notes that imprisonment (involving, by virtue of section 46 of the Prisons Act, an obligation to perform work) may be imposed for contravention of the following provisions:

- (a) sections 1, 2, 3, 5 and 12 of the Suspension of Political Activities Decree, 1971 (as amended by Decree No. 6 of 1973), which prohibit participation in any political party or in any public meeting or procession organised for propagating or imparting political ideas or information, and the uttering in any public meeting or public place of any political slogan;
- (b) section 21 A of the Newspaper and Publications Act (inserted by Decree No. 35 of 1972), under which the publication of any newspaper may be prohibited if the competent Minister considers it to be in the public interest to do so—a power exercised, for example, by the Newspaper and Publications (Prohibition) Order (S.I. 1973 No. 2);
- (c) sections 1, 2, 3 and 5 of the Public Order and Security Act, 1967, under which restrictions may be imposed, inter alia, on an individual's association or communication with other persons by a decision taken by the President at his discretion which may not be questioned in any court;
- (d) sections 54 (2) (c), 55, 56 and 56 A of the Penal Code, which empower the competent Minister to declare any combination of two or more persons to be an unlawful society (a power exercised in respect of various political, religious and student organisations by Statutory Instruments Nos. 12 of 1968, 153 of 1972 and 63 of 1973) and prohibit any speech, publication or activity on behalf or in support of any such association.

The Committee expresses the hope that appropriate measures will be taken in regard to the above-mentioned provisions to ensure, in accordance with Article 1 (a) of the Convention, that no form of forced or compulsory labour (including compulsory prison labour) may be imposed as a means of political coercion or as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system.

Article 1 (c) and (d). In previous comments the Committee had noted that, under section 16 (a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, workers employed in "essential services" might be prohibited from terminating their contract of service, even by notice, that, by virtue of sections 16, 17 and 20 A of the same Act, strikes might be prohibited in various services which, while including services generally recognised as essential services, also extended to other services whose

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

interruption would not necessarily endanger the existence or well-being of the population, and that contravention of these prohibitions might be punished with imprisonment (involving, as previously noted, an obligation to perform work).

In its report for 1969-71, the Government stated that the Trade Disputes (Arbitration and Settlement) Act was being reviewed with a view to bringing it into conformity with Article 1 (c) and (d) of the Convention. The Committee hopes that measures to this end will be taken at an early date.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Algeria, Argentina, Australia, Austria, Canada, Central African Republic, Chad, Dahomey, Democratic Yemen (Aden), Ecuador, Egypt, Finland, France, Federal Republic of Germany, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, Iceland, Iran, Iraq, Jamaica, Jordan, Kenya, Liberia, Malta, Mauritius, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Sierra Leone, Singapore, Somalia, Spain, Sudan, Syrian Arab Republic, Tanzania, Trinidad and Tobago, Tunisia, United Kingdom, Uruguay, Zambia.*

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Afghanistan (ratification: 1963)

See the General Observations concerning Afghanistan.

The Committee notes that the Government's report contains no information in response to the points raised in its earlier observation. The Committee would ask the Government to send the text of the regulations under which all office workers who are employed by the Government and by private commercial establishments are entitled to a working week of five-and-a-half days, and to state what measures have been taken or are contemplated to extend the provisions of the Convention to all workers in commercial establishments or in establishments the staffs of which are engaged in office work who are not covered by the above-mentioned regulations.

Brazil (ratification: 1965)

The Committee notes the information supplied by the Trade Union of Artists and Entertainment Technicians employed in the Province of Guanabara, which the Government transmitted in reply to its earlier observation, and which states that Regulation No. 398 of 11 September 1968 provides, in section 20 (f), that the contract signed by an artist and his employer and registered with the regional labour delegation must state the day on which the artist's weekly rest is to be granted.

Haiti (ratification: 1958)

The Committee regrets that no report has been received since 1968. Accordingly, it is bound to repeat its previous comments, which were as follows:

Article 2 of the Convention. The Government has stated that, although no provision has as yet been adopted for safeguarding the right to weekly rest of employees of the customs and other services covered by section 320 of the Labour Code, the General Inspection Service is responsible for ensuring that this category of worker enjoys the weekly rest. In these circumstances, the Committee hopes that

the Government will be able to adopt provisions expressly guaranteeing a rest period for these workers in accordance with the Convention.

Article 7, paragraph 2. The Committee notes that as yet no amendment has been brought to national legislation in order to ensure that compensatory rest is granted to public officials and employees. It must once again express the hope that this amendment will be made in the near future.

The Committee hopes that the Government will supply information on any measures taken or contemplated to bring the legislation into conformity with the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Dominican Republic, Ecuador, France, Italy, Netherlands, Portugal, Spain, USSR.*

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

Convention No. 107: Indigenous and Tribal Populations, 1957

General Observation

The Indigenous and Tribal Populations Convention, 1957 (No. 107) applies, by virtue of Article 1, paragraph 1, to tribal or semi-tribal populations in *independent countries*. It therefore becomes necessary to determine what is the precise geographical scope of the obligations arising out of the ratification of this Convention in cases where the territory under the administration of the State concerned does not consist entirely of areas which may be regarded as constituting independent countries. As indicated in its previous report, the Committee undertook at the present session an examination of the position of Portugal in this respect. In the light of all relevant elements, including the resolutions adopted in this respect by certain organs of the United Nations Organisation, it appears that the only part of territory under Portuguese administration which can be considered to have the status of an independent country within the meaning of the Indigenous and Tribal Populations Convention is metropolitan Portugal, and that the Committee is therefore not called upon, in the case of this Convention, to examine the situation in any other territory under Portuguese administration.

Bolivia (ratification: 1965)

The Committee notes with regret that for the fourth consecutive year the Government has failed to supply a report on this Convention. It recalls that observations and detailed direct requests have been sent to the Government since 1970, asking for further information on Articles 2 to 26 of the Convention, and points out that in the absence of the information in question it is unable to assess the manner in which the Convention is applied.

Accordingly the Committee urges the Government to supply the report due on this Convention and it trusts that it will take the measures and supply the information called for in the request which is being addressed to it once again.

Brazil (ratification: 1965)

The Committee notes from the detailed information supplied by the Government, including a Report of the National Foundation for Indians (FUNAI), that measures are being taken to extend the programmes for protection of Indians: by creating new FUNAI posts, expanding school programmes, carrying out vaccination and health projects, etc.

The Committee hopes that the Government's efforts for the assistance of Indians will continue to expand both as regards the Indians (which number some 100,000, according to information supplied by the Government) not yet covered by FUNAI programmes and as regards those only partly protected. It also hopes that action will continue to promote the interests of Indians as regards such matters as the system of tutelage and rights of ownership to lands occupied by them. The Committee's detailed request addressed directly to the Government sets out a number of points in this connection.

Colombia (ratification: 1969)

The Committee notes with regret that, for the second year in succession, the Government's report has not been received.

The Committee recalls that in 1972 and 1973 it had asked the Government to supply full information on the various measures which it had taken to remedy the situation of the indigenous populations in the Planas region. It also recalls that the attention of the ILO had originally been drawn to the matter in observations communicated by two Colombian trade union organisations.

The Committee must reiterate its concern at the Government's failure to report on a matter directly relevant to the protection of indigenous populations as laid down in the Convention, including, more particularly, information on the measures which the Government (according to a communication to the Director-General, dated December 1970) intended to take to remedy the situation. It trusts that a report including full particulars on the present situation of Indians in the Planas region will be supplied and will indicate the measures which may have been taken in their respect (see also the detailed questions in the direct request).

India (ratification: 1958)

The Committee thanks the Government for the detailed report (1970-72) and appended texts sent in reply to its previous direct request. It notes with interest the continuing efforts being made by the Government to introduce new legislation, ensure the application of existing texts, and carry out a wide range of programmes designed to assist and protect the 38 million members of tribal populations in the country, despite the heavy financial and administrative implications of these activities. It hopes that the further measures now being taken or envisaged will give the desired results and that the Government will take account, in its next report, of the request being forwarded directly to it in this connection.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Egypt, India, Mexico, Pakistan, Panama, Paraguay.*

Convention No. 108: Seafarers' Identity Documents, 1958*Honduras* (ratification: 1960)

The Committee notes from the Government's reply to its earlier observations that the special committee set up to study the possibility of issuing a single identity document for seafarers has not yet reached positive conclusions but that the Government undertakes to take the necessary steps to bring the national legislation into conformity with Article 2, paragraph 1, and Article 4, paragraph 2, of the Convention.

In view of the fact that these are matters on which the Committee has been making comments for several years, it trusts that in the near future the Government will take the necessary measures to apply those provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Honduras, Iran, Spain, Sweden, Tanzania, Ukrainian SSR*.

Convention No. 110: Plantations, 1958

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

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

Convention No. 111: Discrimination (Employment and Occupation), 1958*Chad* (ratification: 1966)

The Committee notes with regret that this year again the Government's report has not been received and that, therefore, it has received no replies to the points raised in its previous direct requests. It hopes that the Government will not fail to supply information on these points which are repeated in detail in a new direct request and which concern the following: the need to supply information on the various questions listed in the report form; the practical application of national policies against discrimination; the types of employment from which women are excluded under the Public Service Regulations "by reason of special requirements of physical aptitude" and finally, the measures taken for the promotion of equal opportunity in vocational training and employment for different ethnic and social population groups as well as for both sexes.

Chile (ratification: 1971)

The Committee regrets that the Government's first report on the application of the Convention, which was due to be examined this year, has not been received. It hopes that the report will be available for examination at its next session. In view of the statements made to the Governing Body of the International Labour Office at its

191st Session (November 1973) by the international organisations of workers regarding the situation in Chile, and in the light more particularly of the provisions of the Convention concerning the elimination of discrimination in employment and occupation based on political opinion, the Committee would be glad if the Government would provide information as to any general survey of those questions made by Government bodies, judicial or other, and as to the measures taken in this respect. The Committee notes in particular the observations submitted by the Government to the Committee on Freedom of Association of the Governing Body concerning the scope of Legislative Decree No. 32 (issued on 4 October 1973) in conjunction with Act No. 16455 of 1966 concerning the dismissal of workers and concerning Proclamation No. 36 of 18 September 1973, which provides for the dismissal of workers—by legal channels—not only in the case of sabotage or delinquency, but also when they are deemed to be “extremists” or “simply activists or agitators”. In view of the fact that the application of such provisions could deprive workers of their employment simply because of certain political opinions which they might have expressed, the Committee hopes that the Government will provide information more particularly on the application of those provisions in practice and, if they are still in force, on the steps taken to revise them in the light of the provisions of the Convention.

Colombia (ratification: 1968)

Further to its earlier direct requests, the Committee notes with satisfaction the adoption of Act No. 13 of 29 November 1972, prohibiting discrimination between citizens as regards employment, more particularly based on their civil status, family situation, religion or political affiliation. It also notes with interest the other information supplied by the Government. The Committee hopes to be further kept informed of results achieved in the application of the national policy to eliminate all discrimination within the meaning of the Convention.

Cyprus (ratification: 1968)

The Committee notes the comments submitted by the Government to the Conference Committee in 1973 concerning some of the points raised by the Federation of Turkish-Cypriot Trade Unions, to which the Committee referred in its last observation, as regards the position of Turkish Cypriots in vocational training institutions and the degree to which they were employed in the economy of the country in general.

The Committee also notes the subsequent comments of the Federation of Turkish-Cypriot Trade Unions of 15 June 1973 (transmitted to it for consideration by decision of the Conference Committee) concerning those questions and that of the employment of Turkish Cypriots in the administration and in semi-public establishments.

Finally, the Committee notes that the Government, to which these observations had been transmitted for comment, referred to its earlier comments and declared its willingness to supply additional information if asked to do so.

In view, on the one hand, of the nature of the additional information which would be appropriate in connection with the situations referred to in the above-mentioned comments and observations, and, on the other hand, of the indications given by the Government to the Conference Committee in 1973 as to the possibility of verifying the information, the Committee would suggest that those questions could best be examined by direct contacts in accordance with paragraphs 27 and 31 to 55 of its General Report for 1973.

Czechoslovakia (ratification: 1964)

The Committee notes with interest from the information supplied by the Government to the Conference in 1973 that on 12 June 1973 the Government approved the principles of a law to amend, inter alia, the provisions of sections 46 and 53 of the Labour Code (as amended in 1969) concerning the dismissal of workers. The Committee had earlier commented on those provisions as they were not in harmony with the standards of the Convention concerning the protection of workers against discrimination in employment on the basis of their political opinions.

However, the Committee regrets that the report which the Government was asked to submit for consideration at the present session has not been received, and that consequently no information is available as to whether the above-mentioned law has actually been adopted, or with regard to the other points raised by the Committee in a direct request (concerning the elimination of discrimination based on political opinions in the case of access to certain forms of vocational training).

The Committee also notes that the proposed new provisions would no longer refer, as did those of 1969, to cases in which a worker was not "sufficiently worthy of confidence to occupy his functions" because of activities "calculated to cause a breach of the socialist social order", but would refer to cases in which a worker "is justifiably suspected of engaging in activities prejudicial to the security of the State or has actually been sentenced for such activities" (a wording which follows closely Article 4 of the Convention), and that, according to the statement of the Government representative to the Conference Committee in 1973, the explanatory memorandum of the new Act would provide a basis for interpreting this provision in conformity with the Convention. The Committee would, however, draw the Government's attention to the fact that it would be appropriate in this connection to refer to other provisions of the national legislation which would clarify the circumstances in which a worker could be accused of engaging in an activity prejudicial to the security of the State or be sentenced for such activity.

The Committee hopes that the Government will not fail to report in the near future whether all the necessary measures to bring the national law and practice into harmony with the Convention have been taken.

Dominican Republic (ratification: 1962)

The Committee regrets that this year again no report or reply to previous requests has been received. It hopes that a report will be supplied for examination by the Committee at its next session and will contain full information on the matters raised in its previous requests. In this respect, the Committee has noted with interest the information contained in a previous report of the Government concerning the insertion in the new draft Labour Code of certain provisions prohibiting all discrimination made on the basis of race, religion or economic situation, in respect of employment and occupation, as well as in such fields as social welfare, education, cultural activities, etc. (sections 15 and 17). It hopes that the Government will be able to supply in its next report information on the entry into force of the new Labour Code and the implementation of the aforesaid provisions. The Committee would be glad if the Government would indicate what are the procedures available to persons who consider that they have been the subject of discrimination within the meaning of the Convention by (a) a public authority or (b) a private body or employer. The Committee would also appreciate information on the procedures or other measures which ensure in practice equality of opportunity and treatment in respect of

appointment and promotion in the public service the Government is requested to supply copies of any regulations in this regard.

Ecuador (ratification: 1962)

While noting with interest the information supplied by the Government to the Conference in 1973 regarding the repeal of Decree No. 30 of 18 July 1963 concerning the dismissal of persons belonging to certain political parties, the Committee regrets that it has not received a report dealing with other points.

It hopes that the Government, in its next report, will provide, as already requested, detailed information as to the action taken to promote the elimination of discrimination for social, ethnic or economic reasons, which, according to the previous report, still exist in practice, despite the efforts made to eliminate it. Such action might include, in particular, the adoption of specific legislative measures to ban such practices (as contemplated by Article 3 (b) of the Convention).

The Committee also hopes that the next report would contain fuller information on the practical steps taken to promote equality of opportunity, as regards possibilities of training and employment for the indigenous population, the ethnic minorities in the coastal area, and women, and on the results obtained in this field.

Mauritania (ratification: 1963)

The Committee notes with regret that this year again the Government's report has not been received, and that it had no information on the points mentioned in its previous observation. The Committee had noted with interest that, according to section 40 of Book V of the Labour Code, decrees to be issued in virtue of section 39 to lay down in particular general rules concerning employment were intended to "guarantee to everyone equality of opportunity and treatment in respect of access to employment and to vocational training and as regards conditions of employment" and "to prevent in this connection any discrimination, distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion or social origin". In view of the importance of the promulgation, as contemplated by Article 3 (b) of the Convention, of specific provisions to this effect—which might include in particular appropriate arrangements for examining and settling cases in which discrimination in the field of employment had been alleged—the Committee would be glad if the Government would state what measures have been taken or are contemplated to this end.

Mongolia (ratification: 1969)

The Committee regrets that, this year again, it was not in a position to examine the application of this Convention in Mongolia (see under General Observations).

Portugal (ratification: 1959) ¹

In its earlier observation concerning the application of the Convention in Angola, Mozambique and other territories governed by the same legislation, the Committee noted that no information had been received subsequent to the statements made by the representative of the Government of Portugal to the Conference Committee in 1972, and drew attention to a certain number of points, which are mentioned again below.

¹ For the scope of the Committee's mandate in regard to the application of Conventions in the various territories under Portuguese administration, see paras. 68-71 of Part One of this report.

The Committee notes that, in a written communication to the Conference in 1973, the Government merely affirmed that it made no discrimination in respect of employment and that its legislation and practice were in conformity with the Convention.

The Committee very much regrets that once again no report and no additional information have been received since then on this subject. It trusts that it will soon be given detailed information, as called for in its earlier observation, as to the steps taken to:

- (i) eliminate the differences which exist, from the point of view of labour law and trade union organisation, between different categories of workers which, although not defined by race, do in fact correspond largely to a racial breakdown (in particular, the Rural Labour Code of 1962 applies in practice only to indigenous workers) (Article 3, paragraphs (a) and (c), of the Convention);
- (ii) guarantee equality of treatment for workers, irrespective of their previous status, as regards occupational classification and conditions of employment, more particularly through appropriate specific legislation (Article 3 (b) of the Convention);
- (iii) follow a policy of equality of opportunity and treatment at all levels in the public services (Article 3 (d) of the Convention);
- (iv) promote equality of opportunity and treatment through the activities of the vocational training, vocational guidance and placement services (Article 3 (e) of the Convention).

Sierra Leone (ratification: 1966)

The Committee has noted with interest, from the information supplied by the Government in reply to its earlier observation, that Government delegates to the 59th Session of the Conference might be seeking the advice of the ILO in respect of the drafting and implementation of appropriate legislation based on the provisions of the Convention. The Committee therefore hopes that in the near future, possibly with the technical co-operation of the Office, the Government will be able to enact such legislation as may be calculated to secure the acceptance and observance of the national policy concerning the elimination of discrimination in employment and occupation within the meaning of Article 3 (b) of the Convention.

Turkey (ratification: 1968)

The Committee regrets that this year again the Government's report has not been received and that, therefore, it has received no replies to the points raised on the application of the Convention in its previous direct requests. It trusts that the Government will not fail to supply for consideration at the next session a report containing detailed replies to the points which are repeated again in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Chad, Czechoslovakia, Ethiopia, Gabon, Guinea, Honduras, Iran, Italy, Jordan, Libyan Arab Republic, Madagascar, Nicaragua, Niger, Panama, Sudan, Turkey, Republic of Viet-Nam.*

Convention No. 112: Minimum Age (Fishermen), 1959*Guatemala* (ratification: 1961)

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts which took place between the competent national authorities and a representative of the Director-General of the ILO, approval was given on 12 April 1973 to Government Decree No. 14-73, which regulates the minimum age for admission to employment as sea-going fishermen in accordance with the Convention.

* * *

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

Convention No. 113: Medical Examination (Fishermen), 1959*Guatemala* (ratification: 1961)

Further to its earlier observation, the Committee notes that a new Special Labour Commission has begun to study the reforms which should be made in the Labour Code, and that its work will include the drafting of provisions which should have reference to the field of the Convention. Since there is at present no provision on this subject in the national legislation, the Committee trusts that the Government will soon be in a position to announce the adoption of legislation which will ensure compliance with the various provisions of the Convention.

Liberia (ratification: 1960)

Further to its earlier observation, the Committee notes from the Government's report that the new Labour Code is still being studied but that a decision on the subject would be taken in January 1974, and that the text would ensure the complete application of the Convention. Consequently, the Committee trusts that the Act in question will be enacted in the near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium, Brazil, Costa Rica, Cuba, Ecuador, Guinea, Panama, Tunisia, Yugoslavia*.

Convention No. 114: Fishermen's Articles of Agreement, 1959*Guatemala* (ratification: 1961)

See under Convention No. 113.

Liberia (ratification: 1960)

See under Convention No. 113.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Cyprus, Guinea, Mauritania, Panama, Peru.*

Convention No. 115: Radiation Protection, 1960*Iraq* (ratification: 1962)

Further to its previous comments, the Committee notes with satisfaction that the Radiation Control Board has issued an order concerning the utilisation of units of measures and maximum permissible doses of ionising radiation (Articles 6 and 8 of the Convention).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Barbados, Brazil, Ecuador, France, Ghana, Guinea, Guyana, Iraq, Paraguay, Syrian Arab Republic, Turkey.*

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

Convention No. 117: Social Policy (Basic Aims and Standards), 1962*Ghana* (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to refer to its previous observation, relating to Article 8 of the Convention, in which it had noted a statement by the Government that information concerning the conclusion of international agreements regulating matters of common concern arising in connection with migrant workers would be communicated as soon as it became available.

The Committee hopes that the Government will soon supply this information and that it will show significant progress in the application of these provisions of the Convention, which are designed to protect migrant workers and ensure that they receive equality of opportunity and treatment with national workers.

Paraguay (ratification: 1969)

The Committee refers to its previous direct request regarding Article 12, paragraphs 1 and 2, of the Convention and notes with satisfaction that Resolution No. 322 of 2 October 1973 specifies the maximum amount of advances on wages permitted in the agricultural sector.

Zaire (ratification: 1967)

The Committee notes with regret that the Government has not replied to direct requests of 1970, 1972 and 1973. It recalls that the Government's previous reports

were confined to general indications concerning the principles of equality before the law, of the right to work and of non-discrimination, enshrined in the Constitution and in the Labour Code.

Since this information does not provide a clear indication of the effect given to the Convention, the Committee requests the Government to supply in its next report detailed information concerning the application of each Article of the Convention, in accordance with the report form approved by the Governing Body of the International Labour Office; and also that it enclose a copy of the Manifesto of the N'Sele (the National Party of Zaire).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Central African Republic, Costa Rica, Ecuador, Ghana, Guinea, Israel, Jamaica, Jordan, Kuwait, Madagascar, Panama, Paraguay, Sudan, Syrian Arab Republic, Tunisia, Republic of Viet-Nam, Zambia.*

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

Convention No. 118: Equality of Treatment (Social Security), 1962

Central African Republic (ratification: 1964)

As the Government has given no reply to the Committee's earlier requests concerning the application of the Convention, the Committee feels obliged to take the matter up again in a further direct request and hopes that the Government will not fail to supply all the information asked for. This request covers, *inter alia*, the payment of employment injury pensions (to survivors of foreign workers) and the payment of old-age pensions and family allowances (both to nationals and to foreigners) when the beneficiaries are resident outside the Central African Republic (Article 4, paragraph 1, and Articles 5 and 6 of the Convention).

Ireland (ratification: 1964)

The Committee regrets to note that no report has been received and that, consequently, it has no reply to its earlier comments concerning the non-payment (with certain exceptions) of family allowances in respect of children resident abroad. However, the Committee was interested to note that, as a result of Irish membership of the European Economic Community, family allowances are now payable, in accordance with Regulation No. 1408/71 of 14 June 1971, to wage earners employed in Ireland in respect of their children who are resident in the territory of any member of the Community, and more particularly in the territory of two States—Italy and the Netherlands—which have accepted the obligations of the Convention in respect of family benefits. The Committee hopes that the Government will take further measures to guarantee more complete application of Article 6 of the Convention (the scope of which is not limited to the children of wage earners), and that it will report any progress in this direction.

Italy (ratification: 1967)

Branch (e) (old-age benefit)

Articles 3 and 10, paragraph 1, of the Convention. Further to its earlier direct request, the Committee regrets to note that the "social pension" introduced by

section 26 of Act No. 153 of 30 April 1969 is still granted only to Italians. The Committee would express the hope that the Government will take the necessary steps to grant this benefit also, as required by the Convention, to nationals of other States Members for which the Convention is also in force, and also to refugees and stateless persons. It would ask the Government to state in its next report what steps it has taken to that end.

Articles 5 and 10, paragraph 1. Further to its earlier direct request, the Committee regrets to note that the "social pension" is granted only to Italians resident in Italy. The Committee would express the hope that the Government will take the necessary steps to ensure payment of this benefit to persons residing abroad, whether Italian citizens or nationals of any other Member which has accepted the obligations of the Convention in respect of branch (e), and also to refugees and stateless persons, without prejudice to the Government's right to avail itself of paragraph 2 of this Article to limit this payment to cases in which Italy participates with the Members concerned in schemes for the maintenance of rights. The Committee would ask the Government to state in its next report what action has been taken or is contemplated to apply the Convention on this point also.

Jordan (ratification: 1963)

The Committee regrets to note that the Bill concerning labour and social security, which the Government has mentioned in its earlier reports, has still not been adopted. It would point out once again that, under *Article 2, paragraph 1, of the Convention*, it is possible to give full effect to the Convention, which is a Convention based on reciprocity, only if legislation exists covering all the branches in respect of which the Government has accepted the obligations of the Convention, namely: (c) (maternity benefit), (d) (invalidity benefit), (f) (survivors' benefit) and (g) (employment injury benefit). However, the only legislation in force, which is the Labour Code of 1960 (sections 51 and 54 to 67), deals only with two of those branches, (c) and (g). The Committee trusts that the Government will take appropriate steps to have the Social Security Bill adopted and applied in the near future so as to comply fully with the Convention in respect of all the branches of social security for which it has accepted the obligations of the instrument.

Sweden (ratification: 1963)

Article 3 of the Convention—Branch (h) (unemployment benefit). Further to its earlier direct requests, the Committee notes with satisfaction that the Unemployment Insurance Act No. 370 of 5 June 1973 has formally abolished the possibility of limiting the right of foreigners to become members of an unemployment insurance fund.

Syrian Arab Republic (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 5 of the Convention (branches (d), (e), (f) and (g)). The Committee refers to the comments which it has made since 1966 and regrets to note from the Government's report for the period ending 30 June 1971 that no action has been taken to amend section 94 of the Social Insurance Act No. 92 of 1959, as amended by Act No. 143 of 1961, according to which pensions cease to be paid when the beneficiary permanently leaves the country and may be replaced by the capital value thereof calculated in conformity with the table laid down in section 61 concerning conversions made at the request of the beneficiary. The Government stated in its previous report that a decision had been

taken to amend section 94 so as to bring it into conformity with the Convention, but in its latest report it merely refers to studies which are to be undertaken to establish the conversion table in section 61. The Committee would once again express the hope that the Government will take the necessary steps to guarantee, both to its own nationals and to nationals of any other Member which has accepted the obligations of the Convention in respect of the branch or branches in question, the payment of invalidity, old-age, survivors' and employment injury pensions when they are resident abroad. The Committee requests the Government to indicate the action taken to this end. (Cf. also the direct request concerning Convention No. 19.)

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a general request is being addressed directly to the States having ratified this Convention.

Requests regarding certain points are also being addressed directly to the following States: *Brazil, Central African Republic, Finland, Federal Republic of Germany, Guinea, Israel, Italy, Madagascar, Mauritania, Norway, Sweden, Tunisia, Republic of Viet-Nam, Zaire.*

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

Convention No. 119: Guarding of Machinery, 1963

Dominican Republic (ratification: 1965)

The Government having failed to reply to the previous direct requests on the application of this Convention, the Committee must take up the matter once again in a new direct request and it hopes that the Government will make every effort to take the necessary measures and supply the information requested.

Niger (ratification: 1964)

Further to its earlier comments, the Committee notes the information supplied by the Government to the effect that the proposed new health and safety regulations to replace the General Order No. 5253/IGTLS/AOF of 19 July 1954 are so important that time is required for consultation, more especially with the occupational organisations concerned.

The Committee trusts that appropriate measures will be adopted in the very near future and will give effect to the Convention more particularly as regards its application to machinery operated by manual power (Article 1, paragraph 2), the sale, hire, transfer and exhibition of machines (Articles 2 to 4), informing and instructing workers (Article 10) and prohibiting the removal of guards or making them inoperative (Article 11).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Dominican Republic, Ecuador, Guinea, Madagascar, Panama, Paraguay, Spain, Turkey, Zaire.*

Convention No. 120: Hygiene (Commerce and Offices), 1964

Requests regarding certain points are being addressed directly to the following States: *Costa Rica, Ecuador, Guinea, Madagascar, Paraguay, Republic of Viet-Nam, Zaire.*

Convention No. 121: Employment Injury Benefits, 1964*General Observation*

Article 21 of the Convention. See under Convention No. 102; the comments made apply equally to this Convention as regards benefits in the case of permanent incapacity and the death of the breadwinner.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium, Finland, Guinea, Netherlands, Yugoslavia, Zaire.*

Convention No. 122: Employment Policy, 1964*Guinea (ratification: 1966)*

The Committee notes, from the Government's reply to the previous direct request, that it is unable to supply information concerning the size and distribution of the labour force and the nature and extent of unemployment and underemployment and that there are no data available concerning the volume of productive employment currently available and likely to be available in the future.

The Committee regrets that no other information is supplied in response to its previous requests, in which it indicated that it had not been able, on the basis of the limited information available, to form any assessment of the extent to which the Government has declared and is pursuing an active employment policy in accordance with the Convention.

In the absence of any indication that measures have been taken to this end, the Committee wishes to point out that the essential first steps towards the formulation and implementation of an active employment policy are (a) the introduction into the planning machinery of such procedures and/or bodies as may be necessary to ensure that employment policy is given a high degree of priority in future plans, and that there is full co-ordination and co-operation between all the ministries and other institutions concerned (for example, those responsible for planning, economic affairs, labour, education and training, industry, trade, agriculture, public works); and (b) the development of procedures for the collection and analysis of the statistics necessary for the formulation of an active employment policy and research into the economic and social factors affecting employment, unemployment and underemployment.

The Committee trusts that the Government will take steps to initiate action in these two fields and will supply information on the progress made, with particular reference to the points covered by the previous direct requests, which are again being raised in a further request.

Uganda (ratification: 1967)

The Committee notes with regret that for the second consecutive year the Government's report has not been received. The Committee is bound, therefore, to reiterate its previous observation, in which it requested the Government to supply information concerning the policies and measures now being implemented to promote full, productive and freely chosen employment, and to ensure that there is the fullest possible opportunity for each worker to qualify for, and use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin (Article 1, paragraphs 1 and 2, of the Convention).

The Committee also hopes that the Government will provide all available information concerning unemployment, underemployment and the size and composition of the labour force.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Byelorussian SSR, Cameroon, Chile, Costa Rica, Cuba, France, Guinea, Israel, Jordan, Madagascar, Panama, Paraguay, Peru, USSR, Republic of Viet-Nam.*

Convention No. 123: Minimum Age (Underground Work), 1965

Requests regarding certain points are being addressed directly to the following States: *Byelorussian SSR, Cameroon, Ecuador, France, Gabon, Madagascar, Rwanda, Thailand, Uganda, USSR, Republic of Viet-Nam, Zambia.*

Convention No. 124: Medical Examination of Young Persons (Underground Work), 1965*Zambia* (ratification: 1967)

Further to its earlier comments, the Committee notes with satisfaction the adoption of Act No. 20 of 23 March 1973 concerning the medical examination of young persons (underground work), which ensures the application of the Convention, more especially as regards its Article 4, paragraph 4, concerning the records to be kept by the employer.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Byelorussian SSR, Ecuador, Gabon, Hungary, Jordan, Madagascar, Mexico, Panama, Poland, Spain, Tunisia, Uganda, Ukrainian SSR, USSR, Republic of Viet-Nam.*

Information supplied by *Brazil, Bulgaria, Finland, the Netherlands* in answer to a direct request has been noted by the Committee.

Convention No. 125: Fishermen's Competency Certificates, 1966

Requests regarding certain points are being addressed directly to the following States: *Brazil, France, Panama, Sierra Leone, Syrian Arab Republic.*

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

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Requests regarding certain points are being addressed directly to the following States: *Belgium, Panama, Sierra Leone, Ukrainian SSR, USSR.*

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

Convention No. 127: Maximum Weight, 1967

Requests regarding certain points are being addressed directly to the following States: *Algeria, Ecuador, Madagascar, Panama, Thailand, Tunisia.*

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

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967

General Observation

Article 29 of the Convention. See the general observation concerning Convention No. 102 (Article 65, paragraph 10, and Article 66, paragraph 8).

* * *

In addition, a request regarding certain points is being addressed directly to the *Federal Republic of Germany.*

Convention No. 129: Labour Inspection (Agriculture), 1969

Requests regarding certain points are being addressed directly to the following States: *Guyana, Madagascar, Malawi, Norway, Spain.*

Convention No. 131: Minimum Wage Fixing, 1970

Japan (ratification: 1970)

The Committee has taken note of the first, extremely detailed, reports concerning the application of this Convention and of Convention No. 26. It has noted from the report on Convention No. 26 that the General Council of Trade Unions of Japan (SOHYO) and the Federation of Independent Unions (CHURITSU-ROREN) have made observations concerning the system of minimum wages in operation in Japan.

Article 1, paragraph 1, of the Convention. According to the observations submitted by these workers' organisations, the Government should introduce a system of minimum wages consisting of a minimum rate applicable to all activities in the country, supplemented by a rate for each industry. The Government states in reply that the tripartite Central Minimum Wages Council, when consulted on this matter, expressed the view that a uniform rate could not be effectively applied at the present time because of the wide divergencies which exist from one sector or region to another, but that it would be desirable for all workers to be effectively covered by a minimum wage. The Government states that it is endeavouring to extend the effective application of minimum wages by industry, occupation or region, and it also refers to a yearly plan for the promotion of minimum wages which was launched during the tax year 1971 and which sets out to extend the system of minimum wages so that minimum wages can actually be fixed for all workers to whom the system of minimum wages is applicable by 31 March 1976.

Since under the terms of Article 1, paragraph 1, of the Convention the system of minimum wages must cover all groups of wage earners whose terms of employment are such that coverage would be appropriate, the Committee notes with interest the measures the Government is intending to take and it hopes that the Government will supply information as to the results achieved under the plan mentioned above, and in particular as to the number and further categories of workers to whom minimum wage rates are applicable.

Article 3. The Committee has noted from the report on Convention No. 26 that the workers' organisations mentioned above have made comments to the effect that the minimum wage rates should be adjusted in accordance with a sliding scale taking into account rises in the cost of living. The Committee requests the Government to indicate the extent to which and the manner in which account is taken in practice of variations in the cost of living in the fixing and reviewing of minimum wage rates, as required by clause (a) of this Article.

* * *

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

**Appendix I. Receipt of Detailed Reports on Ratified Conventions
(States Members) as at 27 March 1974**

(Article 22 of the Constitution)

Reports received: 1,521 Reports not received: 527 Total: 2,048

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Afghanistan	0	—	5	4, 41, 45, 95, 105	5
Algeria	27	6, 10, 17, 18, 19, 24, 29, 42, 44, 56, 63, 69, 71, 73, 74, 77, 78, 81, 88, 89, 92, 94, 95, 96, 101, 105, 127	0	—	27
Argentina	28	2, 4, 6, 10, 12, 16, 17, 18, 19, 22, 23, 29, 32, 34, 41, 42, 52, 53, 71, 73, 77, 78, 79, 81, 88, 90, 95, 105	0	—	28
Australia	15	2, 10, 12, 16, 18, 19, 22, 29, 42, 63, 85, 88, 105, 112, 123	0	—	15
Austria	20	2, 4, 6, 10, 12, 17, 18, 19, 24, 25, 29, 42, 63, 81, 89, 94, 95, 101, 105, 124	0	—	20
Bangladesh.	13	4, 6, 16, 18, 19, 22, 29, 81, 89, 90, 96, 105, 118	0	—	13
Barbados	0	—	15	12, 17, 19, 22, 29, 42, 63, 65, 74, 81, 94, 95, 101, 105, 115	15
Belgium	32	2, 6, 10, 12, 16, 17, 18, 19, 22, 23, 29, 53, 55, 56, 69, 73, 74, 81, 88, 89, 92, 94, 95, 96, 101, 105, 113, 114, 115, 121, 125, 126	2	82, 85	34
Bolivia	7	5, 14, 19, 26, 47, 87, 96	1	107	8
Brazil	16	12, 22, 29, 42, 88, 89, 105, 107, 113, 115, 117, 118, 122, 124, 125, 127	10	6, 16, 19, 52, 53, 92, 94, 95, 101, 104	26
Bulgaria	30	6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 34, 42, 44, 52, 53, 55, 56, 69, 71, 73, 77, 78, 79, 81, 94, 95, 113, 124	0	—	30
Burma	12	2, 6, 16, 17, 18, 19, 22, 29, 42, 52, 63, 87	0	—	12

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Burundi	0	—	19	4, 12, 14, 17, 18, 19, 26, 29, 42, 50, 52, 59, 64, 81, 89, 90, 94, 101, 105	19
Byelorussian SSR	11	10, 16, 29, 52, 77, 78, 79, 90, 95, 115, 124	0	—	11
Cameroon	14	10, 16, 19, 29, 52, 77, 78, 81, 89, 90, 94, 95, 101, 105	0	—	14
Eastern Cameroon	2	4, 6	0	—	2
Western Cameroon	1	65	0	—	1
Canada	8	16, 22, 63, 69, 73, 74, 88, 105	0	—	8
Central African Republic . .	19	2, 4, 6, 10, 17, 18, 19, 29, 41, 52, 81, 88, 94, 95, 101, 104, 105, 117, 118	0	—	19
Chad	0	—	18	4, 5, 6, 11, 13, 14, 26, 29, 33, 41, 52, 81, 87, 95, 98, 100, 105, 111	18
Chile	0	—	17	2, 4, 6, 10, 12, 16, 17, 18, 19, 22, 24, 25, 29, 34, 63, 100, 111	17
Colombia	16	2, 4, 9, 12, 16, 17, 18, 19, 22, 23, 25, 52, 95, 101, 104, 105	6	24, 29, 62, 81, 88, 107	22
Congo	5	6, 29, 87, 89, 95	0	—	5
Costa Rica	4	89, 90, 96, 105	10	29, 81, 88, 92, 94, 95, 113, 114, 117, 122	14
Cuba	35	4, 6, 10, 12, 16, 17, 18, 19, 22, 23, 27, 29, 42, 52, 53, 63, 77, 78, 79, 81, 87, 88, 89, 90, 92, 94, 95, 96, 101, 104, 105, 112, 113, 120, 122	0	—	35
Cyprus	15	2, 16, 19, 29, 44, 81, 88, 89, 90, 94, 95, 105, 114, 121, 124	0	—	15
Czechoslovakia	17	10, 12, 17, 18, 19, 24, 25, 34, 42, 52, 63, 87, 88, 89, 90, 115, 130	3	29, 44, 111	20

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Dahomey	18	4, 5, 6, 11, 13, 14, 18, 26, 29, 33, 41, 85, 87, 95, 98, 100, 105, 111	0	—	18
Democratic Yemen	0	—	7	16, 19, 29, 65, 94, 95, 105	7
Denmark	17	2, 6, 12, 16, 18, 19, 29, 42, 52, 53, 63, 81, 92, 94, 105, 118, 120	0	—	17
Dominican Republic	7	1, 10, 19, 52, 79, 90, 104	9	29, 81, 87, 88, 89, 105, 106, 111, 119	16
Ecuador	0	—	29	2, 11, 24, 26, 29, 35, 37, 39, 45, 86, 87, 95, 98, 100, 101, 103, 104, 105, 110, 111, 112, 113, 115, 117, 118, 120, 123, 124, 127	29
Egypt	10	17, 18, 19, 29, 52, 74, 81, 87, 88, 96	10	2, 53, 63, 89, 94, 95, 101, 104, 105, 115	20
El Salvador	3	12, 104, 105	0	—	3
Ethiopia	1	88	2	2, 98	3
Finland	21	2, 12, 16, 17, 18, 19, 22, 29, 52, 53, 63, 73, 81, 92, 94, 96, 105, 118, 119, 121, 124	0	—	21
France	43	2, 6, 10, 12, 16, 22, 23, 24, 35, 36, 37, 38, 44, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 82, 85, 88, 89, 92, 94, 95, 96, 101, 106, 113, 114, 115, 122, 123, 124, 125, 126	6	17, 18, 19, 29, 42, 105	49
Gabon	0	—	27	3, 4, 5, 6, 10, 11, 12, 13, 14, 19, 26, 29, 33, 41, 45, 52, 85, 87, 95, 96, 98, 99, 100, 101, 105, 123, 124	27
Germany (Fed. Rep. of)	24	2, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 42, 56, 63, 81, 88, 96, 101, 105, 114, 118, 122, 128	0	—	24
Ghana	16	8, 16, 19, 22, 23, 29, 58, 65, 69, 74, 81, 88, 89, 90, 92, 115	3	94, 105, 117	19

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Greece	17	2, 6, 16, 17, 19, 29, 42, 52, 55, 69, 81, 87, 88, 89, 90, 95, 98	2	102, 105	19
Guatemala	19	19, 63, 65, 77, 78, 79, 81, 87, 88, 89, 90, 94, 95, 96, 101, 105, 113, 114, 118	0	—	19
Guinea	20	10, 16, 17, 18, 29, 52, 81, 89, 90, 94, 95, 105, 113, 114, 115, 117, 118, 120, 121, 122	0	—	20
Guyana	14	2, 10, 12, 19, 29, 42, 65, 81, 82, 94, 95, 105, 115, 129	0	—	14
Haiti	17	1, 5, 12, 14, 17, 19, 24, 25, 29, 30, 42, 45, 77, 78, 81, 98, 105	3	90, 100, 106	20
Honduras	9	29, 32, 42, 62, 78, 95, 105, 108, 111	1	87	10
Hungary	21	2, 6, 10, 12, 16, 17, 18, 19, 24, 29, 41, 42, 48, 52, 77, 78, 87, 95, 101, 115, 124	0	—	21
Iceland	3	2, 29, 105	0	—	3
India	13	4, 6, 16, 18, 19, 22, 29, 42, 81, 88, 89, 90, 118	0	—	13
Indonesia	3	19, 29, 100	0	—	3
Iran	4	14, 19, 29, 104	1	105	5
Iraq	15	16, 17, 18, 19, 22, 29, 42, 52, 77, 78, 81, 88, 89, 95, 115	1	105	16
Ireland	19	2, 6, 10, 12, 16, 19, 22, 23, 29, 44, 63, 69, 74, 81, 88, 89, 92, 105, 121	1	118	20
Israel	23	10, 19, 29, 48, 52, 53, 77, 78, 79, 81, 87, 88, 90, 91, 94, 95, 96, 98, 100, 101, 105, 117, 118	0	—	23
Italy	46	2, 4, 6, 10, 12, 16, 18, 19, 22, 23, 29, 32, 42, 44, 48, 52, 53, 55, 59, 69, 71, 73, 77, 78, 79, 81, 89, 90, 94, 95, 96, 99, 101, 103, 105, 112, 114, 115, 117, 118, 119, 120, 122, 123, 124, 127	0	—	46

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Ivory Coast	11	4, 6, 18, 19, 29, 41, 52, 85, 95, 96, 105	0	—	11
Jamaica	7	16, 19, 29, 65, 81, 94, 105	1	117	8
Japan	15	2, 10, 16, 18, 19, 22, 26, 29, 42, 58, 73, 81, 88, 96, 131	0	—	15
Jordan	4	81, 105, 118, 124	2	29, 117	6
Kenya	9	27, 29, 65, 81, 88, 94, 99, 105, 112	8	2, 12, 16, 17, 19, 63, 89, 118	17
Khmer Republic	4	4, 6, 29, 122	0	—	4
Kuwait	6	29, 52, 81, 89, 105, 117	0	—	6
Laos	0	—	4	4, 6, 13, 29	4
Lebanon	0	—	7	14, 26, 45, 52, 81, 89, 90	7
Liberia	9	29, 53, 55, 65, 87, 104, 105, 113, 114	0	—	9
Libyan Arab Republic . .	13	26, 29, 52, 59, 81, 88, 89, 95, 96, 104, 105, 122, 131	0	—	13
Luxembourg	22	2, 6, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 30, 42, 77, 78, 79, 88, 90, 96, 100, 105	7	4, 10, 21, 28, 81, 89, 103	29
Madagascar	17	4, 6, 12, 19, 41, 52, 81, 95, 101, 117, 118, 119, 120, 122, 124, 127, 129	1	29	18
Malawi	8	12, 19, 65, 81, 89, 97, 104, 129	1	86	9
Malaysia	6	29, 65, 81, 95, 98, 105	0	—	6
States of Malaya	3	12, 17, 19	0	—	3
State of Sabah	2	16, 94	0	—	2
State of Sarawak	4	12, 16, 19, 94	0	—	4
Mali	10	4, 6, 17, 18, 19, 29, 52, 81, 95, 105	1	41	11
Malta	13	2, 10, 12, 16, 19, 22, 29, 42, 81, 88, 89, 95, 105	0	—	13

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Mauritania	0	—	32	5, 6, 11, 13, 14, 15, 17, 18, 19, 22, 23, 26, 29, 52, 53, 58, 62, 81, 84, 89, 90, 91, 94, 95, 96, 101, 102, 111, 112, 114, 118, 122	32
Mauritius	11	12, 16, 17, 19, 26, 42, 65, 74, 81, 94, 95	3	2, 63, 105	14
Mexico	17	12, 16, 17, 19, 22, 23, 29, 34, 42, 52, 53, 55, 63, 90, 95, 105, 124	0	—	17
Mongolia	6	59, 87, 98, 100, 103, 111	0	—	6
Morocco	18	2, 4, 12, 17, 18, 19, 22, 29, 41, 42, 52, 55, 65, 81, 94, 101, 104, 105	0	—	18
Netherlands	33	2, 10, 12, 16, 17, 19, 22, 23, 24, 25, 29, 44, 48, 63, 69, 71, 73, 74, 81, 89, 90, 92, 94, 95, 96, 100, 101, 105, 106, 115, 118, 121, 124	1	88	34
New Zealand	21	2, 10, 12, 16, 17, 22, 29, 42, 44, 52, 53, 63, 65, 74, 81, 82, 88, 89, 101, 104, 105	0	—	21
Nicaragua	11	2, 4, 6, 12, 17, 18, 22, 24, 25, 29, 105	4	10, 16, 19, 23	15
Niger	14	4, 6, 18, 29, 33, 41, 65, 85, 95, 102, 104, 105, 111, 117	0	—	14
Nigeria	10	16, 19, 29, 65, 81, 88, 94, 95, 104, 105	0	—	10
Norway	29	2, 10, 12, 18, 19, 22, 24, 25, 29, 42, 44, 53, 56, 63, 69, 71, 73, 81, 88, 90, 92, 95, 96, 101, 105, 115, 118, 126, 129	0	—	29
Pakistan	13	4, 6, 16, 18, 19, 22, 29, 81, 89, 90, 96, 105, 118	0	—	13
Panama	42	10, 12, 16, 17, 19, 22, 23, 29, 32, 42, 52, 53, 55, 56, 63, 65, 69, 71, 73, 74, 77, 78, 81, 88, 89, 92, 94, 95, 96, 104, 105, 107, 110, 111, 113, 114, 117, 119, 124, 125, 126, 127	0	—	42

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Paraguay	20	11, 14, 26, 29, 52, 77, 78, 79, 81, 89, 90, 95, 98, 101, 115, 117, 119, 120, 122, 124	1	105	21
Peru	14	10, 22, 23, 27, 29, 44, 52, 53, 55, 62, 77, 78, 88, 101	19	4, 8, 12, 19, 24, 25, 41, 56, 67, 68, 69, 71, 73, 79, 81, 90, 105, 113, 114	33
Philippines	6	17, 77, 88, 89, 90, 94	4	23, 53, 95, 105	10
Poland	28	2, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 42, 69, 73, 74, 77, 78, 79, 90, 92, 95, 96, 101, 105, 115, 124	1	48	29
Portugal	0	—	29	1, 4, 6, 7, 12, 14, 17, 18, 19, 26, 27, 29, 45, 68, 69, 73, 74, 81, 89, 91, 92, 98, 100, 104, 105, 106, 107, 108, 111	29
Romania	9	1, 2, 6, 10, 16, 24, 29, 87, 89	0	—	9
Rwanda	6	17, 19, 26, 42, 64, 94	5	4, 12, 18, 89, 105	11
Senegal	8	6, 19, 29, 81, 105, 117, 121, 125	8	4, 10, 12, 52, 89, 95, 96, 101	16
Sierra Leone	14	5, 15, 16, 19, 22, 59, 65, 81, 88, 94, 101, 111, 125, 126	4	17, 29, 95, 105	18
Singapore	10	12, 16, 19, 22, 29, 65, 81, 88, 94, 105	1	98	11
Somalia	0	—	4	29, 65, 85, 105	4
Former Trust Territory of Somaliland	0	—	5	16, 17, 19, 22, 23	5
Former British Somaliland	0	—	2	94, 95	2
Spain	53	2, 4, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 25, 29, 42, 44, 48, 52, 53, 55, 56, 58, 59, 60, 63, 68, 69, 73, 74, 77, 78, 79, 81, 88, 89, 90, 92, 94, 95, 96, 101, 105, 106, 108, 113, 114, 115, 119, 124, 126, 127, 129, 131	0	—	53
Sri Lanka	8	16, 18, 29, 63, 81, 89, 90, 96	1	26	9

OBSERVATIONS CONCERNING RATIFIED CONVENTIONS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
Sudan	8	2, 19, 29, 81, 95, 105, 111, 117	0	—	8
Sweden	19	2, 10, 12, 16, 19, 29, 63, 73, 81, 88, 92, 96, 101, 105, 115, 118, 121, 129, 130	0	—	19
Switzerland	14	2, 6, 16, 18, 19, 23, 29, 44, 63, 81, 88, 89, 105, 115	0	—	14
Syrian Arab Republic . . .	1	81	21	2, 17, 18, 19, 29, 52, 53, 63, 87, 88, 89, 94, 95, 96, 101, 104, 105, 115, 117, 118, 125	22
Tanzania	0	—	18	11, 12, 15, 16, 17, 19, 26, 29, 50, 59, 63, 64, 65, 86, 94, 95, 98, 105	18
Tanganyika	0	—	6	32, 45, 81, 88, 101, 108	6
Zanzibar	0	—	5	5, 7, 58, 85, 97	5
Thailand	3	19, 104, 127	4	29, 88, 105, 122	7
Togo	0	—	6	4, 6, 29, 41, 85, 95	6
Trinidad and Tobago . . .	0	—	6	16, 19, 29, 65, 85, 105	6
Tunisia	20	12, 16, 17, 18, 19, 22, 23, 52, 55, 65, 73, 81, 88, 89, 90, 95, 104, 113, 114, 118	8	4, 6, 29, 77, 105, 117, 124, 127	28
Turkey	0	—	11	2, 42, 81, 88, 94, 95, 96, 105, 111, 115, 119	11
Uganda	8	5, 64, 65, 81, 86, 95, 123, 124	12	11, 12, 17, 19, 26, 29, 45, 50, 94, 98, 105, 122	20
Ukrainian SSR	18	10, 16, 23, 29, 52, 69, 73, 77, 78, 79, 87, 90, 92, 95, 113, 115, 124, 126	0	—	18
USSR	0	—	22	10, 16, 23, 29, 32, 52, 69, 73, 77, 78, 79, 87, 90, 92, 95, 106, 113, 115, 122, 123, 124, 126	22
United Kingdom	29	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	29

REPORT OF THE COMMITTEE OF EXPERTS

State Member	Reports received		Reports not received		Grand total
	Total	Conventions Nos.	Total	Conventions Nos.	
United States	3	53, 55, 74	0	—	3
Upper Volta	11	4, 6, 17, 18, 19, 29, 41, 52, 85, 95, 101	0	—	11
Uruguay	0	—	25	2, 10, 12, 16, 17, 19, 22, 23, 24, 25, 42, 52, 63, 73, 77, 78, 79, 89, 90, 94, 95, 97, 101, 103, 105	25
Venezuela	16	1, 2, 5, 6, 7, 14, 19, 21, 22, 27, 29, 41, 45, 88, 98, 105	3	81, 111, 120	19
Republic of Viet-Nam . . .	8	6, 29, 52, 81, 89, 117, 118, 124	0	—	8
Yemen	0	—	2	104, 111	2
Yugoslavia	37	2, 9, 11, 12, 13, 16, 17, 18, 19, 22, 23, 24, 25, 27, 29, 45, 48, 52, 53, 56, 69, 73, 74, 81, 87, 88, 89, 90, 92, 98, 101, 102, 112, 113, 114, 121, 122	0	—	37
Zaire	0	—	15	4, 12, 17, 18, 19, 29, 81, 88, 89, 94, 95, 100, 117, 118, 121	15
Zambia	11	12, 17, 18, 19, 29, 65, 89, 105, 117, 123, 124	0	—	11
<i>Other States</i>					
Albania ¹	0	—	16	5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100, 112	16
Lesotho ¹	0	—	11	5, 11, 14, 19, 26, 29, 45, 64, 65, 87, 98	11
Rep. of South Africa ¹ . .	0	—	7	2, 19, 26, 42, 45, 63, 89	7
Western Samoa	3	29, 65, 104	0	—	3

¹ Albania, Lesotho and the Republic of South Africa have withdraw from the ILO, but these States continue to be bound by the Convention which they have ratified (article 1, paragraph 5, of the Constitution).

Appendix II. Statistical Table of Reports on Ratified Conventions as at 27 March 1974

(Article 22 of the Constitution)

Period	Reports requested	Reports received at the date requested		Reports received in time for the session of the committee		Reports received in time for the session of the conference	
		Number	Percentage	Number	Percentage	Number	Percentage
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	—	—
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 ¹	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 ²	200	20.4	864	86.8	902	90.6
1958-1960	1 100	256	23.2	838	76.1	963	87.4
1959-1961	1 362	243	18.1	1 090	80.0	1 142	83.8
1960-1962	1 309	200	15.5	1 059	80.9	1 121	85.6
1961-1963	1 624	280	17.2	1 314	80.9	1 430	88.0
1962-1964	1 495	213	14.2	1 268	84.8	1 356	90.7
1963-1965	1 700	282	16.6	1 444	84.9	1 527	89.8
1964-1966	1 562	245	16.3	1 330	85.1	1 395	89.3
1965-1967	1 833	323	17.4	1 551	84.5	1 643	89.6
1966-1968	1 647	281	17.1	1 409	85.5	1 470	89.1
1967-1969	1 821	249	13.4	1 498	82.4	1 601	87.9
1968-1970	1 898	360	18.9	1 463	77.0	1 549	81.6
1969-1971	1 992	237	11.8	1 504	75.5	1 707	85.6
1970-1972	2 025	297	14.6	1 572	77.6	1 753	86.5
1971-1973	2 048	300	14.6	1 521	74.3	—	—

¹ First year for which this figure is available.² As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 only on 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

France

The Committee regrets that, for the third year in succession, none of the reports due in respect of the application of Conventions in French Polynesia has been received. It hopes that the Government will take the necessary measures to ensure that all the reports in question will be available for examination by the Committee at its next session.

In its previous report, the Committee noted that declarations had not yet been made pursuant to article 35 of the ILO Constitution regarding the extent of application of a number of Conventions ratified by France to territories for whose international relations France was responsible, and that in respect of various other Conventions such declarations had been communicated only for the Overseas Departments, but not for the Overseas Territories. It had expressed the hope that the necessary action would be taken with a view to communicating in respect of all non-metropolitan territories the declarations provided for in article 35 of the Constitution. The Committee regrets that no information has been provided on the action taken or contemplated with a view to meeting the obligations arising under article 35 in the above-mentioned cases and trusts that the necessary action will be taken at an early date.

In this connection, it would appear from the reports supplied that in a number of instances declarations of application of Conventions could be made in respect of the Overseas Departments (Conventions Nos. 106, 115, 123, 124 and 126) and New Caledonia (Convention No. 124).

Netherlands

In its previous report, the Committee noted that no declarations had yet been made pursuant to article 35 of the ILO Constitution regarding the extent of application to the Netherlands Antilles and Surinam of a number of Conventions ratified by the Netherlands, and had expressed the hope that the necessary action would be taken with a view to communicating such declarations in respect of the Conventions concerned.

The Committee has noted with interest information provided by the Government, from which it appears that, in accordance with article 35, paragraph 4, of the Constitution, a number of the Conventions in question had been brought to the notice of the Government of Surinam (which had considered that it was not in a position to accept the provisions of these instruments).

The Committee hopes that indications will be supplied on the measures taken in pursuance of the constitutional provisions to bring the remaining Conventions to the notice of the Government of Surinam and on the action taken to bring all Conventions ratified by the Netherlands to the notice of the Government of the Netherlands Antilles.

United Kingdom

The Committee notes that no reports have been received in respect of the application of Conventions in Southern Rhodesia, and that accordingly no information is available in answer to the observations previously made with respect to this territory concerning Conventions Nos. 81, 82, 84, 86 and 105. In these circumstances, the Committee can only refer to its previous observations.

The Committee also regrets that none of the reports due in respect of St. Lucia has been received, and that in the case of Brunei (for which no reports had been communicated in the two preceding years) only eight of the fifty-five reports due have been supplied. The Committee hopes that all the reports still outstanding will be available for examination at its next session.

In 1973, the Committee noted that, in respect of several Conventions ratified by the United Kingdom since 1966, declarations regarding the extent of their application had been made pursuant to article 35 of the ILO Constitution for only a certain number of territories for whose international relations the United Kingdom was responsible, and expressed the hope that the necessary action would be taken with a view to communicating the declarations provided for in article 35 of the Constitution in respect of the remaining territories. Since then, no further declarations have been communicated. The Committee must therefore once more draw attention to this matter.

B. INDIVIDUAL OBSERVATIONS

Convention No. 3: Maternity Protection, 1919

A request regarding certain points is being addressed directly to *France* (French Polynesia).

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

Denmark

Faroe Islands.

Further to its earlier observations, the Committee notes with interest the information communicated to the Conference Committee in 1973 to the effect that the local Government of the Faroe Islands has prepared a new Occupational Safety, Health and Welfare Bill which was due to be submitted to the *Lagting* (Representative Council of the Faroe Islands) in autumn 1973 and which contains provisions concerning the employment of children and young persons.

The Committee hopes that the Bill will be adopted in the very near future and will prohibit the employment of children in industrial undertakings in accordance with Convention No. 5 and their employment at night in accordance with Convention No. 6.

*United Kingdom**Hong Kong.*

For some years the Committee has been pointing out in its comments that the provisions of section 2, paragraph 2 (a), of the Factories and Industrial Undertakings Ordinance, No. 34 of 1955, which exclude from its scope "undertakings . . . not carried on by way of trade or for purposes of gain" are not in conformity with Article 3 of the Convention. The Committee notes that in its latest report the Government states that the necessary amendment is still under consideration. It hopes that it will be adopted in the very near future, and requests the Government to report any progress in the matter.

Convention No. 6: Night Work of Young Persons (Industry), 1919*Denmark**Faroe Islands.*

See under Convention No. 5.

*France**Comoro Islands.*

Further to its earlier comments, the Committee notes with satisfaction the adoption of Order No. 72-207/IT-C of 28 February 1972 to amend Order No. 66/84/IT-C of 22 January 1966 so as to bring it into conformity with the provisions of the Convention.

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

A request regarding certain points is being addressed directly to the *United Kingdom* (St. Vincent).

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

A request regarding certain points is being addressed directly to *Denmark* (Faroe Islands).

Convention No. 9: Placing of Seamen, 1920

A request regarding certain points is being addressed directly to *Denmark* (Faroe Islands).

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

Requests regarding certain points are being addressed directly to *France* (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion), *United Kingdom* (Gilbert and Ellice Islands).

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

Information supplied by the *United Kingdom* (St. Kitts-Nevis-Anguilla) in answer to a direct request has been noted by the Committee.

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

Further to its earlier comments, the Committee notes with interest from the Government's report that negotiations have been started between the Government and the local authorities with a view to introducing in Greenland a system of medical examinations that conforms with the provisions of the Convention. The Committee trusts that these negotiations will be brought to a successful conclusion in the near future.

* * *

In addition, a request regarding certain other points is being addressed directly to *Denmark* (Faroe Islands).

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

Articles 7 and 10 of the Convention. In reply to the Committee's earlier observations with respect to the application of these provisions (concerning, respectively, the award of additional compensation to injured workmen whose incapacity necessitates the constant help of another person and the entitlement of injured workmen to the renewal of artificial limbs and surgical appliances), the Government again refers to section 4, paragraph 2, of the Ordinance of 1966 respecting workmen's compensation, which deals with benefits other than those provided for in the above-mentioned provisions of the Convention. The Government adds, however, that in actual practice no difficulties have been encountered with regard to the application of these provisions and that the possibility is being examined of issuing statutory regulations that are attuned to existing conditions.

The Committee has noted these statements and trusts that steps will be taken in the very near future to bring the national legislation fully into line with the Convention, as requested of the Government as long ago as 1958, and that the Government will not fail to indicate what progress has been made in this respect.

Surinam.

Articles 7 and 10 of the Convention. Further to its earlier observations, the Committee regrets to note that the Government's report contains no fresh information as to the possible adoption of the draft amendment to Decree No. 145 of 1947 concerning industrial accidents and occupational diseases, which was submitted to the States of Surinam as early as 1971. This amendment was intended to give effect to Articles 7 and 10 of the Convention (dealing respectively with additional compensa-

tion for victims of industrial accidents who require the constant help of another person, and with the renewal of artificial limbs and surgical appliances). The Committee trusts that this draft will be adopted at a very early date and that the Government will report on the progress made in the matter.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Netherlands* (Netherlands Antilles), *United Kingdom* (Guernsey, Isle of Man).

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

A request regarding certain points is being addressed directly to: *Denmark* (Faroe Islands).

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

Netherlands

Surinam.

As regards Article 1 (2) of the Convention and further to its earlier observations, the Committee regrets to note that the draft Ordinance to amend Decree No. 145 of 10 September 1947, in order more particularly to ensure equality of treatment with nationals for foreign workers and their survivors, without conditions as to residence, in respect of compensation for industrial accidents, has not yet been approved by the States of Surinam. The Committee notes however that the Minister of Labour and Housing of Surinam has asked Parliament for information as to the adoption of this text. It therefore trusts that all necessary steps will be taken to ensure that the draft, which the Government has been mentioning in its reports since 1965 and the adoption and coming into force of which it predicted for the end of 1972, will actually be adopted in the very near future (cf. also the observation and direct request concerning Convention No. 118).

* * *

In addition, a request regarding certain points is being addressed directly to *France* (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion).

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

A request regarding certain points is being addressed directly to the *United Kingdom* (Seychelles).

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

United Kingdom

Guernsey.

Article 4 of the Convention. Further to its earlier comments, the Committee notes with satisfaction that the Health Service (Pharmaceutical) (Guernsey) Law, 1972, entitles all residents to the supply of medicines.

* * *

In addition, a request regarding certain points is being addressed directly to the *United Kingdom* (Guernsey, Jersey).

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

United Kingdom

Guernsey.

Article 4 of the Convention. See under Convention No. 24.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Netherlands* (Netherlands Antilles), *United Kingdom* (Guernsey, Jersey).

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

A request regarding certain points is being addressed directly to the *United Kingdom* (Falkland Islands (Malvinas)).

Convention No. 29: Forced Labour, 1930

France

French Polynesia.

Article 2, paragraph 2 (c), of the Convention. In direct requests addressed to the Government for a number of years, the Committee had expressed the hope that section 87 (2) of Order No. 1074/APA of 25 August 1954, which permits prisoners to be hired out without their consent to private individuals and which, according to the Government, is not applied in practice, would be repealed in due course.

The Committee regrets to note that no report has been received for four years in succession. It hopes that information on the application of the Convention and on any measures taken or contemplated in respect of the above-mentioned legislation will be supplied in the near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia* (Papua, New Guinea), *Netherlands* (Surinam), *United Kingdom* (Gilbert and Ellice Islands).

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

A request regarding certain points is being addressed directly to the *United Kingdom* (Falkland Islands (Malvinas)).

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

France

Overseas Departments (French Guiana, Guadeloupe, Martinique, Réunion). See under Convention No. 42, France.

Netherlands

Surinam.

In its earlier observations and requests, the Committee pointed out that the national schedule of occupational diseases was not in complete conformity with the Convention on the following points: (a) the loading, unloading or transport of merchandise is not listed as one of the operations which can cause anthrax infection; (b) the schedule makes no mention of lead or mercury compounds or of homologues of benzene.

In its report for 1972 the Government stated that the relevant section of the draft text to amend and supplement Decree No. 145 of 1947 concerning occupational injuries had been made to comply fully with Article 2 of the Convention, and that the draft had been submitted for approval to the States of Surinam pending its adoption before the end of 1972. However, the Government's latest report, received in 1973, shows that the draft has not yet been adopted.

The Committee trusts, therefore, that the Government will do everything possible to ensure that the above draft is adopted in the very near future. It would ask the Government to keep it informed of any progress.

United Kingdom

Brunei.

In its earlier comments the Committee drew the Government's attention to the need to complete the schedule of occupational diseases appended to the Workmen's Compensation Act of 1957 so as to include *silicosis with or without pulmonary tuberculosis, all the poisonings by the nitro- and amido-derivatives of benzene or its homologues*, as well as, in the list of operations likely to cause anthrax infection, the "*loading and unloading or transport of merchandise*" in general. The Committee also requested the Government to indicate whether the national legislation covers poisoning by *lead alloys or compounds, mercury amalgams and compounds, and phosphorus and arsenic compounds*, which are not listed in the left-hand column of the schedule to the above-mentioned Act.

The Committee notes with regret that, for the third year in succession, no report has been received. The Committee accordingly cannot do other than repeat yet again its earlier comments, and trusts that the schedule of occupational diseases appended to the above-mentioned Act will be completed in the very near future (in accordance, it may be said, with the assurance given by the Government in its report for 1969-71) so as to ensure the full application of the Convention in respect of the points mentioned above.

Gibraltar.

The Committee notes, from the Government's reply to its earlier comments, that the questions it raised regarding *silicosis with pulmonary tuberculosis*, poisoning by the *halogen derivatives of hydrocarbons of the aliphatic series* and *anthrax infection* have not yet been settled but are still the subject of consultations with expert advisers from

the United Kingdom. The Committee hopes that those consultations will soon lead to positive results and that the schedule of occupational diseases appended to the Regulations of 1952 concerning compensation for industrial accidents and occupational diseases, can be supplemented so as to include the first two diseases mentioned above and to include among the operations corresponding to *anthrax infection* the "loading and unloading or transport of merchandise". The Committee would ask the Government to report on any progress in this matter.

Gilbert and Ellice Islands.

Further to its earlier comments, the Committee notes with satisfaction that the Declaration of 8 February 1973, issued under section 10, paragraph 6, of the Ordinance concerning compensation for industrial accidents and occupational diseases contains a schedule of occupational diseases which corresponds to the left-hand column of the schedule in Article 2 of the Convention.

The Committee would also hope that this schedule can be supplemented by a list of the operations liable to cause the diseases in question, as is done in the right-hand column of the schedule to the Convention.

St. Lucia.

In its earlier comments the Committee drew the Government's attention to the fact that the schedule of occupational diseases appended to the Workmen's Compensation Ordinance of 1964 was not in conformity with the Convention in that it made no mention, in the list of operations likely to cause *anthrax infection*, of the "loading and unloading or transport of merchandise" in general (item 1 in the schedule), nor did it mention *silicosis with pulmonary tuberculosis* (item 6).

In its previous report the Government stated that the necessary measures would soon be taken to bring this legislation fully into conformity with the Convention.

The Committee notes with regret, however, that the Government has not furnished a report. In consequence, it has no information at its disposal as to what steps have been taken to complete the schedule of occupational diseases appended to the above-mentioned Ordinance so as to meet the requirements of the Convention. The Committee hopes that a report will be supplied for examination at its next session and that the Government will not fail to indicate the action it has taken in respect of the points mentioned above.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia* (Papua, New Guinea), *Netherlands* (Netherlands Antilles), *United Kingdom* (British Solomon 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

United Kingdom

Guernsey.

Article 3, paragraphs 1 and 2, of the Convention. See under Convention No. 24, the observation concerning Article 4.

* * *

In addition, a request regarding certain points is being addressed directly to the *United Kingdom* (Guernsey).

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

Netherlands

Netherlands Antilles.

Further to its earlier observation, the Committee notes that a draft amendment to the National Seamen (Signing On) Decree (PB 1960, No. 201) is still being studied; the amendment would add to the Decree a provision prohibiting the employment on board ship of children under 16 years of age.

As no legislative provision exists at present to set a minimum age for maritime employment, and as the draft amendment in question has already been mentioned by the Government in earlier reports, the Committee trusts that the necessary steps will be taken in the very near future to comply with the Convention, Article 2 of which fixes a minimum age of 15 years for maritime employment.¹

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

A request regarding certain points is being addressed directly to the *United Kingdom* (Brunei, Gilbert and Ellice Islands, St. Helena, St. Lucia).

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

Netherlands

Netherlands Antilles.

The Committee notes, from the information given in the Government's report in reply to its earlier comments, that no regulations have yet been adopted to give effect to the provisions of the Convention. The Committee trusts that the necessary steps will be taken at an early date to submit to the competent authorities the draft regulations, the adoption of which has been contemplated by the Government for several years.

Convention No. 81: Labour Inspection, 1947

Netherlands

Netherlands Antilles.

The Committee notes with regret that the last annual report on the work of the labour inspection services received by the ILO referred to the year 1962. In its report for 1969-71, in reply to a direct request from the Committee on this point, the Government stated that it was not possible to prepare annual inspection reports on account of the under-staffing of the Department of Labour and the absence of the necessary data, but that steps would be taken to give effect to the Convention within a reasonable time. According to the Government's latest report the progress made with

¹ The Government is asked to report in detail for the period ending 30 June 1974.

the compilation of the relevant data through the reorganisation of the Labour Inspection Division at present being carried out is not yet sufficient to enable the requirements of Articles 10, 20 and 21 of the Convention to be met. The Committee urges the Government to indicate the measures taken to increase the size of the inspection staff so as to make it possible in particular to prepare and publish in the near future the annual inspection reports required under Articles 20 and 21 of the Convention.

Surinam.

The Committee notes from the Government's replies to its observation of 1972 that the draft ordinance on labour inspection, which is intended to ensure fuller application of the Convention, and in particular of Articles 12 and 13, has not yet been adopted. In view of the fact that the Committee has, for more than 15 years, been drawing attention to the need to adopt legislative provisions governing the operation of the Labour Inspectorate in accordance with the Convention, the Committee trusts that the Government will do everything possible to speed up the adoption of the draft ordinance in question.

Articles 20 and 21. The Committee notes that the latest annual report on the work of the Labour Inspectorate received in the ILO deals with the year 1967, whereas, according to Article 20 of the Convention, the report for 1971 should already have been sent to the ILO. As the Committee has already on many occasions in the past noted delays or interruptions in the publication and the communication to the ILO of the annual reports on inspection, it expresses the firm hope that all necessary steps will be taken to ensure that in future these annual reports will be published and transmitted to the ILO within the time-limits laid down in the Convention.¹

United Kingdom

Antigua.

Further to its earlier comments, the Committee notes with satisfaction that section 21 of the Factories Act has been amended by Act No. 16 of 1973 and that it now requires labour inspectors to treat as confidential the source of any complaint and not to intimate to the employer that a visit of inspection was made in consequence of the receipt of a complaint, as required by Article 15 (c) of the Convention.

The Committee also notes with satisfaction that the Department of Labour publishes and transmits to the ILO within the time-limits set by Article 20 of the Convention, annual reports on the work of the inspection service containing all the information called for by Article 21.

Brunei.

The Committee notes with regret that for the third year in succession the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Articles 20 and 21 of the Convention. The Committee notes that the last annual report of the Department of Labour received in the ILO dates back to 1964. It observes, moreover, that the last two reports of the Government on the application of the Convention contained information which,

¹ The Government is asked to supply full particulars to the Conference at its 59th Session and to report in detail for the period ending 30 June 1974.

according to Article 21 of the Convention, should appear in the annual report on the work of the inspection services provided for in Article 20 of the Convention.

Since, however, this information cannot be regarded as a substitute for such a report, the Committee hopes that the Government will take the necessary steps to ensure that an annual report on the work of the inspection services, containing all the information specified in Article 21 of the Convention, will be published within twelve months after the end of the year to which it relates, and transmitted to the ILO within three months after its publication, in conformity with Article 20 of the Convention.

St. Vincent.

The Committee notes with regret that the Government's report has not been received and that as a result no information is available to the Committee on the reasons why the annual report of the labour inspectorate for 1970, concerning which assurances were given by the Government in its last report on the application of the Convention, has not yet been transmitted to the ILO. Since the last annual inspection report available in the Office dates back to 1961, the Committee requests the Government to take the necessary steps to ensure that in the very near future the annual inspection reports will be published and transmitted to the ILO within the time-limits laid down by Article 20 of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *France* (Overseas Departments: French Guiana, Guadeloupe, Martinique, Réunion), *Netherlands* (Surinam), *United Kingdom* (Belize, British Solomon Islands, Gibraltar, Guernsey, Isle of Man, St. Vincent).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947

France

French Territory of the Afars and the Issas.

Article 19, paragraph 2, of the Convention. The Committee refers to its previous comments and notes that the Government has again omitted to supply information on the progress made towards the generalisation of compulsory school attendance. It recalls that, under the terms of the Convention, the school-leaving age must be prescribed by laws or regulations, and hopes that the necessary measures will soon be taken.

United Kingdom

Antigua.

Article 16 of the Convention. The Committee refers to its previous observations and notes with satisfaction that the Protection of Wages Act, 1970, contains provisions regarding the repayment of advances on wages. It hopes that further measures will be taken, through the draft labour code now being prepared or otherwise, to regulate the maximum amount of advances on wages, as required by paragraphs 1 and 2 of Article 16.

St. Vincent.

The Committee regrets that for the third time in succession no report has been received. It hopes that a report will be supplied for examination by the Committee at

its next session and will contain full information on the matters raised in its previous direct requests, which read as follows:

Article 18 of the Convention. Please indicate the measures that the Government intends to take in order to abolish all discrimination, as called for by paragraphs 1 and 2 of this Article of the Convention, and in particular the current practice, referred to in the report for 1966-68, of fixing minimum wage rates for women employed in agriculture and in industrial undertakings at a lower level than for men engaged in the same occupations.

Article 19, paragraphs 2 and 3. The Committee notes from the Government's reply to its request made in 1969 that it intends to enact legislation on compulsory education fixing a school-leaving age, when the financial situation permits, and that the need to enact such legislation will be kept in mind. The Committee hopes that in its next report the Government will indicate any progress made towards the full application of the above-mentioned paragraphs of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the *United Kingdom* (Bermuda, Gibraltar, Hong Kong).

Information supplied by *France* (New Caledonia) in answer to a direct request has been noted by the Committee.

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

United Kingdom

Southern Rhodesia.

See General Observations in section II A above.

* * *

In addition, a request regarding certain points is being addressed directly to the *United Kingdom* (Brunei).

Convention No. 85: Labour Inspectorates (Non-Metropolitan Territories), 1947

United Kingdom

Montserrat.

The Committee notes with interest, from the Government's reply to its observation of 1973, that a Bill prepared by a technical co-operation expert and containing provisions concerning labour inspection has been approved by the Executive Council and is now before the Legislative Council. It hopes that the draft will give effect to *Article 4, paragraph 2 (a) and (b), of the Convention* (right of entry of inspectors); *Article 4, paragraph 2 (c) (iv)* (right to take samples); *Article 5 (b)* (obligation not to reveal manufacturing or commercial secrets), and *Article 5 (c)* (obligation to treat as confidential the source of any complaint), and that it will be adopted in the near future.

* * *

In addition, a request regarding certain points is being addressed directly to the *United Kingdom* (St. Kitts-Nevis-Anguilla).

Convention No. 86: Contracts of Employment (Indigenous Workers), 1947

United Kingdom

Southern Rhodesia.

See General Observations in section II A above.

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

A request regarding certain points is being addressed directly to the *United Kingdom* (Dominica, St. Vincent).

Convention No. 88: Employment Service, 1948

Netherlands

Surinam.

Further to its observation of 1972, the Committee notes the Government's statement that the development of local employment offices and the establishment of advisory committees have been delayed because the Ministry of Labour and Housing intends to draft an entirely new ordinance concerning the registration of employed persons, instead of simply amending it in conjunction with the Ordinance on the Placing of Workers.

The Committee trusts that the new ordinance will be adopted in the very near future and will lead to the establishment of advisory committees, as required by Articles 4 and 5 of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia* (Papua, New Guinea), *United Kingdom* (Belize, Gibraltar, Guernsey).

Convention No. 89: Night Work (Women) (Revised), 1948

A request regarding certain points is being addressed directly to the *Netherlands* (Netherlands Antilles).

Information supplied by *France* (Comoro Islands) in answer to a direct request has been noted by the Committee.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

A request regarding certain points is being addressed directly to the *Netherlands* (Netherlands Antilles).

Convention No. 94: Labour Clauses (Public Contracts), 1949*United Kingdom**Brunei.*

The Government having failed to reply to the previous direct requests on the application of this Convention, the Committee must take up the matter once again in a new direct request and it hopes that the Government will make every effort to take the necessary measures and supply the information requested.

St. Vincent.

The Committee refers to its previous comments on the Convention and notes with satisfaction that the Form of Contract communicated with the Government's last report contains provisions relating to Article 4 of the Convention (posting of notices in workplaces, and the maintenance of records of wages) and Article 5 (withholding of payments to enable workers to receive wages to which they are entitled).

The Committee recalls, as regards Article 4 (b) (ii), that the Government had indicated in its report for 1965-67 that inspection was in practice inadequate because of shortage of staff, and hopes that information will be supplied in future reports on any progress made in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Netherlands* (Surinam), *United Kingdom* (British Virgin Islands, Brunei, Dominica, St. Kitts-Nevis-Anguilla).

Convention No. 95: Protection of Wages, 1949*United Kingdom**St. Lucia.*

The Committee notes with regret that once again the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Article 4, paragraph 2, of the Convention. The Committee refers to the direct request addressed to the Government in 1971 and 1972 and would be glad if the Government would indicate whether measures have already been taken to amend section 23 (1) of the Protection of Wages Ordinance so as to regulate payments in kind as required by this provision of the Convention.

St. Vincent.

The Committee notes with regret that the Government's report has not been received. The Committee is bound, therefore, to repeat its previous observation, which was as follows:

Articles 2, 5, 6, 10, 12 and 15 of the Convention. The Committee recalls that legislative measures were to be taken by the Government to ensure the application of these Articles. It notes from the statement made by a Government representative to the Conference Committee in 1972 that there has been no progress in this regard but that the matter was being given consideration and that the Government was anxious to have it settled.

Accordingly the Committee must urge the Government to take the necessary measures in the near future with a view to ensuring full legislative conformity with the above-mentioned provisions of the Convention on which comments have been addressed to the Government since 1960.

* * *

In addition, a request regarding certain points is being addressed directly to the *United Kingdom* (Jersey, Montserrat).

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

New Zealand

Cook Islands.

The Government having failed to reply to the previous direct requests on the application of this Convention, the Committee must take up the matter once again in a new direct request and it hopes that the Government will make every effort to supply the information requested.

* * *

In addition, a request regarding certain points is being addressed directly to *New Zealand* (Cook Islands).

Convention No. 101: Holidays with Pay (Agriculture), 1952

Requests regarding certain points are being addressed directly to the following States: *Netherlands* (Surinam), *United Kingdom* (St. Kitts-Nevis-Anguilla).

Convention No. 105: Abolition of Forced Labour, 1957

United Kingdom

Southern Rhodesia.

See General Observations in section II A above.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia* (Papua, New Guinea), *Denmark* (Faeroe Islands), *Netherlands* (Netherlands Antilles, Surinam), *United Kingdom* (Antigua, Bermuda, British Solomon Islands, British Virgin Islands, Gilbert and Ellice Islands, Montserrat, St. Kitts-Nevis-Anguilla, Seychelles).

A general request is also addressed to the *United Kingdom* (non-metropolitan territories).

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Requests regarding certain points are being addressed directly to the following States: *Denmark* (Faeroe Islands), *Netherlands* (Surinam).

Convention No. 108: Seafarers' Identity Documents, 1958

A request regarding certain points is being addressed directly to the *United Kingdom* (Antigua, Brunei, Dominica, Falkland Islands (Malvinas), St. Kitts-Nevis-Anguilla, St. Vincent).

Convention No. 118: Equality of Treatment (Social Security), 1962*Netherlands**Surinam.*

Article 4 of the Convention—Branch (g) (employment injury benefit). See under Convention No. 19.

* * *

In addition, a request regarding certain points is being addressed directly to the *Netherlands* (Surinam).

Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to the following States: *Denmark* (Greenland), *Netherlands* (Surinam).

**Appendix: Receipt of Detailed Reports on Ratified Conventions (Non-Metropolitan Territories)
as at 27 March 1974**

(Articles 22 and 35 of the Constitution)

Reports received: 1,068 Reports not received: 328 Total: 1,396

The numbers of Conventions in respect of which declarations of application without modifications or declarations of application with modifications had been registered by 1 January 1973 are in italic.

States and Territories	Reports received		Reports not received		Population ¹ (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Australia	45		0		
New Guinea	15	2, 10, 12, 16, 18, 19, 22, 29, 42, 63, 85, 88, 105, 112, 123	0	—	1 752
Norfolk Island	15	2, 10, 12, 16, 18, 19, 22, 29, 42, 63, 85, 88, 105, 112, 123	0	—	2
Papua	15	2, 10, 12, 16, 18, 19, 22, 29, 42, 63, 85, 88, 105, 112, 123	0	—	829
Denmark	34		0	—	
Faeroe Islands	17	2, 6, 12, 16, 18, 19, 29, 42, 52, 53, 63, 81, 92, 94, 105, 106, 118	0	—	42
Greenland	17	2, 6, 12, 16, 18, 19, 29, 42, 52, 53, 63, 81, 92, 94, 105, 118, 122	0	—	52
France	316		125		
<i>Overseas Departments :</i>					
French Guiana	36	6, 10, 12, 16, 22, 23, 24, 44, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 88, 89, 91, 92, 94, 95, 96, 101, 106, 113, 114, 115, 123, 124, 125, 126	10	2, 13, 17, 18, 19, 29, 42, 82, 105, 122	56

For footnotes see end of table, p. 235.

NON-METROPOLITAN TERRITORIES

States and Territories	Reports received		Reports not received		Popula- tion ¹ (thou- sands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Guadeloupe	36	6, 10, 12, 16, 22, 23, 24, 44, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 88, 89, 91, 92, 94, 95, 96, 101, 106, 113, 114, 115, 123, 124, 125, 126	10	2, 13, 17, 18, 19, 29, 42, 82, 105, 122	337
Martinique.	36	idem	10	idem	344
Réunion	35	6, 10, 12, 16, 22, 23, 24, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 88, 89, 91, 92, 94, 95, 96, 101, 106, 113, 114, 115, 123, 124, 125, 126	11	2, 13, 17, 18, 19, 29, 42, 44, 82, 105, 122	466
<i>Overseas Territories :</i>					
Comoro Islands	45	2, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 29, 42, 44, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 82, 85, 88, 89, 92, 94, 95, 96, 101, 105, 106, 113, 114, 115, 122, 123, 124, 125, 126	0	—	271
French Polynesia	0	—	76	2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 26, 27, 29, 32, 33, 35, 36, 37, 38, 42, 43, 44, 45, 49, 52, 53, 55, 56, 58, 62, 63, 68, 69, 71, 73, 74, 77, 78, 81, 82, 84, 85, 87, 88, 89, 91, 92, 94, 95, 96, 97, 98, 99, 100, 101, 105, 106, 108, 112, 113, 114, 115, 122, 123, 124, 125, 126	127
French Territory of the Afars and the Issas . .	38	2, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 29, 35, 42, 44, 52, 63, 77, 78, 81, 82, 85, 88, 89, 94, 95, 96, 101, 105, 106, 113, 114, 115, 122, 123, 124, 125, 126	8	53, 55, 56, 69, 71, 73, 74, 92	99
New Caledonia	45	2, 6, 10, 12, 16, 17, 18, 19, 22, 23, 24, 29, 42, 44, 52, 53, 55, 56, 63, 69, 71, 73, 74, 77, 78, 81, 82, 85, 88, 89, 92, 94, 95, 96, 101, 105, 106, 113, 114, 115, 122, 123, 124, 125, 126	0	—	110
St. Pierre and Miquelon .	45	idem	0	idem	5

REPORT OF THE COMMITTEE OF EXPERTS

States and Territories	Reports received		Reports not received		Population ¹ (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Netherlands	55		17		
Netherlands Antilles . .	20	2, 10, 22, 29, 44, 58, 63, 69, 74, 81, 88, 89, 90, 92, 94, 95, 96, 100, 105, 115	17	12, 16, 17, 19, 23, 24, 25, 42, 48, 71, 73, 101, 102, 106, 118, 121, 124	230
Surinam	35	2, 10, 12, 16, 17, 19, 22, 23, 24, 25, 29, 42, 44, 48, 63, 69, 71, 73, 74, 81, 88, 89, 90, 92, 94, 95, 96, 100, 101, 105, 106, 115, 118, 121, 124	0	—	419
New Zealand	83		0		
Cook Islands	41	1, 2, 9, 10, 11, 12, 14, 15, 16, 17, 21, 22, 26, 29, 30, 32, 42, 44, 45, 47, 49, 50, 52, 53, 58, 59, 63, 64, 65, 74, 81, 82, 84, 88, 89, 97, 99, 101, 104, 105, 122	0	—	21
Niue Island	21	2, 10, 12, 16, 17, 22, 29, 42, 44, 52, 53, 63, 65, 74, 81, 82, 88, 89, 101, 104, 105	0	—	5
Tokelau Islands	21	2, 10, 12, 16, 17, 22, 29, 42, 44, 52, 53, 63, 65, 74, 81, 82, 88, 89, 101, 104, 105	0	—	2
United Kingdom	519		186		
Antigua	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	73
Belize	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	128
Bermuda	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 115, 124	1	105	56
British Solomon Islands .	29	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 99, 100, 101, 105, 115, 124	0	—	170

NON-METROPOLITAN TERRITORIES

States and Territories	Reports received		Reports not received		Popula- tion ¹ (thou- sands)
	Total	Conventions Nos.	Total	Conventions Nos.	
British Virgin Islands . .	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105, 115, 124	1	100	12
Brunei	8	5, 7, 8, 11, 15, 50, 64, 86	47	2, 10, 12, 16, 17, 19, 22, 24, 25, 26, 29, 32, 35, 36, 37, 38, 39, 40, 42, 44, 45, 56, 63, 65, 68, 69, 74, 81, 82, 84, 87, 88, 92, 94, 95, 97, 98, 99, 100, 101, 102, 105, 108, 115, 120, 122, 124	141
Dominica	35	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 35, 36, 37, 38, 39, 40, 42, 44, 56, 63, 65, 74, 81, 82, 85, 88, 92, 95, 98, 99, 100, 102, 105, 115, 124	5	69, 87, 94, 101, 108	73
Falkland Islands (Malvinas)	29	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	2
Gibraltar	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	28
Gilbert and Ellice Islands	28	2, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 105, 115, 124	1	10	59
Grenada ²	25	10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 92, 94, 100, 101, 105, 115, 124	3	2, 88, 95	96
Guernsey	25	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 69, 74, 81, 88, 92, 94, 95, 100, 101, 105, 115	3	65, 82, 124	50

REPORT OF THE COMMITTEE OF EXPERTS

States and Territories	Reports received		Reports not received		Population ¹ (thousands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Hong Kong	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	4 077
Isle of Man	26	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 88, 92, 94, 95, 101, 105, 115, 124	2	82, 100	50
Jersey	21	2, 10, 12, 16, 19, 22, 42, 44, 56, 63, 65, 69, 74, 81, 88, 92, 94, 101, 105, 115, 124	13	17, 24, 25, 29, 50, 64, 82, 84, 86, 95, 100, 120, 122	70
Montserrat	28	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 101, 105, 115, 124	1	100	12
St. Helena	29	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	5
St. Kitts-Nevis-Anguilla .	23	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 88, 92, 94, 115, 124	6	82, 85, 95, 100, 101, 105	65
St. Lucia	0	—	29	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 105, 115, 124	115
St. Vincent	17	2, 10, 19, 22, 24, 25, 29, 42, 44, 56, 65, 69, 74, 92, 94, 101, 124	19	5, 7, 12, 16, 17, 32, 50, 63, 81, 82, 84, 87, 88, 95, 98, 100, 105, 115, 120	91
Seychelles	29	2, 10, 12, 16, 17, 19, 22, 24, 25, 29, 42, 44, 56, 63, 65, 69, 74, 81, 82, 85, 88, 92, 94, 95, 100, 101, 105, 115, 124	0	—	55

NON-METROPOLITAN TERRITORIES

States and Territories	Reports received		Reports not received		Popula- tion ¹ (thou- sands)
	Total	Conventions Nos.	Total	Conventions Nos.	
Southern Rhodesia . . .	0	—	55	2, 5, 7, 8, 10, 11, 12, 15, 16, 17, 19, 22, 24, 25, 26, 29, 32, 35, 36, 37, 38, 39, 40, 42, 44, 45, 50, 56, 63, 64, 65, 68, 69, 74, 81, 82, 84, 86, 87, 88, 92, 94, 95, 97, 98, 99, 100, 101, 102, 105, 108, 115, 120, 122, 124	5 690
United States	15		0		
American Samoa	3	53, 55, 74	0	—	31
Guam	3	53, 55, 74	0	—	93
Pacific Islands (Trust Territory) . . .	3	53, 55, 74	0	—	95
Puerto Rico	3	53, 55, 74	0	—	2 809
Virgin Islands	3	53, 55, 74	0	—	67

¹ Source : United Nations: *Demographic Year Book*, 1972.

* Reports for the period ending 30 June 1973. Communicated by the United Kingdom.

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 would refer to the statement made by a Government representative to the Conference Committee in 1973 to the effect that the instruments adopted at the last seven sessions of the Conference have now been translated and are being studied by an interministerial committee with the collaboration of employers' and workers' representatives, before being submitted to the competent authority. The Committee hopes that they will be submitted shortly and that in this connection the Government will supply the information and documents which are called for in the Memorandum adopted by the Governing Body of the ILO. In addition, it trusts that the Government will send, in the very near future, the information and documents concerning the instruments adopted from the 46th to the 52nd Sessions of the Conference, which have already been submitted to the competent government authorities, according to information given to the Conference Committee in 1971, and that in this connection it will state which authorities they are.

Barbados

The Committee regrets to note that the Government has supplied no information in reply to its earlier observation. It would therefore ask it to specify whether the instruments adopted at the 51st and 52nd Sessions of the Conference, which have already been studied by the Cabinet, have also been submitted to Parliament, which, according to information given by the Government earlier, has power to legislate and is therefore the competent authority for the purposes of submission, and also to state whether the instruments adopted from the 53rd to the 56th Sessions of the Conference have been submitted to Parliament, and to supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

Bolivia

Further to its earlier comments, the Committee notes with satisfaction that, as a result of the direct contacts established between the competent national services and a representative of the Director-General of the ILO, the Government has supplied information and documents concerning the submission to the competent authorities of Conventions Nos. 91 to 93, 108, 111, 133 and 134 and Recommendations Nos. 90, 103, 105 to 107, 109, 111 and 137 to 142.

The Committee hopes that in the near future the Government will be able to report that the Conventions and Recommendations still listed in the last column of

the table in Appendix I to this section have been submitted to the competent authorities, and that in this connection it will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Brazil

The Committee notes that Recommendations Nos. 119 and 139 will be submitted shortly to the competent authorities. It trusts that the Government will soon be able to report that all the instruments still listed in the last column of the table in Appendix I to this section, which were adopted from the 46th to the 56th Sessions of the Conference, have been submitted to Congress, and that it will provide in this connection the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

Burma

The Committee notes with interest the information supplied by the Government concerning the submission to the competent authorities of the instruments adopted from the 52nd to the 56th Sessions of the Conference. It also notes that those instruments will again be submitted to the competent authorities, with proposals concerning the ratification or acceptance of some of them, after consultation with the ministries and organisations concerned.

The Committee hopes that, in the case of the instruments adopted from the 44th to the 51st Sessions of the Conference, the Government will soon be able to provide the information and documents called for in the Memorandum adopted by the Governing Body (points II (c) and III of the questionnaire).

Burundi

The Committee notes the information supplied by the Government to the Conference Committee in 1973 and the statement made by a Government representative to that Committee, to the effect that the instruments adopted by the Conference are normally submitted to the competent authorities one week after the delegation to the Conference has returned to the country and that, as the ILO had not been so informed, the instruments adopted from the 47th to the 57th Sessions of the Conference would be resubmitted. In the absence of any further information on the subject, the Committee trusts that the Government will in the very near future be able, in respect of the instruments adopted from the 47th to the 52nd and from the 54th to the 56th Sessions of the Conference, to forward the information and documents called for in the Memorandum adopted by the Governing Body (points II (c) and III of the questionnaire).

Byelorussian SSR

Further to its earlier observations, the Committee notes the discussion which took place in the Conference Committee in 1973 concerning the determination of the competent authority and the communication of the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee, which is required by its terms of reference to examine the information supplied by the States Members in accordance with article 19 of the Constitution of the ILO, can only recall once again that this article provides that each State Member undertakes to bring every Convention and Recommendation "before

the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action", and that the expression "competent authority" thus means the authority which, in accordance with the Constitution of each State, is vested with the power to legislate or to take measures to give effect to the instrument in question. In view of the fact that, according to article 23 of the Constitution of the Byelorussian SSR, "the Supreme Soviet of the Byelorussian SSR is the sole legislative organ of the Republic", the Committee took the view that the Supreme Soviet was in principle the authority vested by the national Constitution with the general power to legislate on the matters dealt with by ILO Conventions and Recommendations. The Committee also considered that, where the instruments called for action by bodies other than the Supreme Soviet, it would be desirable, if the purpose of the obligation to submit were to be fully achieved, to bring the instruments also to the knowledge of the Supreme Soviet as being the most representative legislative body.

Moreover, the Committee is bound to point out again this year that the documents by means of which the instruments were submitted, copies of any proposals made by the Government and information as to the decisions of the competent authority concerning the instruments submitted—except in the case of ratified Conventions—have never been supplied.

The Committee would reiterate the hope that the Government will in future be able to communicate the instruments adopted by the Conference to the Supreme Soviet also and will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Central African Republic

The Committee has noted with interest the submission to the Council of Ministers, which is the competent legislative body, of the instruments adopted at the 51st and 56th Sessions of the Conference, as well as of the information communicated by the Government to the Conference Committee in 1973 and since then concerning the submission to the competent authorities of the instruments adopted at other sessions of the Conference.

The Committee hopes that the Government will soon be in a position to state that the instruments adopted at the 49th, 50th and 52nd Sessions of the Conference have also been submitted to the competent authorities, and that it will supply, in respect of these instruments and of the instruments adopted at the 53rd Session, the information and documents called for in the Memorandum adopted by the Governing Body.

Chad

In the absence of any reply to its earlier observation, the Committee trusts that the Government will soon be in a position to provide copies of the documents submitting to Parliament the instruments adopted from the 50th to the 54th Sessions of the Conference, and that it will state whether the instruments adopted at the 55th and 56th Sessions of the Conference have been submitted to the competent authority, and will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

Chile

The Committee notes that, according to information communicated to the Conference Committee in 1973, the instruments adopted by the Conference since 1966 and still awaiting submission were to be shortly submitted to the competent

authorities. As no further information has been received on this point, the Committee trusts that the Government will report in the near future that all the instruments adopted from the 50th to the 56th Sessions of the Conference have been submitted to the competent authorities and that, for all instruments adopted from the 49th Session onwards, it will provide the information and documents called for in the Memorandum adopted by the Governing Body.

Colombia

The Committee notes with regret that no information has been received in reply to its previous observation. In view of this, it can merely recall the basic obligation laid on governments by article 19 of the Constitution of the ILO to submit to the competent authorities all Conventions and Recommendations adopted by the Conference, even if they have no intention of ratifying a Convention or accepting a Recommendation. The Committee trusts that, in the very near future, the Government will be able to report that both the Recommendations and the Conventions listed in the last column of the table in Appendix I of this section have been submitted to Congress, and that it will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

Dahomey

Further to its earlier observations, the Committee notes the statement of the Government representative to the Conference Committee in 1973 to the effect that the Labour Administration had made arrangements for the Conventions and Recommendations which were still pending to be submitted to the Revolutionary Military Government, which is at present the competent authority. The Committee also notes that the procedure to be followed in the matter was studied in the course of the direct contacts which took place in December 1973 between the competent services and a representative of the Director-General of the ILO, and that, according to information subsequently provided by the Government, the instruments in question are now being examined by the Labour Administration and other competent ministries, with a view to preparing proposals respecting how they are to be dealt with.

The Committee therefore hopes that in the very near future the Government will be able to submit to the competent authority all the instruments adopted from the 45th to the 56th Sessions of the Conference which have not so far been submitted, and that it will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Democratic Yemen

Further to its previous comments, the Committee notes from the information communicated by the Government to the Conference Committee in 1973 that the delay in submission was due to the holding of various consultations. In the absence of any later information, the Committee trusts that the Government will soon be able to report whether the instruments adopted from the 53rd to the 56th Sessions of the Conference have been submitted to the competent authorities in accordance with article 19, paragraphs 5 (b) and 6 (b), of the Constitution of the ILO. The Committee hopes that the Government will also supply, in connection with the submission of the instruments mentioned above, the information and documents called for in points I, II and III of the questionnaire at the end of the Memorandum adopted by the Governing Body.

Dominican Republic

The Committee regrets to note that no information has been received in reply to its earlier observation. It once again expresses its hope that the Government will shortly report that the instruments adopted at the 52nd, 53rd and 56th Sessions of the Conference have been submitted to Congress and that, for those instruments and also those adopted from the 44th to the 51st Sessions and already submitted to Congress, it will forward the information and documents called for by the Memorandum adopted by the Governing Body.

Ecuador

The Committee notes the information communicated by the Government to the Conference Committee in 1973 to the effect that steps were being taken to consider which ILO Conventions should be ratified. Nevertheless the Committee regrets to note once again that so far the Government has not supplied, in respect of various instruments adopted from the 31st to the 51st Sessions and submitted to the competent authority in 1971, the information and documents requested in the Memorandum adopted by the Governing Body (points II and III of the questionnaire). The Committee trusts that the Government will shortly submit the information and documents in question and that in the very near future it will state whether all the instruments (Conventions and Recommendations) adopted from the 52nd to the 56th Sessions of the Conference have been submitted to the competent authority and that it will, in this case also, supply the information and documents mentioned above.

Egypt

The Committee regrets to note that no information has been received in reply to its earlier observation. It trusts that the Government will soon be in a position to state whether the instruments adopted at various sessions of the Conference which are listed in the last column of the table in Appendix I to this section have been submitted to the competent authorities and will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

El Salvador

The Committee notes the statement made by a Government representative to the Conference Committee in 1973, and also the information subsequently supplied by the Government, according to which the Minister of Labour had transmitted to the Minister of Foreign Affairs, with a view to their submission to the Legislative Assembly, the instruments adopted from the 46th to the 56th Sessions of the Conference which had not so far been communicated to the Assembly, and the Government hoped that it would in a short time state that this submission had taken place. The Committee trusts that the Government will soon report that these instruments have been submitted to the Legislative Assembly and that it will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Ethiopia

Further to its earlier observation, the Committee notes the discussion which took place in the Conference Committee in 1973 concerning the determination of the competent authority in Ethiopia. In this connection the Committee would recall that, according to sections 71 and 86 (b) of the Constitution of Ethiopia, Parliament is

required to approve draft legislation submitted by the Emperor or by ten or more members of either Chamber. It would appear, therefore, that the Constitution of Ethiopia empowers Parliament to legislate, and that Parliament therefore is, in principle, the competent authority for the purposes of article 19 of the ILO Constitution, which prescribes that the competent authority is the one which is competent to transform the Conventions and Recommendations into legislation or to take other appropriate action.

The Committee hopes that in future the Conventions and Recommendations adopted by the Conference will be submitted not only to the Emperor but also to Parliament.

Gabon

The Committee notes the information communicated by the Government and also by a Government representative to the Conference Committee in 1973 to the effect that some of the instruments adopted at the 56th Session of the Conference had been submitted to the National Assembly, and that others would be very soon.

Further to its earlier observation, the Committee trusts that the Government will soon be able to indicate whether the instruments adopted from the 45th to the 50th Sessions of the Conference which had already come before the Council of Ministers have also been submitted to the National Assembly, and whether the instruments adopted from the 51st to the 55th Sessions and the remaining ones from the 56th Session, have been submitted to the competent authorities. It also hopes that the Government will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Greece

The Committee notes the information and documents communicated by the Government in connection with the submission to the competent authorities of the instruments adopted from the 41st to the 43rd Sessions of the Conference. It hopes that the instruments adopted from the 44th to the 46th Sessions can be submitted shortly, and that the Government will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Guatemala

As the Committee has received no information in reply to its earlier observations, it can merely repeat the hope that the Government will in the near future, in connection with the various instruments already submitted to Congress (Conventions Nos. 91, 92, 93, 103, 104, 107, 115, 117, 121, 123 to 126, 128 and 129; Recommendations Nos. 87 to 100, 103, 104, 112 to 119, 121, 123 to 127, 131 and 132), supply the information and documents called for in the Memorandum adopted by the Governing Body (points II, (b) and (c), and III of the questionnaire). The Committee would also repeat the hope that the Government will report in the near future that all the instruments adopted from the 53rd to the 56th Sessions of the Conference have been submitted to Congress and will supply in this connection the above-mentioned information and documents.

Guyana

The Committee regrets to note that no information has been received in reply to its earlier direct requests. It hopes that the Government will soon be able to report that the instruments adopted at the 54th, 55th and 56th Sessions of the Conference

have been submitted to the National Assembly, and that in this connection it will provide the information and documents called for in the Memorandum adopted by the Governing Body.

Haiti

This year again the Committee is bound to note with regret that the Government has supplied no information concerning the submission to the competent authorities of the many instruments adopted by the Conference at various sessions, ranging from the 31st to the 56th, and listed in the last column of the table in Appendix I to this section. It must therefore stress once again the fundamental importance of the obligation laid on States Members by article 19 of the Constitution of the ILO, to submit to the competent legislative authorities all Conventions and Recommendations adopted by the Conference, irrespective of what action governments may think it desirable to take on them.

The Committee trusts that the Government will, in the very near future, take the necessary steps to submit all the above-mentioned instruments to the Legislative Chambers and will provide the information and documents called for in the Memorandum adopted by the Governing Body.

Honduras

The Committee notes the statement made by a Government representative to the Conference Committee in 1973, to the effect that the Government intended very soon to comply with its pending obligations regarding submission and to ratify certain Conventions. The Committee also notes that, according to information given later by the Government, a Tripartite Committee to Revise the Code has been entrusted with the task of studying the ILO Conventions, and that information as to the proposals made in this matter will be communicated soon. The Committee regrets to note that so far no additional information has been received, and it trusts that in the very near future the Government will report that all the instruments (Conventions and Recommendations) adopted from the 45th to the 56th Sessions of the Conference have been submitted to the competent authorities, and that it will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Hungary

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 and the discussion which followed. It once again expresses the hope that the Government will find it possible to submit the instruments adopted by the Conference, not only to the Presidential Council but also to the National Assembly which is empowered to legislate under sections 10 and 14 of the Hungarian Constitution.

The Committee also trusts that in future copies of the documents submitting the instruments adopted by the Conference will be communicated regularly as called for in the Memorandum adopted by the Governing Body (point II (c) of the questionnaire).

Indonesia

The Committee notes with interest the information and documents forwarded by the Government to the Conference Committee in 1973 concerning submitting the instruments adopted from the 52nd to the 56th Sessions of the Conference to the Legislature. The Committee hopes that the Government will also provide information

regarding its proposals as well as the decisions of the competent authority with respect to these instruments in the near future.

Iraq

The Committee notes that the instruments adopted at the 55th Session of the Conference have been submitted to the competent authorities and that the Government has approved the acceptance of Recommendations Nos. 135 and 136, adopted at the 54th Session. As numerous instruments are still listed in the last column of the table in Appendix I to this section, the Committee trusts that in the near future the Government will take the necessary steps in respect of them also and will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Ivory Coast

The Committee regrets to note that the Government has not replied to its earlier observation. It trusts that it will in the very near future report that all the instruments adopted from the 50th to the 54th Sessions of the Conference, and also Convention No. 134 and the Recommendations adopted at the 55th and 56th Sessions have been submitted to the National Assembly and that, in this connection, it will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Jamaica

The Committee notes from the information communicated by the Government to the Conference Committee in 1973 that the instruments adopted by the Conference from its 51st to its 54th Sessions (except for Convention No. 132 and Recommendation No. 136) have been submitted to the competent authority. The Committee hopes that the Government will be able to supply at an early date copies of the documents submitting these instruments to the Chamber of Representatives. It hopes also that the Government will be able to report that the instruments still listed in the last column of the table in Appendix I to this section have been submitted and that, in this connection, it will provide the information and documents called for in the Memorandum adopted by the Governing Body.

Jordan

The Committee regrets to note that the Government has not replied to its observation of 1973. It must therefore reiterate the hope that the Government will soon be able to specify whether the instruments adopted at the 51st, 53rd and 56th Sessions of the Conference have been submitted, not only to the Council of Ministers but also to Parliament. It trusts that the Government will also indicate that all the instruments listed in the last column of the table in Appendix I to this section have been submitted to Parliament and that it will supply in respect of all the above-mentioned instruments the information and documents called for in the Memorandum adopted by the Governing Body.

Laos

The Committee notes the statement made by a Government representative to the Conference Committee in 1973, in which he explained certain difficulties which existed, but added that it was to be hoped that the instruments which had not yet been submitted would be. As no further information has been received since then, the

Committee trusts that the Government will soon be able to report that all the instruments adopted from the 48th to the 56th Sessions of the Conference have been submitted to the competent authorities, and that it will provide in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

Lebanon

The Committee notes the information communicated by the Government to the Conference Committee in 1973 to the effect that on 10 April 1973 it had transmitted 17 Conventions to the Presidency of the Council for submission to Parliament, and that preparations were under way to submit a second group of Conventions and Recommendations. In the absence of any fresh information on the subject, the Committee can only reiterate the hope that the Government will very soon be able to report that all the above instruments have been submitted to Parliament, that the other instruments which have not been submitted (please see in this connection the last column of the table in Appendix I to this section) will be so in the near future, and that the Government will provide in connection with all the above-mentioned instruments the information and documents called for in the Memorandum adopted by the Governing Body.

Liberia

The Committee notes, from the statement made by a Government representative to the Conference Committee in 1973, that the Government would shortly supply information concerning submission. As no information has reached the ILO since then, the Committee can only refer to its earlier observation and reiterate the hope that, in the very near future, the Government will indicate whether the instruments adopted at the 56th Session of the Conference, the submission of which to the competent authority had been announced by the Government, together with the numerous instruments listed in the last column of the table in Appendix I to this section, have been submitted to the legislative body, and that it will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Madagascar

The Committee notes the information supplied by the Government to the effect that the procedure of submission to the competent authorities has been held up because of the dissolution of Parliament, but will be resumed in due course. It also notes with interest that an over-all revision of the legislation is proceeding and that the instruments recently adopted by the Conference have in large measure guided the drafting of the new labour legislation.

The Committee wishes to recall in this respect that, in the absence of Parliament, the Government has the obligation to submit the instruments adopted by the ILO to any other authorities vested with the power to legislate.

The Committee hopes that the Government will soon be able to announce that the instruments adopted at the 55th and 56th Sessions of the Conference have been submitted, and to provide in this connection the information and documents called for in the Governing Body.

Malawi

Further to its earlier observations the Committee notes the statement made by a Government representative to the Conference Committee in 1973, in which he

restated his Government's position that, according to the Constitution of Malawi, the President is the competent authority for purposes of submission and that, consequently, the Government has fulfilled its obligations by submitting the international instruments to the President.

The Committee would recall that, according to section 35 (2) of the Constitution of Malawi, "the legislative power of Parliament shall be exercised by bills passed by the National Assembly and assented to by the President". It would appear, therefore, that the National Assembly is the competent authority to which ILO instruments should be submitted for the purposes of article 19 of the ILO Constitution.

The Committee hopes that the Government will reconsider the position with a view, in future, to submitting the Conventions and Recommendations adopted by the Conference not only to the President but also to Parliament.

Mauritania

The Committee regrets to note that the Government has supplied no information in reply to its earlier observation. It trusts that it will soon be in a position to report that Recommendations Nos. 118, 119, 126, 127, 129, 130 and 131, and also the instruments adopted at the 54th and 56th Sessions of the Conference, have been submitted to the National Assembly, and that it will provide, in respect of Recommendation No. 115 and of all the instruments adopted from the 47th to the 52nd Sessions and from the 54th to the 56th Sessions, the information and documents called for in the Memorandum adopted by the Governing Body.

Mauritius

Further to its earlier observation, the Committee notes the information communicated by the Government to the Conference Committee in 1973, to the effect that it had found itself under the obligation to postpone temporarily the submission of Conventions and Recommendations to the competent authorities, but was making a special effort in this direction and had initiated measures to submit Conventions Nos. 129, 130, 131, 132 and 135 and Recommendations Nos. 133, 134, 135 and 143.

In the absence of any more recent information, the Committee trusts that the Government will soon be able to announce the submission of the above-mentioned instruments, and also of those adopted from the 53rd to the 56th Sessions of the Conference, and that, in this connection, it will provide the information and documents called for in the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire at the end of the text). In this connection the Committee would point out that the competent authorities to which the instruments must be submitted are those which are empowered to legislate—that is, in most cases, Parliament.

Mongolia

The Committee notes with interest from the information and document communicated by the Government to the Conference Committee in 1973 that Conventions Nos. 129, 130, 131, 132, 135 and 136 have been submitted to the Presidium of the Great People's Khural. It hopes that the Government will be able to indicate shortly that the Recommendations adopted from the 53rd to the 56th Sessions of the Conference as well as the instruments adopted at the 55th Session have also been submitted. The Committee also hopes that the Government will take full account of the indications as to the nature of the competent authorities given in the Memorandum.

dum adopted by the Governing Body and concerning which the Committee has often provided clarification in its report.

Nepal

The Committee regrets to note that the Government has once again failed to reply to the comments it has been making since 1969. It trusts that, in the very near future, the Government will state whether the instruments adopted from the 51st to the 56th Sessions of the Conference have been submitted to the competent authorities in accordance with article 19, paragraphs 5 (b) and 6 (b), of the Constitution of the ILO.

The Committee would recall that the authorities to whom the instruments adopted by the Conference should be submitted are those who have the power to legislate on the matters dealt with by the instruments in question—that is to say, in most cases, Parliament. It hopes that the Government will also provide in connection with the submission of those instruments, the information and documents called for in the Memorandum adopted by the Governing Body (points II and III of the questionnaire).

Panama

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 to the effect that the Government, after having ratified various Conventions and revised the Labour Code and the Constitution, intended in the near future to submit to the new Legislative Assembly all the instruments which had not so far been submitted. As no further information has been received since then, the Committee would point out that, while article 19 of the Constitution of the ILO requires governments to submit all Conventions and Recommendations to the competent authorities, such submission does not imply any obligation to propose the ratification of any Convention or the acceptance of any Recommendation. The Committee would repeat its hope that the Government will soon be able to report that the many instruments listed in the last column of the table in Appendix I to this section have been submitted to the competent authorities, and that in this connection it will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Paraguay

Further to its earlier comments, the Committee hopes that the Government will in the very near future report that the Conventions adopted from the 41st to the 51st Sessions of the Conference, which are listed in the last column of the table in Appendix I to this section, and also the Conventions and Recommendations adopted from the 53rd to the 56th Sessions, have been submitted to the competent authorities, and that in this connection it will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Peru

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 to the effect that the Government had not so far submitted all the instruments to the competent authorities because of the important programme of legislative reform being undertaken, but that it intended to submit them in the near future. As no further information has been received since then, the Committee can merely repeat its hope that, at a very early date, the Government will report that all the instruments listed in the last column of the table in Appendix I to

this section have been submitted to the competent authorities, and that in this connection it will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Poland

The Committee notes the information and documents supplied by the Government concerning the submission to the competent authorities of Conventions Nos. 127 and 132 and Recommendations Nos. 127, 128, 129 and 136. It further notes that Conventions Nos. 121 and 130 and Recommendations Nos. 99, 121 and 134 have also been submitted, but that the documents concerning the submission of those instruments have not been received, and it hopes they will be communicated soon.

The Committee also notes with interest that the Government again declares that it intends to pursue its efforts to settle the question of the instruments which have not yet been submitted to the competent authorities. The Committee therefore hopes that the Government will soon be able to report that all the instruments listed in the last column of the table in Appendix I to this section have been submitted to the competent authorities and that it will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Portugal

The Committee notes that the instruments adopted at the 56th Session of the Conference have been submitted to the National Assembly.

Further to its earlier observations, the Committee is bound to note that the documents concerning the submission of ILO instruments have still not been supplied. It hopes that the Government will send them soon and that in future they will be provided regularly when new instruments are submitted, in accordance with points II (b) and (c) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body.

Sierra Leone

The Committee notes the statement made by a Government representative to the Conference Committee in 1973 and the information subsequently supplied by the Government to the effect that the instruments adopted from the 46th to the 56th Sessions of the Conference—apart from the Conventions already ratified—were to be submitted to Parliament. The Committee hopes that the Government will soon be able to report that those instruments have been submitted and will supply, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Somalia

The Committee notes with interest the statement made by a Government representative to the Conference Committee in 1973 to the effect that all the Conventions and Recommendations adopted from the 45th to the 56th Sessions had been submitted to the competent authority, and that an official communication to this effect would be sent to the ILO. In the absence of any further information, the Committee hopes that the Government will soon confirm that the instruments have been submitted and will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Sri Lanka

The Committee notes with interest the information and documents communicated by the Government to the Conference Committee in 1973, and subsequently, concerning the submission to Parliament of the instruments adopted at the 52nd, 53rd and 54th Sessions of the Conference. It also notes that the instruments adopted at the 55th and 56th Sessions were to be submitted shortly, and that as the instruments adopted at the 44th Session are being examined by the Department of Labour, information will be sent as to the Government's proposals once a decision is made.

The Committee hopes that the Government will soon be able to report that the instruments adopted at the 55th and 56th Sessions of the Conference have also been submitted to the competent authorities and that, in this connection, it will supply the information and documents called for in the Memorandum adopted by the Governing Body. It hopes that the Government will also, as indicated, provide the information regarding its proposals in respect of the instruments adopted since the 44th Session.

Tanzania

The Committee regrets to note that the Government has provided no information in reply to its comments since 1971. It trusts that it will in the very near future supply, in connection with the instruments adopted from the 47th to the 53rd Sessions of the Conference, the information and documents called for in the Memorandum adopted by the Governing Body, and that it will also state whether the instruments adopted at the 54th, 55th and 56th Sessions of the Conference have been submitted to the competent authorities.

Thailand

The Committee notes the information communicated by the Government to the Conference Committee in 1973, to the effect that the instruments adopted from the 52nd to the 54th Sessions of the Conference would soon be submitted to the National Assembly. In the absence of any more recent information, the Committee trusts that the Government will soon be able to report that the submission of these instruments, and also of those adopted at the 55th and 56th Sessions of the Conference, has taken place, and that it will provide in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Togo

The Committee regrets to note once more that no information has been supplied in reply to its comments since 1970. It trusts that the Government will soon indicate whether the instruments adopted from the 52nd to the 56th Sessions of the Conference have been submitted to the competent authorities and that it will also supply in this connection the information and documents called for in points II and III of the questionnaire at the end of the Memorandum adopted by the Governing Body.

Uganda

The Committee regrets to note that no information has been received in reply to its earlier direct requests. It hopes that the Government will very soon report whether the instruments adopted from the 53rd to the 56th Sessions of the Conference have been submitted to the competent authorities and that it will provide, in this connection, the information and documents called for in the Memorandum adopted by the Governing Body.

Ukrainian SSR

Further to its earlier observations, the Committee notes the discussion which took place in the Conference Committee in 1973 concerning the determination of the competent authority and the communication of the information and documents called for in the Memorandum adopted by the Governing Body.

The Committee, which is required by its terms of reference to examine the information supplied by the States Members in accordance with article 19 of the Constitution of the ILO, can only recall once again that this article provides that each State Member undertakes to bring every Convention and Recommendation "before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action", and that the expression "competent authority" thus means the authority which, in accordance with the Constitution of each State, is vested with the power to legislate or to take measures to give effect to the instrument in question. In view of the fact that, according to article 23 of the Constitution of the Ukrainian SSR "the Supreme Soviet of the Ukrainian SSR is the sole legislative organ of the Republic", the Committee took the view that the Supreme Soviet was in principle the authority vested by the national Constitution with the general power to legislate on the matters dealt with by ILO Conventions and Recommendations. The Committee also considered that, where the instruments called for action by bodies other than the Supreme Soviet, it would be desirable, if the purpose of the obligation to submit were to be fully achieved, to bring the instruments also to the knowledge of the Supreme Soviet as being the most representative legislative body.

Moreover, the Committee is bound to point out again this year that the documents by means of which the instruments were submitted, copies of any proposals made by the Government and information as to the decisions of the competent authority concerning the instruments submitted—except in the case of ratified Conventions—have never been supplied.

The Committee would reiterate the hope that the Government will in future be able to communicate the instruments adopted by the Conference to the Supreme Soviet also and will supply the information and documents called for in the Memorandum adopted by the Governing Body.

USSR

Further to its earlier observations, the Committee notes the discussion which took place in the Conference Committee in 1973 concerning the determination of the competent authority in the USSR and the communication by the Government of the information and documents called for in the Memorandum adopted by the Governing Body. During this discussion the Government representative explained once again the Government's position, namely that the determination of the competent authority was part of the internal affairs of each sovereign State, which decides as to the authority in the light of the national Constitution.

The Committee, which is required by its terms of reference to examine the information supplied by the States Members in accordance with article 19 of the Constitution of the ILO, can only recall once again that this article provides that each State Member undertakes to bring every Convention and Recommendation "before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action", and that the expression "competent authority" thus means the authority which, in accordance with the Constitution of each State, is vested with the power to legislate or to take measures to give effect to

the instrument in question. In view of the fact that, according to article 32 of the Constitution of the USSR, " the legislative power of the USSR is exercised exclusively by the Supreme Soviet ", the Committee took the view that the Supreme Soviet was in principle the authority vested by the Constitution of the USSR with the general power to legislate on the matters dealt with by ILO Conventions and Recommendations. The Committee also considered that, where the instruments called for action by bodies other than the Supreme Soviet, it would be desirable, if the purpose of the obligation to submit were to be fully achieved, to bring the instruments also to the knowledge of the Supreme Soviet as being the most representative legislative body.

Moreover, the Committee is bound to point out again this year that the documents by means of which the instruments were submitted, copies of any proposals made by the Government and information as to the decisions of the competent authority concerning the instruments submitted—except in the case of ratified Conventions—have never been supplied.

The Committee would reiterate the hope that the Government will in future be able to communicate the instruments adopted by the Conference to the Supreme Soviet also and will supply the information and documents called for in the Memorandum adopted by the Governing Body.

Uruguay

The Committee regrets to note that no information has been received in reply to its previous direct requests. It hopes that the Government will indicate shortly whether the instruments adopted at the 54th, 55th and 56th Sessions of the Conference have been submitted to the competent authorities and that it will supply in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

Yemen

The Committee regrets to note that the Government has still not supplied any information as to the submission to the competent authorities of the instruments adopted by the Conference. It would once again call attention to the fundamental importance of the obligation laid on governments by article 19, paragraphs 5 (*b*) and 6 (*b*), of the Constitution of the ILO, to submit to the competent authorities the instruments adopted by the Conference. The Committee trusts that the Government will soon be able to report that the instruments adopted from the 49th to the 56th Sessions of the Conference have been submitted to the competent authority and that it will provide in this connection the information and documents called for in the Memorandum adopted by the Governing Body.

Yugoslavia

The Committee is bound to note with regret that for three consecutive years the Government has not supplied any information in reply to its earlier comments. It trusts that it will soon be able to report whether all the instruments adopted from the 53rd to the 56th Sessions of the Conference have been submitted to the competent authorities, and that it will provide in this connection the information and documents called for in the Memorandum adopted by the Governing Body, more particularly in point VI of the questionnaire, taking into account the new Constitution of Yugoslavia.

Zaire

The Committee regrets to note that the Government has supplied no information in response to its earlier direct requests. It would once again ask the Government to provide, in respect of the instruments adopted from the 50th to the 53rd Sessions of the Conference which have already been submitted to the competent authorities, the information and documents called for in points II and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. The Committee trusts that the Government will also state whether the instruments adopted from the 54th to the 56th Sessions of the Conference have been submitted to the competent authorities, and that it will provide, in this case also, the above-mentioned information and documents.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Austria, Cameroon, Congo, Costa Rica, Czechoslovakia, Ghana, Hungary, Iceland, Israel, Italy, Kenya, Khmer Republic, Libyan Arab Republic, Malaysia, Malta, Mexico, Netherlands, Nicaragua, Niger, Nigeria, Pakistan, Romania, Spain, Sudan, Syrian Arab Republic, Tunisia, Turkey, Upper Volta, Venezuela, Republic of Viet-Nam.*

Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities

(31st to 56th Sessions of the International Labour Conference, 1948-71) ¹

Note : The number of the Convention or Recommendation is given in parentheses, preceded by the letter " C " or " R " as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31st to 45th	46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Algeria	47th to 56th	—
Argentina	31st to 56th	—
Australia	31st to 56th	—
Austria	31st to 46th (C 117; R 116, 117), 47th to 56th	46th (C 118)
Barbados	51st (C 128)	51st (C 127; R 128, 129, 130, 131), 52nd, 53rd, 54th, 55th and 56th
Belgium	31st to 56th	—
Bolivia	31st (C 87, 89, 90), 32nd (C 91, 92, 93, 96, 98), 34th (C 100; R 90), 35th (C 103), 40th (C 106; R 103), 41st (C 108; R 105, 106, 107, 108, 109), 42nd (C 111; R 111) and 55th	31st (C 88; R 83), 32nd (C 94, 95, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 91, 92) 35th (C 101, 102; R 93, 94, 95) 36th, 37th, 38th, 39th, 40th, (C 105; R 104), 41st (C 109), 42nd (C 110; R 110), 43rd, 44th, 45th, (R 115), 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th and 56th
Brazil	31st to 45th, 46th (C 117, 118), 47th (C 119), 48th (C 120, 121, 122), 49th (C 123, 124; R 124, 125), 50th (C 125; R 126), 51st (C 127; R 128), 53rd (R 133, 134) and 56th (C 135)	46th (R 116, 117), 47th (R 118, 119), 48th (R 120, 121, 122), 49th (R 123) 50th (C 126; R 127), 51st (C 128; R 129, 130, 131), 52nd, 53rd (C 129, 130), 54th, 55th and 56th (C 136; R 143, 144)
Bulgaria	31st to 56th	—
Burma	31st to 56th	—

¹ The Conference did not adopt any Conventions or Recommendations at its 57th (1972) Session.

SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Burundi	53rd	47th, 48th, 49th, 50th, 51st, 52nd, 54th, 55th and 56th
Byelorussian SSR . . .	37th to 56th	—
Cameroon, United Republic of	44th to 49th and 54th (C 131, 132)	50th, 51st, 52nd, 53rd, 54th (R 135, 136), 55th and 56th
Canada	31st to 56th	—
Central African Republic	45th to 48th, 51st and 53rd to 56th	49th, 50th and 52nd
Chad	45th to 54th	55th and 56th
Chile	31st to 49th and 51st (C 127, 128)	50th, 51st, (R 128, 129, 130, 131), 52nd, 53rd, 54th, 55th and 56th
Colombia	31st to 39th, 40th (C 105, 106, 107; R 103), 41st (C 109; R 105, 106, 108), 42nd to 44th, 45th (C 116), 46th (C 118), 47th (C 119), 48th (C 120, 121, 122), 49th (C 123, 124), 50th (C 125, 126), 51st (C 127), 53rd (C 129, 130), 54th (C 131, 132), 55th (C 133, 134) and 56th (C 135, 136)	40th (R 104), 41st (C 108; R 107, 109), 45th (R 115), 46th (C 117; R 116, 117), 47th (R 118, 119), 48th (R 120, 121, 122), 49th (R 123, 124, 125), 50th (R 126, 127), 51st (C 128; R 128, 129, 130, 131), 52nd, 53rd (R 133, 134), 54th (R 135, 136), 55th (R 137, 138, 139, 140, 141, 142) and 56th (R 143, 144)
Congo	45th to 56th	—
Costa Rica	31st to 53rd	54th, 55th and 56th
Cuba	31st to 56th	—
Cyprus	45th to 56th	—
Czechoslovakia	31st to 56th	—
Dahomey	49th (C 123, 124; R 124, 125) and 52nd	45th, 46th, 47th, 48th, 49th (R 123), 50th, 51st, 53rd, 54th, 55th and 56th
Democratic Yemen . .	—	53rd, 54th, 55th and 56th
Denmark	31st to 56th	—
Dominican Republic . .	31st to 51st, 54th and 55th	52nd, 53rd and 56th
Ecuador	31st to 51st and 54th (C 131)	52nd, 53rd, 54th (C 132; R 135, 136) 55th and 56th
Egypt	31st, 32nd, 34th, 35th, 38th, 39th, 40th, 42nd, 44th, 45th, 46th, 48th to 56th	33rd, 36th, 37th, 41st, 43rd and 47th
El Salvador	31st to 45th, 50th, (R 126, 127), 51st and 53rd	46th, 47th, 48th, 49th, 50th (C 125, 126), 52nd, 54th, 55th and 56th

REPORT OF THE COMMITTEE OF EXPERTS

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Ethiopia	31st to 53rd, 54th (C 131, 132; R 135), 55th and 56th	54th (R 136)
Finland	31st to 56th	—
France	31st to 56th	—
Gabon	45th to 50th and 56th (C 135; R 143)	51st, 52nd, 53rd, 54th, 55th and 56th (C 136; R 144)
Germany (Federal Republic)	34th to 56th	—
Ghana	40th to 56th	—
Greece	31st to 43rd and 47th to 56th	44th, 45th and 46th
Guatemala	31st to 52nd and 53rd (C 129)	53rd (C 130; R 133, 134), 54th, 55th and 56th
Guinea	43rd to 56th	—
Guyana	50th to 53rd	54th, 55th and 56th
Haiti	31st (C 90), 32nd (C 98), 34th (C 99, 100), 40th to 44th, 46th to 49th	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, 39th, 45th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Honduras	39th to 44th and 45th (C 116)	45th (R 115), 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Hungary	31st to 54th and 56th, (C 135, 136)	55th and 56th (R 143, 144)
Iceland	31st to 55th	56th
India	31st to 56th	—
Indonesia	33rd to 56th	—
Iran	31st to 56th	—
Iraq	31st, 32nd (C 95, 98), 34th (C 99, 100; R 90), 35th (C 102, 103), 40th (C 105, 106), 42nd (C 111; R 111), 43rd (C 112, 113, 114), 44th, 45th (C 116), 46th (C 117, 118), 48th (C 122), 49th (C 123, 124), 51st to 53rd, 54th (C 132; R 135, 136), 55th and 56th	32nd (C 91, 92, 93, 94, 96, 97; R 84, 85, 86, 87), 33rd, 34th (R 89, 91, 92), 35th (C 101; R 93, 94, 95), 36th, 37th, 38th, 39th, 40th, (C 107; R 103, 104), 41st, 42nd (C 110; R 110), 43rd (R 112), 45th (R 115), 46th (R 116, 117), 47th, 48th (C 120, 121; R 120, 121, 122), 49th (R 123, 124, 125), 50th and 54th (C 131)
Ireland	31st to 56th	—

SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Israel	32nd to 54th	55th and 56th
Italy	31st to 55th	56th
Ivory Coast	45th to 49th, 55th (C 133) and 56th (C 135, 136)	50th, 51st, 52nd, 53rd, 54th, 55th (C 134; R 137, 138, 139, 140, 141, 142) and 56th (R 143, 144)
Jamaica	47th, 49th (C 123, 124; R 124, 125), 50th (R 127), 51st to 53rd and 54th (C 131; R 135)	48th, 49th (R 123), 50th (C 125, 126; R 126), 54th (C 132; R 136), 55th and 56th
Japan	35th to 56th	—
Jordan	40th (C 105), 42nd (C 111; R 111), 45th, (C 116), 46th (C 117, 118), 47th (C 119), 48th (C 120, 122), 49th (C 123, 124), 50th (R 127), 51st (C 127; R 129, 130, 131), 53rd and 56th	39th, 40th (C 106, 107; R 103, 104), 41st, 42nd (C 110; R 110), 43rd, 44th, 45th (R 115), 46th (R 116, 117), 47th (R 118, 119), 48th (C 121; R 120, 121, 122), 49th (R 123, 124, 125), 50th (C 125, 126; R 126), 51st (C 128; R 128), 52nd, 54th and 55th
Kenya	48th to 52nd and 53rd (C 130; R 133, 134)	53rd (C 129), 54th, 55th and 56th
Khmer Republic . . .	53rd, 54th and 56th (C 135, 136)	55th and 56th (R 143, 144)
Kuwait	45th to 56th	—
Laos	—	48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Lebanon	31st (C 88, 89, 90), 32nd (C 95), 34th (C 100) and 35th (C 103)	31st (C 87; R 83), 32nd (C 91, 92, 93, 94, 96, 97, 98; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th (C 101, 102; R 93, 94, 95), 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd, 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Liberia	31st (C 87), 32nd (C 98), 38th (C 104), 40th (C 105), 42nd, 43rd (C 112, 113, 114), 48th, 49th, 50th and 56th	31st (C 88, 89, 90; R 83), 32nd (C 91, 92, 93, 94, 95, 96, 97; R 84, 85, 86), 33rd, 34th, 35th, 36th, 37th, 38th (R 99, 100), 39th, 40th (C 106, 107; R 103, 104), 41st, 43rd (R 112), 44th, 45th, 46th, 47th, 51st, 52nd, 53rd, 54th and 55th
Libyan Arab Republic .	35th to 55th	56th
Luxembourg	31st to 56th	—
Madagascar	45th to 54th	55th and 56th
Malawi	49th to 54th and 56th	55th

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Malaysia	41st to 56th	—
Mali	44th to 56th	—
Malta	49th to 54th	55th and 56th
Mauritania	45th, 46th, 47th (C 119), 48th, 49th, 50th, (C 125, 126), 51st (C 127, 128), 52nd, 53rd and 55th	47th (R 118, 119), 50th (R 126, 127), 51st (R 128, 129, 130, 131), 54th and 56th
Mauritius	—	53rd, 54th, 55th and 56th
Mexico	31st to 53rd, 54th (R 135, 136), 55th (R 137, 138, 139, 140, 141, 142) and 56th (R 143, 144)	54th (C 131, 132), 55th (C 133, 134) and 56th (C 135, 136)
Mongolia	53rd (C 129, 130), 54th (C 131, 132) and 56th (C 135, 136)	53rd (R 133, 134), 54th (R 135, 136), 55th and 56th (R 143, 144)
Morocco	39th to 56th	—
Netherlands	31st to 40th, 41st (C 108, 109; R 105, 106, 107, 108), 42nd to 53rd, 54th (C 131; R 135) and 55th (C 133, 134; R 140, 141, 142)	41st (R 109), 54th (C 132; R 136), 55th (R 137, 138, 139) and 56th
New Zealand	31st to 56th	—
Nepal	—	51st, 52nd, 53rd, 54th, 55th and 56th
Nicaragua	40th to 50th and 51st (R 128, 129, 130, 131)	51st (C 127, 128), 52nd, 53rd, 54th, 55th and 56th
Niger	45th to 51st (C 127; R 128, 129, 130), 52nd, 53rd, 54th, 55th and 56th (C 135)	51st (C 128; R 131) and 56th (C 136; R 143, 144)
Nigeria	45th to 56th	—
Norway	31st to 56th	—
Pakistan	31st to 54th	55th and 56th
Panama	31st (C 87, 88, 89), 32nd (C 92, 94, 95, 96, 98), 34th (C 100), 38th (C 104), 40th (C 105, 107), 41st (C 108), 42nd (C 110, 111), 43rd (C 112, 113, 114), 44th (C 115), 45th (C 116), 46th (C 117), 47th (C 119), 48th (C 120, 122), 49th (C 123, 124), 50th (C 125, 126), 51st (C 127)	31st (C 90; R 83), 32nd (C 91, 93, 97; R 84, 85, 86, 87), 33rd, 34th (C 99; R 89, 90, 91, 92), 35th, 36th, 37th, 38th (R 99, 100), 39th 40th (C 106; R 103, 104), 41st (C 109; R 105, 106, 107, 108 109), 42nd (R 110, 111), 43rd (R 112), 44th (R 113, 114), 45th (R 115), 46th (C 118; R 116, 117), 47th (R 118, 119), 48th (C 121; R 120, 121, 122), 49th (R 123, 124, 125), 50th (R 126, 127), 51st (C 128; R 128, 129, 130, 131), 52nd, 53rd, 54th, 55th and 56th

SUBMISSION TO COMPETENT AUTHORITIES

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Paraguay	40th, 41st (R 105, 106, 107, 108, 109), 42nd (C 111; R 110, 111), 43rd (R 112), 44th, 45th, 46th (C 117), 47th, 48th (C 120, 122; R 120, 121, 122), 49th, 50th (R 126, 127), 51st (R 128, 129, 130, 131) and 52nd	41st (C 108, 109), 42nd (C 110), 43rd (C 112, 113, 114), 46th (C 118), 48th (C 121), 50th (C 125, 126), 51st (C 127, 128), 53rd, 54th, 55th and 56th
Peru	31st to 43rd, 44th (C 115), 45th (C 116), 46th (C 117, 118), 47th (C 119), 48th (C 120, 121, 122), 49th and 50th (C 125, 126; R 126)	44th (R 113, 114), 45th (R 115), 46th (R 116, 117), 47th (R 118, 119), 48th (R 120, 121, 122), 50th (R 127), 51st, 52nd, 53rd, 54th, 55th and 56th
Philippines	31st to 56th	—
Poland	31st (C 87, 89, 90), 32nd (C 91, 92, 93, 94, 95, 96, 97, 98; R 84, 85, 86), 34th (C 100; R 90, 91, 92), 35th (C 101; R 93, 94), 36th, 38th, 40th (C 105, 106, 107; R 104), 41st, 42nd, 43rd (C 112, 113, 114), 44th, 45th, 46th (C 117; R 116, 117), 47th (R 118, 119), 48th, 49th (C 123, 124; R 124, 125), 50th (R 126, 127), 51st (C 127; R 128, 129) 53rd (C 130, R 134) and 54th (C 132; R 136)	31st (C 88; R 83), 32nd (R 87), 33rd, 34th (C 99; R 89), 35th (C 102, 103; R 95), 37th, 39th, 40th (R 103), 43rd (R 112), 46th (C 118), 47th (C 119), 49th (R 123), 50th (C 125, 126), 51st (C 128; R 130, 131) 52nd, 53rd (C 129; R 133), 54th (C 131; R 135), 55th and 56th
Portugal	31st to 56th	—
Romania	39th to 56th	—
Rwanda	47th to 56th	—
Senegal	44th to 56th	—
Sierra Leone	45th, 47th (C 119), 50th and 52nd	46th, 47th (R 118, 119), 48th, 49th, 51st, 53rd, 54th, 55th and 56th
Singapore	50th to 56th	—
Somalia	—	45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Spain	39th to 45th, 46th (C 117; R 116, 117), 47th, 48th (C 120, 122; R 120, 121, 122), 49th to 54th, 55th (C 134; R 137, 138, 139, 140, 141, 142) and 56th	46th (C 118), 48th (C 121) and 55th (C 133)
Sri Lanka	31st to 54th	55th and 56th
Sudan	39th to 56th	—
Sweden	31st to 56th	—

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State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Switzerland	31st to 56th	—
Syrian Arab Republic .	31st to 54th	55th and 56th
Tanzania	46th to 53rd	54th, 55th and 56th
Thailand	31st to 51st	52nd, 53rd, 54th, 55th and 56th
Togo	44th to 51st	52nd, 53rd, 54th, 55th and 56th
Trinidad and Tobago .	47th to 56th	—
Tunisia	39th to 53rd	54th, 55th and 56th
Turkey	31st to 54th and 56th	55th
Uganda	47th to 52nd	53rd, 54th, 55th and 56th
Ukrainian SSR	37th to 56th	—
USSR	37th to 56th	—
United Kingdom . . .	31st to 56th	—
United States	31st to 56th	—
Upper Volta	45th to 52nd	53rd, 54th, 55th and 56th
Uruguay	31st to 53rd	54th, 55th and 56th
Venezuela	31st to 50th, 51st (C 127, 128; R 128) and 52nd	51st (R 129, 130, 131), 53rd, 54th, 55th and 56th
Rep. of Viet-Nam . . .	33rd to 52nd, 53rd (R 133, 134), 54th (R 135, 136), 55th (R 137, 138, 139, 140, 141, 142) and 56th (R 143, 144)	53rd (C 129, 130), 54th (C 131, 132), 55th (C 133, 134) and 56th (C 135, 136)
Yemen	—	49th, 50th, 51st, 52nd, 53rd, 54th, 55th and 56th
Yugoslavia	31st to 52nd and 54th (C 132)	53rd, 54th (C 131; R 135, 136), 55th and 56th
Zaire	45th to 53rd	54th, 55th and 56th
Zambia	49th to 56th	—

Appendix II. Position of Member States with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities

TABLE I. NUMBER OF STATES WHERE, ACCORDING TO INFORMATION SUPPLIED BY GOVERNMENTS, CONVENTIONS AND RECOMMENDATIONS HAVE BEEN SUBMITTED TO THE COMPETENT AUTHORITIES WITHIN THE PRESCRIBED TIME LIMITS

Number of States in which, according to information supplied by governments,	Sessions at which decisions were adopted																									
	31st (June 1948)	32nd (June 1949)	33rd (June 1950)	34th (June 1951)	35th (June 1952)	36th (June 1953)	37th (June 1954)	38th (June 1955)	39th (June 1956)	40th (June 1957)	41st (April/May 1958)	42nd (June 1958)	43rd (June 1959)	44th (June 1960)	45th (June 1961)	46th (June 1962)	47th (June 1963)	48th (June/July 1964)	49th (June 1965)	50th (June 1966)	51st (June 1967)	52nd (June 1968)	53rd (June 1969)	54th (June 1970)	55th (Oct. 1970)	56th (June 1971)
All the texts have been submitted	16	17	21	25	25	28	29	24	38	38	34	36	34	38	34	38	32	37	49	53	43	50	47	42	43	38
Some of these texts have been submitted	7	2	— ¹	4	3	1	— ¹	4	1	13	3	7	8	1	9	6	9	6	6	2	13	— ¹	8	4	5	7
None of these texts has been submitted (including cases in which no information has been supplied by the Government) .	37	42	42	35	38	37	40	41	37	26	42	36	38	44	58	58	67	67	59	60	61	68	66	75	73	76
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	101	102	108	110	114	115	117	118	121	121	121	121

¹ At this session the Conference adopted one Recommendation only.

TABLE II. OVER-ALL POSITION OF MEMBER STATES AT 27 MARCH 1974

Number of States in which, according to information supplied by governments,	Sessions at which decisions were adopted																									
	31st (June 1948)	32nd (June 1949)	33rd (June 1950)	34th (June 1951)	35th (June 1952)	36th (June 1953)	37th (June 1954)	38th (June 1955)	39th (June 1956)	40th (June 1957)	41st (April/May 1958)	42nd (June 1958)	43rd (June 1959)	44th (June 1960)	45th (June 1961)	46th (June 1962)	47th (June 1963)	48th (June/July 1964)	49th (June 1965)	50th (June 1966)	51st (June 1967)	52nd (June 1968)	53rd (June 1969)	54th (June 1970)	55th (Oct. 1970)	56th (June 1971)
All the texts have been submitted .	55	53	54	56	58	58	61	62	67	67	66	71	68	70	86	79	84	92	86	81	67	86	81	65	58	57
Some of these texts have been submitted	5	8	— ¹	6	3	—	— ¹	1	—	9	5	6	6	2	5	9	9	5	12	8	12	— ¹	6	12	6	10
None of these texts have been submitted (including cases in which no information has been supplied by the Government)	—	—	9	2	5	8	8	6	9	1	8	2	6	11	10	14	15	13	16	26	38	32	34	44	57	54
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	101	102	108	110	114	115	117	118	121	121	121	121

¹ At this session the Conference adopted one Recommendation only.

IV. Communication of Copies of the Reports and Information to the Representative Organisations of Employers and Workers (Article 23, paragraph 2, of the Constitution)

States

Requests regarding certain points are being addressed directly to the following States: *Brazil, Burma, Central African Republic, Denmark, Ethiopia, Guinea, Haiti, Honduras, Hungary, Jordan, Khmer Republic, Kuwait, Lebanon, Liberia, Libyan Arab Republic, Madagascar, New Zealand, Nicaragua, Pakistan, Qatar, Romania, Rwanda, Sudan, Thailand, Upper Volta.*

LIST OF DIRECT REQUESTS ADDRESSED TO GOVERNMENTS BY THE COMMITTEE (CLASSIFIED BY COUNTRIES) ¹

Afghanistan:

Art. 22, general.
Art. 22, Nos. 100, 105.

Algeria:

Art. 22, Nos. 6, 19, 29, 63, 78, 88, 89, 95,
101, 105, 127.

Argentina:

Art. 22, Nos. 34, 50, 77, 78, 81, 95, 105.

Australia:

Art. 22, Nos. 16, 42, 105.
Art. 35, Nos. 29, 42, 88, 105.

Austria:

Art. 22, Nos. 29, 81, 105.
Subm.

Bangladesh:

Art. 22, general.
Art. 22, Nos. 18, 22, 81, 90, 96.

Barbados:

Art. 22, Nos. 17, 42, 63, 94, 115.

Belgium:

Art. 22, Nos. 6, 81, 95, 113, 121, 126.

Bolivia:

Art. 22, general.
Art. 22, No. 107.

Brazil:

Art. 22, Nos. 12, 29, 42, 88, 89, 107, 111,
113, 115, 117, 118, 122, 125.
Art. 23 (2).

Bulgaria:

Art. 22, Nos. 29, 79, 81.

Burma:

Art. 22, Nos. 1, 6, 26, 29, 42.
Art. 23 (2).

Burundi:

Art. 22, general.
Art. 22, Nos. 1, 14, 29, 50, 64.

Byelorussian SSR:

Art. 22, general.
Art. 22, Nos. 32, 122, 123, 124.

Cameroon:

Art. 22, general.
Art. 22, Nos. 26, 29, 50, 64, 77, 78, 81, 87,
90, 94, 97, 99, 100, 122, 123.
Subm.

Canada:

Art. 22, Nos. 63, 88, 105.

Central African Republic:

Art. 22, general.
Art. 22, Nos. 19, 52, 81, 88, 95, 101, 105,
117, 118.
Art. 23 (2).

Chad:

Art. 22, Nos. 29, 33, 52, 81, 87, 98, 100,
105, 111.

Chile:

Art. 22, Nos. 17, 18, 19, 24, 25, 26, 29, 34,
63, 122.

¹ The abbreviations used are the following:

“Art. 22”: application of ratified Conventions in member States.

“Art. 35”: application of ratified Conventions in non-metropolitan territories.

“Subm.”: submission of Conventions and Recommendations to the competent authorities.

“Art. 23 (2)”: communication by governments of copies of reports and information to the representative organisations of employers and workers.

The numbers refer to Conventions.

Colombia:

Art. 22, Nos. 12, 17, 29, 81, 88, 101, 107.

Congo:

Art. 22, No. 29.

Subm.

Costa Rica:

Art. 22, general.

Art. 22, Nos. 29, 81, 88, 92, 95, 98, 99,
107, 113, 114, 117, 120, 122.

Subm.

Cuba:

Art. 22, general.

Art. 22, Nos. 29, 53, 63, 81, 88, 112, 113,
122.

Cyprus:

Art. 22, Nos. 81, 95, 114.

Czechoslovakia:

Art. 22, Nos. 29, 44, 52, 63, 88, 111.

Subm.

Dahomey:

Art. 22, general.

Art. 22, Nos. 6, 29, 33, 98, 105.

Democratic Yemen (Aden):

Art. 22, Nos. 95, 98, 105.

Denmark:

Art. 22, Nos. 29, 81.

Art. 35, Nos. 8, 9, 16, 18, 105, 106, 122.

Art. 23 (2).

Dominican Republic:

Art. 22, general.

Art. 22, Nos. 81, 88, 89, 106, 119.

Ecuador:

Art. 22, general.

Art. 22, Nos. 29, 35, 37, 39, 87, 98, 100,
103, 104, 105, 106, 107, 112, 113, 115,
117, 119, 120, 123, 124, 127, 131.

Egypt:

Art. 22, Nos. 17, 29, 52, 63, 74, 87, 88, 95,
96, 105, 107.

Ethiopia:

Art. 22, Nos. 11, 87, 88, 111.

Art. 23 (2).

Finland:

Art. 22, Nos. 18, 29, 63, 81, 96, 105, 118,
121.

France:

Art. 22, Nos. 10, 19, 22, 78, 81, 96, 105,
106, 115, 122, 123, 125.

Art. 35, Nos. 3, 10, 19, 81.

Gabon:

Art. 22, Nos. 19, 29, 41, 52, 87, 101, 111,
123, 124.

Germany, Federal Republic of:

Art. 22, Nos. 29, 105, 118, 128.

Ghana:

Art. 22, Nos. 22, 29, 65, 81, 89, 94, 105,
115, 117.

Subm.

Greece:

Art. 22, Nos. 29, 55, 81, 87, 88, 89, 102.

Guatemala:

Art. 22, Nos. 63, 78, 79, 105.

Guinea:

Art. 22, general.

Art. 22, Nos. 10, 16, 17, 52, 89, 90, 94, 105,
111, 113, 114, 115, 117, 118, 119, 120,
121, 122.

Art. 23 (2).

Guyana:

Art. 22, Nos. 42, 81, 82, 95, 105, 115, 129.

Haiti:

Art. 22, Nos. 81, 105.

Art. 23 (2).

Honduras:

Art. 22, Nos. 29, 32, 62, 105, 108, 111.

Art. 23 (2).

Hungary:

Art. 22, Nos. 29, 124.

Subm.

Art. 23 (2).

Iceland:

Art. 22, Nos. 29, 105.

Subm.

India:

Art. 22, Nos. 29, 81, 88, 107.

Indonesia:

Art. 22, general.

Art. 22, Nos. 29, 100.

Iran:

Art. 22, Nos. 14, 19, 105, 108, 111.

Iraq:

Art. 22, Nos. 17, 22, 29, 78, 81, 88, 89, 95, 105, 115.

Ireland:

Art. 22, Nos. 81, 88, 89.

Israel:

Art. 22, Nos. 29, 53, 78, 81, 87, 91, 100, 117, 118, 122.

Subm.

Italy:

Art. 22, Nos. 26, 79, 81, 89, 101, 103, 106, 111, 118.

Subm.

Ivory Coast:

Art. 22, general.

Art. 22, Nos. 29, 52.

Jamaica:

Art. 22, Nos. 105, 117.

Japan:

Art. 22, Nos. 26, 81, 88, 131.

Jordan:

Art. 22, Nos. 81, 105, 111, 117, 122, 124.

Art. 23 (2).

Kenya:

Art. 22, Nos. 29, 63, 65, 81, 99, 105.

Subm.

Khmer Republic:

Art. 22, No. 29.

Subm.

Art. 23 (2).

Kuwait:

Art. 22, Nos. 29, 52, 89, 117.

Art. 23 (2).

Laos:

Art. 22, Nos. 4, 6, 29.

Lebanon:

Art. 22, Nos. 14, 26, 52, 90.

Art. 23 (2).

Liberia:

Art. 22, Nos. 65, 105.

Art. 23 (2).

Libyan Arab Republic:

Art. 22, general.

Art. 22, Nos. 1, 3, 14, 29, 52, 88, 98, 100, 104, 111.

Subm.

Art. 23 (2).

Luxembourg:

Art. 22, Nos. 29, 77, 78, 96, 100.

Madagascar:

Art. 22, Nos. 19, 26, 29, 52, 81, 101, 111, 117, 118, 119, 120, 122, 123, 124, 127, 129.

Art. 23 (2).

Malawi:

Art. 22, Nos. 86, 129.

Malaysia:

Art. 22, Nos. 12, 17, 29, 81, 95.

Subm.

Mali:

Art. 22, No. 52.

Malta:

Art. 22, Nos. 22, 81, 88, 105.

Subm.

Mauritania:

Art. 22, Nos. 19, 22, 29, 53, 62, 81, 94, 102, 114, 118.

Mauritius:

Art. 22, Nos. 2, 17, 63, 81, 105.

Mexico:

Art. 22, Nos. 17, 22, 23, 34, 42, 55, 107, 124.

Subm.

Mongolia:

Art. 22, general.
Art. 22, Nos. 87, 98.

Morocco:

Art. 22, Nos. 2, 29, 52, 94.

Netherlands:

Art. 22, Nos. 17, 29, 81, 100, 105, 106, 121.
Art. 35, Nos. 17, 25, 29, 42, 81, 89, 90, 94,
101, 105, 106, 118, 122.
Subm.

New Zealand:

Art. 22, Nos. 81, 88, 105.
Art. 35, No. 99.
Art. 23 (2).

Nicaragua:

Art. 22, Nos. 1, 2, 3, 4, 6, 8, 9, 12, 13, 17,
18, 22, 24, 25, 28, 29, 30, 87, 98, 100,
111.
Subm.
Art. 23 (2).

Niger:

Art. 22, general.
Art. 22, Nos. 26, 33, 95, 102, 111.
Subm.

Nigeria:

Art. 22, general.
Art. 22, Nos. 29, 65, 88, 95, 104, 105.
Subm.

Norway:

Art. 22, Nos. 24, 25, 42, 56, 81, 92, 96, 105,
118, 129.

Pakistan:

Art. 22, Nos. 29, 81, 96, 105, 107.
Subm.
Art. 23 (2).

Panama:

Art. 22, Nos. 16, 17, 22, 23, 29, 32, 42, 52,
53, 55, 56, 63, 69, 73, 74, 77, 78, 81, 88,
89, 92, 94, 95, 96, 105, 107, 110, 111,
113, 114, 117, 119, 122, 124, 125, 126,
127.

Paraguay:

Art. 22, general.
Art. 22, Nos. 29, 77, 81, 98, 105, 107, 115,
117, 119, 120, 122.

Peru:

Art. 22, Nos. 22, 23, 29, 53, 55, 62, 67, 73,
77, 78, 81, 88, 101, 105, 114, 122.

Philippines:

Art. 22, Nos. 88, 89, 95, 105.

Poland:

Art. 22, Nos. 17, 42, 92, 124.

Portugal:

Art. 22, Nos. 1, 6, 14, 17, 19, 29, 68, 89, 91,
98, 100, 105, 106.

Qatar:

Art. 23 (2).

Romania:

Art. 22, Nos. 29, 89.
Subm.
Art. 23 (2).

Rwanda:

Art. 22, general.
Art. 22, Nos. 11, 94, 123.
Art. 23 (2).

Sierra Leone:

Art. 22, Nos. 17, 22, 81, 88, 95, 105, 125,
126.

Singapore:

Art. 22, Nos. 29, 65, 88, 105.

Somalia:

Art. 22, Nos. 17, 95, 105.

Spain:

Art. 22, Nos. 44, 53, 55, 56, 59, 60, 63, 68,
73, 74, 77, 78, 79, 81, 88, 90, 92, 96,
101, 105, 106, 108, 119, 124, 129, 131.
Subm.

Sri Lanka:

Art. 22, general.
Art. 22, Nos. 16, 29, 63, 81.

Sudan:

Art. 22, Nos. 29, 81, 95, 105, 111, 117.
Subm.
Art. 23 (2).

Sweden:

Art. 22, Nos. 16, 73, 88, 96, 108, 118.

Switzerland:

Art. 22, Nos. 29, 44, 81, 88.

Syrian Arab Republic:

Art. 22, Nos. 2, 19, 29, 52, 63, 87, 88, 94,
95, 96, 105, 115, 117, 125.

Subm.

Tanzania:

Art. 22, Nos. 26, 29, 50, 59, 63, 65, 88,
98, 105, 108.

Thailand:

Art. 22, Nos. 123, 127.

Art. 23 (2).

Togo:

Art. 22, No. 29.

Trinidad and Tobago:

Art. 22, Nos. 85, 105.

Tunisia:

Art. 22, Nos. 22, 23, 55, 73, 77, 88, 105,
113, 117, 118, 124, 127.

Subm.

Turkey:

Art. 22, Nos. 81, 88, 95, 96, 111, 115, 119.

Subm.

Uganda:

Art. 22, Nos. 17, 64, 81, 86, 98, 123, 124.

Ukrainian SSR:

Art. 22, Nos. 69, 92, 108, 124, 126.

USSR:

Art. 22, Nos. 32, 52, 69, 92, 106, 122, 123,
124, 126.

United Kingdom:

Art. 22, Nos. 17, 22, 63, 81, 100, 105.

Art. 35, Nos. 7, 10, 17, 22, 24, 25, 26, 29,
32, 42, 56, 63, 81, 82, 84, 85, 87, 88,
94, 95, 101, 105, 108.

United States:

Art. 35, No. 55.

Upper Volta:

Art. 22, general.

Art. 22, Nos. 6, 19, 52, 101.

Subm.

Art. 23 (2).

Uruguay:

Art. 22, general.

Art. 22, Nos. 9, 17, 23, 26, 63, 67, 77, 78,
95, 97, 103, 105.

Venezuela:

Art. 22, Nos. 3, 81, 88.

Subm.

Republic of Viet-Nam:

Art. 22, Nos. 81, 98, 111, 117, 118, 120,
122, 123, 124.

Subm.

Western Samoa:

Art. 22, Nos. 65, 104.

Yugoslavia:

Art. 22, Nos. 9, 19, 23, 48, 81, 88, 92, 113,
121.

Zaire:

Art. 22, general.

Art. 22, Nos. 18, 26, 29, 64, 81, 88, 95, 98,
100, 118, 119, 120, 121.

Zambia:

Art. 22, Nos. 29, 105, 117, 123.